

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

November 8, 2021

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. Matt Elder was not present at the meeting but was listening in remotely and will be using the certification pursuant to G. L. c. 39, Section 23D ("MULLIN RULE"). Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. October 18, 2021

On a motion by Mr. Russ, seconded by Mr. Mr. LaVenture, the Board voted to accept and file with minor typo corrections, the October 18, 2021 meeting minutes. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

2. Chair's Business

A. Marlborough Planning Board Subdivision Rules and Regulations – ongoing discussion

Mr. LaVenture updated the Board on discussions he had with City Solicitor Jason Grossfield. Mr. Grossfield indicated there is no required time frame between the approval of the Regulations and the filing, and the Subdivision Rules and Regulations go into effect on September 13, 2021 (the date the Board voted to approve and adopt them). The Planning Board Administrator indicated the Subdivision Rules and Regulations were filed and sent to the Registry of Deeds on November 8, 2021.

3. Approval Not Required (None)

4. Public Hearings

A. City Council: Order #21-1008274C, Proposed Zoning Amendment to Chapter 650 to amend Section 61 Temporary Moratorium for Multi-Family Housing Projects

Chairperson Fenby opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from the Board members.

Presentation:

Mayor Arthur Vigeant explained he is asking for this extension on the moratorium because the City is still waiting to get guidelines from the Department of Housing and Community Development (DHCD) for their new housing proposal. DHCD is in the process of setting the ground rules. Mayor Vigeant explained he is hoping to have the guidelines by the end of calendar year and doesn't anticipate coming to the Planning Board again for an extension.

Speaking in Favor of the Amendment:

(No one spoke in favor)

Dr. Fenby closed this portion of the Public Hearing.

Speaking in Opposition to the Amendment:

City Councilor Michael Ossing, 43 Varley Road, Marlborough, MA 01752 spoke in opposition.

Mr. Ossing, provided a timeline of the history of this moratorium:

- April - The Mayor provided the letter asking for the 90-day moratorium.
- June - The Planning Board endorsed the 90-day moratorium.

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

- July - The City Council endorsed the 90-day moratorium, and it was extended to October.
- October 4th – The Mayor provided a letter asking to extend the moratorium to the end of year.
- November 8th - Today, five weeks later we still don't have the guidelines from the state.

Mr. Ossing explained there is not adequate time for a multi-family housing project to come to the City Council, hold a public hearing, send it to committee and decide within the three City Council meetings left this year. Based on timing, the ability of the City Council to do its job, and the uncertainty of when this guidance will become available, he encouraged the Planning Board to provide a negative recommendation on the extension. However, if the Board wishes to send a favorable recommendation, he asked the Board to recommend excluding the proposed project at the Campus. The Campus submitted their application in September with anticipation the housing moratorium would end in October. It's now in Urban Affairs for review.

City Councilor Kathleen Robey, 97 Hudson Street, Marlborough, MA 01752 spoke in opposition. Mrs. Robey backed and supported all the points Mr. Ossing addressed.

Dr. Fenby closed this portion of the Public Hearing.

Questions and Comments from the Planning Board:

Mr. Fay asked the Mayor respond to Mr. Ossing. Mayor Vigeant explained if there is not adequate time for a multi-family housing project to come into to the City before the end of the year as Mr. Ossing argued then why not approve the moratorium. He did not favor having one complex carved out of the moratorium. Mr. Vigeant reminded the board that single family homes are not included in the moratorium.

Mr. Fay asked the Mayor, is the State asking the City to extend the moratorium? Mayor Vigeant said no.

Mr. Fowler asked Mr. Ossing, is the Campus project the only project that is currently filed with the City? Mr. Ossing said yes.

Mr. LaVenture asked Mr. Ossing, what are the ramifications for the Campus project if a complete moratorium was approved? Mr. Ossing explained, he is not sure of the impact it would cause if they were to have to wait until January for submittal.

Mr. Russ asked Mr. Ossing, is the Campus project currently submitted and being reviewed? Mr. Ossing said no. Mr. Russ asked, at the next meetings can you still review and discuss the project, just not approve it? Mr. Ossing said no, the way the language is in the housing moratorium, there is no submittal of site plan documents to the City.

Mr. Fay asked, what would the timeline be if the Campus were to submit at the next meeting? Mr. Ossing explained it is hard to determine without input from the City Council. The Council still needs to approve the master plan and the development agreement, which the council is reviewing at tomorrow's Urban Affairs meeting.

Dr. Fenby closed the public hearing.

B. 342 Sudbury Street, Marlborough, MA 01752 – Definitive Subdivision Plan

Owner of Land: The 342 Sudbury Street Trust
Name of Engineer: Robert Parente
Deeds Book: 77825 Page: 110

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

Chairperson Fenby opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fenby provided instructions to those in attendance. The hearing was conducted in the following stages: 1) Presentation 2) Those speaking in favor 3) Those speaking in opposition 4) Comments and questions from the Board members.

Presentation:

Neal Vigeant (342 Sudbury Street, Marlborough, MA 01752) explained he purchased the 342 Sudbury Street property earlier this year with intentions of making it a rental property and using the land behind it for his family farm operations, for sawmilling, harvesting the soil and a family gathering location. Mr. Vigeant explained, after renovating the property he realized that use would be a nuisance to the surrounding area. His proposed subdivision would create an additional lot. He is asking the Planning Board for waivers to prevent the construction of a public way for the one house. The waivers would allow the entrance to this house appear more of a driveway than a road. The proposed subdivision includes a large buffer zone equal to about an acre of land, which will be recorded in the deed. This buffer zone recorded in the deed would be permanent and would remain unchanged even if the property were to be sold in the future.

Robert Parent went over the submitted plans. The plans display:

- 18-foot-wide paved area with a hammer-head turn around
 - o Providing the proposed Lot 2 with the required frontage
 - o This paved area would be owned by the owner of Lot 2 as it would remain private
- New sewer, water, and underground electrical lines
- The proposed Lot 1 with the existing house - 1.006 acres
- The proposed Lot 2 - 2.0127 acres
- An estimated 3,000 sqft footprint for the new house
 - o 60 ft off the layout of the cul-de-sac
 - o 120 ft off the stone wall on the Carisbrooke houses
- List of waivers:
 - o Reduce road layout width to 40'
 - o Reduce pavement width to 18'
 - o No sidewalks
 - o No curbing
 - o To construct the road in accordance with the cross section shown on the profile sheet

Mr. LaVenture read the correspondence dated November 1, 2021, from the City Engineer Thomas DiPersio, Engineering Department into the record.

Mr. LaVenture read the correspondence dated October 8, 2021, from Assistant Chief Jeffrey Gogan, Marlborough Fire Department into the record.

Mr. LaVenture read the correspondence dated November 8, 2021, from Priscilla Ryder, Conservation into the record. See the attached letter.

Speaking in Favor of the Amendment:

Paul Ditullio, 86 Boivin Drive, Marlborough, MA 01752 spoke in favor.

Mr. Ditullio explained I think for one house a road is not necessary, the driveway they're asking for would be sufficient. Roads require a lot of maintenance and letting the owner deal with the maintenance for this road would be the best option.

Fred Brewitt, 299 Sudbury Street, Marlborough, MA 01752 spoke in favor.

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

Mr. Brewitt asked, is there was a maximum length a driveway can be? Mr. DiPersio said no. Mr. Brewitt asked, is there a required set back from the stone wall on the property line, Mr. DiPersio explained there is a 5-foot set back requirement from the property line.

Joe Verri, 128 Prendiville Way, Marlborough, MA 01752 spoke in favor.

Mr. Verri explained he is a direct abutter and the buffer zone would maintain the natural beauty of his backyard. Mr. Verri expressed his support for the proposed driveway concept in lieu of a full roadway construction.

Dr. Fenby closed this portion of the Public Hearing.

Speaking in Opposition to the Amendment:

John Brackett, 45 Harper Circle, Marlborough, MA 01752 spoke in opposition.

Mr. Brackett read the letter he submitted into the record. See agenda packet for complete letter.

Rocco Collura, 368 Sudbury Street, Marlborough, MA 01752 spoke in opposition.

Mr. Collura explained he is not an immediate abutter and supported all the key points in Mr. Brackett's letter. Mr. Collura's biggest concern is what could happen to the neighborhood down the road.

Michelle Feddersohn, 356 Sudbury Street, Marlborough, MA 01752 spoke during the opposition portion of the public hearing and explained she is not in total opposition of the proposed subdivision and addressed concerns on the buffer zone along her property and spoke against the concept of a full roadway construction.

Mr. Vigeant addressed Mrs. Feddersohn's concerns, explaining he met with owners of 356 Sudbury Street and proposed putting back in a buffer zone and selling them about 21,000 sq ft of their grass for \$5.00. So they would own it and be able to keep their yard intact. He offered to put back as much of the natural buffer as possible to try to address their concerns.

Gregory Garson, 36 Harper Circle, Marlborough, MA 01752 spoke in opposition.
See the attached letter.

David Moores, 356 Sudbury Street, Marlborough, MA 01752 spoke during the opposition portion of the public hearing and explained he is not opposed to the subdivision but is opposed to a full roadway construction.

Rose Marie Boniface, 24 Harper Circle, Marlborough, MA 01752 spoke in opposition.
See the attached letter.

Steve Warren, 49 Harper Circle, Marlborough, MA 01752 spoke in opposition.
Mr. Warren discussed concerns for the brook, the wildlife, and the water/flooding issue within the area.

Lisa Nilan, 368 Sudbury Street, Marlborough, MA 01752 spoke in opposition.
Mrs. Nilan addressed concerns about setting a precedent, potential wind issues because of trees being taken down, flooding and blasting with in the neighborhood.

Dr. Fenby closed this portion of the Public Hearing.

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

Dr. Fenby addressed questions that have been raised by the public.

- Water flow will be monitored by the Engineering Department, regularly and as part of the City's responsibly as developments occur.
- The brook is monitored by Conservation.
- The issue with the subdivision setting a precedent is something the Planning Board has already reviewed.

Questions and Comments from the Planning Board:

Mr. Russ and Mr. Fay addressed concerns on the lack of details on the list of waivers, specifically number 5 and the potential need for curbing or berms to get the water flow to the catch basins.

Mr. Russ explained the plans need more details. The cross section doesn't show underground power or communication and the driveway is undefined, other than "18-feet-wide". There are no dimensions on the hammer-head turn around, which the Fire Department needs to know in order to determine if the their trucks can turn around. Mr. Russ asked if there could be a 20-foot buffer zone on each side between the two properties. Mr. Parente explained there is a recharge area on one lot but there could be a buffer zone on the other. Mr. Russ also explained any tree over 12 inches in diameter needs to be labeled on the plans, as staying, or going and there should be drawings showing trees in the buffer zone as discussed with the 356 Sudbury neighbors.

Mr. Russ asked if the driveway can be considered the legal frontage if it is owned by the property owner. Mr. DiPersio explained if the Planning Board approves it as a "way" it can be used as legal frontage even if it is private.

Mr. Russ addressed concerns on the 3,000 sqft home not fitting in with the character of the neighborhood and asked if home sizes in the area could be provided.

Mr. Vigeant offered a site visit to address concerns.

Mr. Fowler expressed his concerns on the water flow issues, the driveway being a private way and asked if the house could be place in a spot to cause the least amount of removal of trees.

Mr. Vigeant explained the proposed house is a significant distance uphill from this brook. The re-charge basins will prevent the water from the 342 property to make it to the brook.

Mr. Fay addressed the concerns on the buffer zone from the brook really being a "no disturb" zone.

The Board had a discussion on the new rules and regulations and that the 342 Sudbury Street Definitive Subdivision Plan should be held to the new standards, as the new Subdivision Rules and Regulations were approved and adopted on September 13, 2021.

Dr. Fenby closed the public hearing.

5. Subdivision Progress Reports

A. Commonwealth Heights Subdivision – ongoing discussion

Dr. Fenby informed the Board Scott Weiss would attend the December 6, 2021 Planning Board meeting.

On a motion by Mr. LaVenture, 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.

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

B. Goodale Estates – ongoing discussion

Mr. LaVenture read the correspondence from the City Engineer Thomas DiPersio, Engineering Department into the record.

On a motion by Mr. LaVenture, 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.

Mr. DiPersio informed the Board Kevin Gillis would have the requested information for the November 22, 2021 meeting.

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

7. Definitive Subdivision Submissions (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business (None)

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns

A. Misc. surrounding Cities/Towns Planning Board – Notices of Public Hearings

On a motion by Mr. Russ, seconded by Mr. LaVenture the board voted to accept and file the correspondence under 12. Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

4. Public Hearings (Continued)

A. City Council: Order #21-1008274C, Proposed Zoning Amendment to Chapter 650 to amend Section 61 Temporary Moratorium for Multi-Family Housing Projects

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to send a favorable recommendation to the City Council on the proposed order 21-1008414 to extend the Temporary Moratorium for Multi-Family Housing Projects through to December 31, 2021.

If the City Council sees fit to approve the Zoning Amendment, the Planning Board suggests the following:

- Request that the Mayor notify the Planning Board and City Council as soon as possible if Mayor anticipates the need for additional extensions of the moratorium;
- Exclude the Campus development that was previously reviewed by the Planning Board in connection with a recommendation for a zoning change; said exclusion to be limited for review purposes only, not approval.

Yea: Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0 Motion carried 6-0.

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.

Respectfully submitted,


George LaVenture/Clerk

/kmm



City of Marlborough

Conservation Commission

140 Main Street
Marlborough, Massachusetts 01752
Tel. (508) 460-3768 Facsimile (508) 460-3747

Memorandum

To: Barbara Fenby, Chairwomen
Planning Board

From: Priscilla Ryder, Conservation/Sustainability Officer 

Date: November 8, 2021

RE: 342 Sudbury St., Definitive Subdivision Plan

The Conservation Commission is in receipt of and reviewed, at its November 4, 2021 meeting, the following plan: Definitive Subdivision Plan in Marlborough, MA

Location: 342 Sudbury St.

Owner: 342 Sudbury St. Trust

Dated: October 15, 2021

Prepared by Robert Parente, P.E.

Sheets: 1-3

The Commission provides the following comments:

1. Please confirm that any work relative to this project is outside the 100' buffer zone and 200' riverfront area to the adjacent stream which is between this lot and Harper Circle. Based on the GIS map it doesn't appear that there are any wetlands on this lot, just buffer zone. These should be shown on the final plans
2. The plans show a 60' area referenced as "Natural Buffer". The Commission agrees that this is a good way to limit impact to adjacent properties. Can this Natural buffer area be well defined on the plan as to what is intended? i.e., no clearing, except for dead or dying trees, keep the undergrowth intact, no building, no sheds, no storage – etc. Other buffers in the past have not been clearly defined and enforcement has been difficult. Clearly defining the intent of this natural buffer and adding it to the plan will make this task easier in the future.
3. Please ensure that erosion controls are shown on the plan to prevent mud from tracking or flowing into Sudbury St. or onto the adjacent down hill properties. The adjacent stream flows into the Desert Natural area which contains one of our few native trout brooks in this region so all efforts to keep it clean is required.

If you have any questions on the above, please let me know.

Cc: Tom DiPersio, City Engineer
Tin Htway, Building Commissioner
Ed Clancy, Conservation Commission Chairman

TO: Members of the City of Marlborough Planning Board

DATE: November 6th, 2021

FROM: Gregory Garson & Allison Crouse (36 Harper Cir, Marlborough, MA 01752)

RE: Proposed sub-division plan for land located at 342 Sudbury Street, Marlborough, MA 01752

Dear Planning Board Members,

We are writing to you **in opposition** to the proposed sub-division and development of the land located at 342 Sudbury Street in Marlborough. This land directly abuts our property and the proposed development will be in direct view behind our house in direct opposition to the primary reason we selected this home / location in the first place – the secluded, wooded location surrounded by trees providing a natural barrier and delineation between properties in our neighborhood and adjacent neighborhoods.

Furthermore, we believe that the proposed development will have the following impacts on our neighborhood and our property directly, detailing further why we are opposed to the sub-division and subsequent development plans:

- Our property and that of the surrounding neighbors who have abutting properties to the one located at 342 Sudbury Street contains protected wetlands that encompass the vast majority of the back portion of our properties
- Traversing these wetlands is an active stream with wildlife that requires protection
- The active stream is a tributary to a larger body of water which is a protected trout stream, again, with wildlife that requires protection
- The proposed development would cause irreparable damage to this fragile wetlands eco-system and the downstream eco-systems that are fed and supported by our stream – an eco-system that a lot of wildlife have come to depend upon (e.g. turkeys, deer, coyotes, fisher cats, squirrels, chipmunks, rabbits, owls, hawks and many, many more) – there has not been a proper environmental impact assessment for this proposal
- Given the elevation of the proposed development – which is located on a rise above the wetlands and stream traversing these wetlands – the waterflow would be severely impacted by the removal of trees, the disturbing of the land structures and the development of new buildings (and supporting infrastructure) on land above the wetlands
- Irrespective of the damage to the wetlands (which is a certainty), the location of the proposed development would necessitate the removal of most if not all of the old growth timber in the wooded areas, which would alter the canopy of the wooded area and change the structure of the vegetation in this natural buffer zone – these trees could not be moved or replaced
- The removal of this old growth timber would also have two additional (and significant) impacts to our property:

1. The winds that come through the area – sometime quite severely – would have no natural buffers to prevent them from slamming into our trees that are closer to our home, significantly raising the risk of a catastrophic collapse of a ‘killer tree’ (one that is large enough to take out any of the homes it is near, and potentially killing us as occupants) – we have seen this happen with the removal of a large area of trees by one of the neighbors on Harper Cir, causing us to have to spend significant amounts of money on tree removal
 2. The water that flows from the elevated portion of our property, the portion that abuts the proposed sub-division and development, is contained by the trees and foliage that are in the wooded zone. The removal of these trees and foliage will cause significant amounts of water to flow down to and beyond the creek / stream that traverses the property and raises the flood risk on our property. Again, we have seen evidence of this occurring as a direct result of the removal of trees and foliage between 10 Harper Cir & 24 Harper Cir, causing significant flooding onto the land at 24 Harper Cir.
- Given the lack of proper infrastructure in place to support the new sub-division and subsequent development, and the fact that we went thru a recent 2+ year ‘intrusion’ to put in sewers in our development, this new home would not comply with the required infrastructure and could tax our newly implemented infrastructure unduly
 - The final point I will make is around the impact of our ability to enjoy our property free from intrusion and interference from on-lookers – we purchased our property because of the natural seclusion that it came with. This seclusion also came with a ‘buffer zone’ in the back – the area that abuts the proposed sub-division and development – of a wetlands area that we were told could not be developed. The proposed development would place a home in open view of our backyard, in direct opposition to the natural seclusion we sought and paid for more than 15 years ago and that our neighbors equally sought out and paid for when they purchase homes in this neighborhood.

In conclusion, we are opposed to the sub-division and development because of the environmental impacts it will cause, the intrusion on our right to enjoy our property without interference from our neighbors, and the unnecessary need for another home, without proper infrastructure, to be added to this area.

Thank you for allowing us to provide input into your decision-making and we hope you will vote to decline the request.

Sincerely,

Gregory Garson & Allison Crouse

36 Harper Cir, Marlborough, MA 01752

gig@zz48.com

781-267-1498

24 Harper Circle
Marlborough, MA 01752
November 8, 2021

RE: Proposed Subdivision 342 Sudbury Street, Marlborough. MA 01752

Dear Planning Board Members:

We purchased our current home at 24 Harper Circle in July 1985 and were the third family to move into the Carisbrooke development in January 1986. From all of the lots that were available, we carefully chose our private wooded lot on a small cul de sac, Harper Circle. We have lived here for almost 37 years and have witnessed many events and changes in our neighborhood during this time.

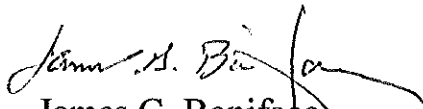
As a direct abutter, there are many reasons that we oppose the proposed subdivision at 342 Sudbury Street, but we will focus on four primary concerns.

1. **Water flowage and drainage** is of utmost concern to us. Our section of the development is very wet with a high water table and wetland areas. The Carisbrooke developers designed an elaborate flowage and drainage system with underground pipes, culverts, detention ponds, and open brooks. Our backyard contains both a drainage easement and a flowage easement, and an open brook. Our land floods with heavy rains and we have seen times when the brook water has risen so high that it has met our inground pool water. Following any rain, our backyard cannot be mowed for many days because it is too wet. More recently in heavy rains, water is flowing swiftly along the foundation of our home and we are forced to use a pump to divert it from our basement.
2. The proposed subdivision lot is on a **significant elevation** above our lot. The construction of the proposed new home, as well as its inherent removal of trees and other vegetation, will inevitably cause **increased runoff of water** onto our property, exacerbating the wet conditions we already have.

3. Further, we would **suspect that the proposed subdivision lot has ledge that may need to be blasted**. Our lot has ledge and we had to blast to put in our inground pool. We are concerned about **potential damage to our pool**. Four years ago when the City's contractors blasted to install sewerage on our street, the blasting caused a crack in our pool which needed to be repaired.
4. Lastly, we are concerned about the **environmental and conservation impacts** of the proposed subdivision. The brook on our property flows into a protected Sudbury Valley Trustees trout stream. Runoff from the proposed construction threatens the brook and stream beyond. Removing decades old trees and other natural vegetation impacts the ecological balance in the area and increases the flood risk on our property.

No matter what buffer zones are created to "appease abutters", the approval of this subdivision will forever change the homes and properties of those of us who purchased and expected to continue to enjoy private, wooded homesites without increased water and drainage problems, preventable environmental impacts, and loss of privacy. We urge you not to approve this subdivision.

Very truly yours,


James G. Boniface


Rose Marie Boniface