

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

1A

**Call to Order**

**February 22, 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, Assistant City Solicitor, Jason Piques and Planning Board Administrator, Krista Holmi.

**1. Meeting Minutes**

A. February 08, 2021

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the February 8, 2021 meeting minutes. Yea: Fay, Hodge, LaVenture, Russ and Fenby. Nay: 0. Abstained: Elder. Motion carried.

**2. Chair's Business**

- A. Chair Fenby informed the Board that Councilor Robey has stepped up to review aspects of the sign ordinance. Ms. Fenby thanked her for her efforts. Suggestions were forwarded to Legal for review, and updates will be communicated when available.
- B. As a matter of record, Ms. Fenby acknowledged that Assistant City Solicitor reviewed the 76 Broad St. covenant. A "Clean Copy" in proper legal form was forwarded to each member. Individuals should review the covenant and report any comments back to Ms. Holmi and the Legal Department. (The covenant will appear on the March 8, 2021 agenda for vote.)

**3. Approval Not Required**

A. 181 Boston Post Road East

Applicant: Post Road Mobile Homes and Sales, Inc.

Surveyor: Robert J. Parente, 21 Chapin St., Northborough, MA 01532

Deed: Book 11449, Page 675, Middlesex South Registry

The applicant's representative, plan surveyor Robert J. Parente, joined the meeting to present the plan. The ANR plan is another update to a previously endorsed ANR plan. Mr. Parente explained that there is an existing parking area to the right of the area of the cross-hatched easement area. On the previously endorsed plan, that parking area was retained with Lot 1 (trailer park main ) and not Lot 2, which is the portion of the plan associated with the 175 Boston Post Road East structure. There is a proposed tenant for the 175 Boston Post Road East site, and the Building Department indicates that this parking should be retained for use by 175 Boston Post Road East. The parking is not utilized by Lot 1. The purpose of the plan is to realign the lot line to incorporate this parking area into Lot 2. On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to refer the matter to Engineering. 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

- A. Communication from MassDOT RE: Environmental Notification Form, MBTA Forging Ahead Service Proposal Environmental Notification Form. Mr. LaVenture read the 2-3-21 communication into the record. The MBTA's enabling legislation requires that *"for a system wide decrease in service of 10% or more, the decrease shall be the subject of an environmental notification form initiating review pursuant to sections 61 and 62H, inclusive of chapter 30"* (MGL 161A (S)(d)). The ENF is designed to meet that statutory requirement. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried.

## 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 of the working group's most recent meeting on February 17, 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 provided as follows:

10A

### Regulation §A676-7 Adequate access B. Standards of adequacy

#### Proposed change:

(2) Ways abutting, serving or leading to a subdivision. Ways outside a subdivision and providing access to the street within a subdivision, or providing access to lots said not to be within a subdivision, shall normally be considered adequate only if there is assurance that, prior to construction on any lots, access will be in (ADD) substantial compliance with the following (ADD) ,for a length along the existing roadway to be determined by the Planning Board:

<u>(ADD) Existing Roadway Conditions</u>	<u>8 or fewer_ Dwelling units</u>	<u>9 to 49_ Dwelling Units</u>	<u>50 or more Dwelling units or Business or Industry</u>
Min. R.O.W. width	N/A	N/A	40 feet
Surface type	3 inches Bit. Concrete	3 inches Bit. Concrete	3 inches Bit. Concrete
Min. travelled width	22 feet	26 feet	32 feet
Min. <del>(REMOVE) site</del> <u>(ADD) sight distance</u>	200 feet	200 feet	400 feet
Max. grade	12%	11%	9%

#### Reason for change:

To better define the standard of adequacy.

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*Mr. Fay asked whether this section should reference a requirement to ensure there is a fee interest vs. an easement to gain access to any lots. He provided a hypothetical example of two neighbors granting easements to a piece of back land in which the (back land) lot owner has no frontage (or insufficient frontage) of their own. His concern is that a landowner could potentially circumvent zoning requirements with an easement.*

*Members felt this may be an appropriate place for this language, but there will need to be additional research on the topic by the working group/Legal Dept.*

**Regulation:** § A676-10 Definitive plan.

**Proposed change:**

(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 ~~(REMOVE) two years of the date of approval of his~~ (ADD) a time frame so indicated on a construction schedule approved by the Planning Board for the 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 ~~(REMOVE) 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:**

Eliminates the limitation to have the subdivision completed in a two-year time frame and updates the regulation to current practices.

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*Mr. LaVenture said that this section will be discussed further in an upcoming working group meeting. Members may either share their thoughts now or provide comment to Ms. Holmi. Mr. Fay commented on the proposed change. He understands the practical reasoning in allowing a longer completion date. He believes the two-year completion date serves an important function. A shorter timeframe allows the Board the opportunity to evaluate progress and address any performance issues. The authority to grant extensions and control the bond (performance security) protects the interests of the city and neighborhood. The Board needs to consider the potential impact on potential future city developments on remaining large parcels.*

**Proposed change:**

(ADD) (3) Construction phasing. As part of the Definitive Subdivision Plan approval, phased construction of utilities and roadways may be allowed, provided that the following criteria has been met and approved by the Planning Board:

(a) A Phasing Plan showing the different phases proposed. Where utility construction is required to overlap into another phase(s), only the utility main may be installed – all branches and services not associated with active phases will be allowed.

(b) A Phasing Document which details the work to be performed in each phase, to include.

(i) Construction schedule for each phase

(ii) Installation of a temporary turnaround (cul-de-sac) at the end of the constructed roadway

(iii) Construction gates at the end of each phase to limit access to non-active phases

(iv) Immediate stabilization of an excavation in any non-active phase of roadway construction

(v) Non-active phases must remain in an undisturbed state

*Regarding phasing, Mr. Fay has similar concerns to the previous section on the timeframe to complete the subdivision. Phasing could allow the developer to manipulate the process. With approved extensions, the developer can achieve the same effective result. Chair Fenby asked for any additional comments. Mr. Hodge agreed that the Board maintains some leverage by requiring the developer to request extensions.*

**Regulation:** §A676-2 Definitions.

**Proposed changes:**

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; any singular reference includes the plural; any plural reference includes the singular; other words and phrases have the following meanings:

*Mr. Fay suggested a change in the underlined area. The suggested phrase was unclear. It has been modified for clarity, but may need to be further discussed by the Board.*

(ADD)

**AGENT/PROPONENT/REPRESENTATIVE**

A person other than the owner who has permission to speak on behalf of the owner.

**APPLICANT**

The person who applies for an approval from the Planning Board.

**DEVELOPER**

The person who oversees the installation of utilities and the construction of the roadway.

**OWNER**

A person or persons who has the legal or rightful title to property. All legal actions and dealing must be made with the owner(s).

**PRESENTER**

The person who formally appears before the Planning Board with an item for consideration.

**Reason for change:**

Clarity.

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**Regulation:** §A676-9 Preliminary Plan A. General

**Proposed regulation:**

(2) A properly executed application Form B (See Appendix B<sup>(1)</sup>) shall be filed with the preliminary plan submitted to the Planning Board (ADD) along with all applicable fees (see Appendix K<sup>(1)</sup>). The applicant shall also file by delivery or registered mail a notice with the City Clerk stating the date of submission for such approval of a preliminary plan and accompanied by a copy of the completed application Form B.

[1] *Editor's Note: Appendix B (ADD) and Appendix K (REMOVE) is (ADD) are on file in the City Clerk's office (ADD) the DPW – Engineering Office.*

*City Engineer DiPersio noted that he believes all Appendices belong in the Rules and Regulations document. He favors removing this note.*

**Reason for change:**

Update the regulation to current practices

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**Regulation:** §A676-9 Preliminary Plan, B.

**Proposed change:**

Contents. The preliminary plan shall be drawn **on tracing paper with pencil** at a suitable scale, preferably 40 feet to the inch, and five prints of it shall be filed with the Planning Board and one print shall be filed with the Board of Health **(REMOVE) at City Hall (ADD) along with twelve half scale prints for Planning Board members and associated reviews.** The plan shall be designated as a "preliminary plan," and to form a clear basis for discussion of the problems of the subdivision and for preparation of the definitive plan, the plan should contain the following:

(1) Major features of the land such as existing walls, fences, buildings, large trees **(ADD) having a caliper of 12 inches or greater**, wooded areas, outcroppings, ditches, the subdivision name, boundaries, North point, date, scale, legend and title "preliminary plan."

(3) The names of all **(REMOVE) abutters (ADD) properties within 100 feet of the subject property**, as determined from the most recent local tax list.

**Reason for change:**

Expansion of property owners potentially affected by the construction of a subdivision and to update the regulation to current practices or better.

*Chair Fenby noted that earlier edits removing reference to tracing paper with pencil appear to be missing from this section. Mr. LaVenture stated that previous edits will be incorporated into the final version.*

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**Regulation:** §A676-10 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:

**Proposed regulation:**

(2) A properly executed application Form C (see Appendix C) and Petition for Approval of Final Plan, Form D (see Appendix D),<sup>[1]</sup> **(ADD) along with all applicable fees (see Appendix K<sup>(1)</sup>),** 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.

[1] *Editor's Note: Appendix C and Appendix D are on file in the office of the City Clerk (ADD) office and the DPW – Engineering office.*

*City Engineer DiPersio noted that he believes all Appendices belong in the Rules and Regulations document. He favors note removal.*

**Reason for change:**

Update the regulation to current practices

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**Regulation:** §A676-10 B. Contents (2) The definitive plan shall contain the following information:

**Proposed change:**

(d) Major features of the land, such as existing waterways, natural drainage courses, walls, fences, buildings, large trees (ADD) - having a caliper of 12 inches or greater, wooded areas, outcroppings and ditches, that exist on or near the site at the time of survey, and the limits of any resource areas as defined under MGL c. 131, §§ 40 and 40A, as determined by **a botanist.**

**Reason for change:**

Update the regulation to current practices

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**Regulation:** §A676-11 Design guidelines. B. In addition, design and construction shall accomplish the following: (1) Reduce, to the extent reasonably possible:

**Proposed change:**

(c) Number of mature trees (ADD) (having a caliper of 12 inches or greater) removed;

(e) Erosion and siltation (ADD) on the subdivision site shall be minimized and compliant with the City of Marlborough's Stormwater Management Ordinance (§271) and Storm Sewer Ordinance (§511). Illicit discharges onto the neighboring properties is prohibited; -

(F) Flood damage (ADD) on the subdivision site shall be minimized and compliant with the City of Marlborough's Stormwater Management Ordinance (§271) and Storm Sewer Ordinance (§511). Illicit discharges onto the neighboring properties is prohibited; -

**Reason for change:**

Update the regulation to current practices

*Mr. Fay questioned whether the regulations need to add a definition of Illicit discharge. City Engineer DiPersio stated that this is a term from MS4 Stormwater Regulations. It's possible to add either a definition or a URL site reference. In item F, Mr. Fay also suggested modifying neighboring properties to neighboring properties and abutting roadways.*

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**Regulation:** §A676-24 Street and roadway. A. The roadway shall be graded and prepared for pavement as follows:

**Proposed change:**

§A676-24 Street and roadway. A. The roadway shall be graded and prepared for pavement as follows:

(1) ~~(REMOVE)101.~~ Clearing and grubbing shall be performed to remove stumps, brush, roots, boulders and like from the area of the travelled way, shoulders, sidewalks and utility trenches, but elsewhere existing vegetation shall be preserved wherever feasible.

(2) ~~(REMOVE)120.~~ Roadway earth excavation shall remove all unsuitable materials encountered down to the true surface of the subgrade in preparation for foundation of roadway, sidewalks, driveways and berms. Approved materials such as gravel and loam obtained in the excavation may be used in fills, as required, if in the opinion of the Engineer they are suitable.

(3) ~~(REMOVE)150.~~ When, in the opinion of the Engineer, suitable material is not available within the limits of the highway location to form the subgrade or subbase, the contractor shall obtain such additional material from other sources in accordance with this section and as may be approved by the Engineer.

(4) ~~(REMOVE)170.~~ The subgrade surface (16 inches below the finished surface grade) shall be prepared true to the lines, grades and cross sections given and properly rolled. ~~All (REMOVE) soft or spongy material~~ (ADD) unsuitable material and organic materials below the subgrade surface shall be removed to a depth determined by the Engineer, and the space thus made shall be filled with special gravel borrow, containing no stones over six inches in their largest diameter.

(4 1/2) A layer of geotextile fabric shall be installed beneath the gravel base specified in (ADD) §A676-24. A(5).(amended 5-1-15)

(5) ~~(REMOVE)405.~~ Gravel base course shall consist of approved gravel placed upon the subgrade or subbase as directed and in accordance with these specifications and in reasonably close conformity with the lines and grades shown on the plans or established by the Engineer

(6) ~~(REMOVE)405-60.~~ The gravel shall be spread in layers upon the prepared subgrade from self- spreading vehicles or with power graders of approved types or by hand methods. Gravel shall be spread in layers not more than four inches thick, compacted measure.

(a) The gravel shall be compacted and placed to the tolerance as stipulated in (ADD) MassDOT Standard Specifications for Highways and Bridges (Current Edition) – Section 401 ~~(REMOVE) Gravel or crushed stone subbase~~ (ADD) Gravel Sub-base and Section 402 Dense Grade Crushed Stone for Sub-base.

(b) At the conclusion of this step, the roadway shall be staked in all locations where permanent monuments are to be installed as provided in ~~(REMOVE) Subsection 7.13~~ (ADD) §A676-29.

#### **Reason for change:**

Update the regulation to current practices

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**Regulation:** §A676-24 Street and roadway.

#### **Proposed change:**

E. Dust control shall be provided throughout the entire project. Sprinklers, watering trucks, calcium chloride, fencing, etc. shall be employed as directed by the ~~(REMOVE) Planning Board~~ (ADD) DPW – Engineering Division or the Code Enforcement Office.

**Reason for change:**

Update the regulation to current practices

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**Regulation:** § A676-28 Trees.

**Proposed change:**

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. (ADD) Existing trees designated to remain shall be protected in a manner deemed acceptable to the Tree Warden.

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

**Reason for change:**

Update the regulation to current practices

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**Regulation:** § A676-41 Inspections.

**Proposed regulation:**

A. Inspections shall be arranged for by the subdivider with the proper City ~~(REMOVE) official~~ (ADD) Department for the purpose prior to the construction of streets and the installation of utilities and during construction as specified herein at each significant construction stage.

B. Inspection shall be requested in writing at least 48 hours in advance of each inspection to the proper City ~~(REMOVE) official~~ (ADD) Department. ~~(REMOVE); and a copy of each request shall be sent to the Clerk of the Planning Board.~~

C. Inspection shall be for the following:

- (1) Satisfactory excavating (ADD) of unsuitable material and excess material;
- (2) Satisfactory filling (ADD) of sub-base material and base material;
- (3) Satisfactory compacting (ADD) of sub-base and base material;
- (4) Satisfactory completion of the pavement (ADD) courses;
- (5) Satisfactory finish grading of grass plots (ADD) and structural soils;
- (6) Satisfactory placing of curbs and gutters;
- (7) Satisfactory construction of sidewalks;
- (8) Satisfactory installation of sanitary sewers and related equipment or on-site disposal systems;
- (9) Satisfactory installation of water mains and appurtenances;
- (10) Satisfactory installation of surface and subsurface drainage system and related equipment; and
- (11) Satisfactory installation of monuments.

D. The Planning Board may establish the order of the required inspection and may require satisfactory completion of one step before the subdivider proceeds to the next. It may require tests to be done by the subdivider as a condition for approval when in the opinion of the Planning Board it is advisable.



E. The proper City official shall indicate on Form G, (Appendix G) provided by the Planning Board the date of inspection and the approval and shall file such form with the Planning Board.

Working group discussion – Planning Board Rules and Regulations

ii. Next steps.

Mr. LaVenture thanked the more experienced members for their insight. The working group will meet again to review the next sections and revisit any items requiring further discussion.

Mr. Fay would like the group to discuss performance securities. It would also be helpful to provide developers a checklist as a guide. Mr. DiPersio stated that a checklist should be a separate document from the Rules and Regulations. Based on feedback, security language should be changed, since phasing is implied as an option. Mr. Fay would like to further discuss the surety issue with Mr. DiPersio at another time.

Mr. Hodge asked about mailbox placement in neighborhoods. On east-west running streets, he favors placement on the “sunny side” of the street. He requests the working group discuss this matter at their next meeting.

**11. Calendar Updates (None)**

**12. Notices from other Cities and Towns**

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file remaining items and to adjourn the meeting. Yea: Elder, Fay, Hodge, LaVenture, Russ. Nay: O. Motion Carried.

Respectfully submitted,



George LaVenture/Clerk

/kih