

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

1A

**Call to Order**

**December 20, 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: present: Barbara Fenby, Sean Fay, Phil Hodge, George LaVenture, Chris Russ, Matthew Elder and William Fowler. Meeting support provided by City Engineer, Thomas DiPersio.

**1. Draft Meeting Minutes**

**A. December 6, 2021**

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept and file the December 6, 2021 meeting minutes with minor typo edits. Yea: Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Abstained: Fay and Elder. Motion carried.

**2. Chair's Business (None)**

**3. Approval Not Required**

**A. 547 Stow Road, Marlborough, MA 01752**

Applicant: McCabe Family Irrevocable Trust and Judith Mello McCabe  
Deed Reference: Book: 66136 Page: 582  
Deed Reference: Book: 78814 Page: 591  
Surveyor: Robert Parente, P.E., P.L.S. (328 Desimone Drive, Marlborough, MA 01752)

Mr. Parente went over the Plan of Land dated December 15, 2021.

Mr. Parente explained the land at 547 Stow Road is approximately 8 acres and is currently divided into 2 lots owned separately Judith McCabe and Alison McCabe. Parcel 20-4 is owned by Judith McCabe and parcel 20-150 is owned by Alison McCabe.

Mr. Parente explained the ANR creates the following on the existing frontage:

Lot 1: 1.01 acres  
Lot 2: 1.02 acres  
Lot 3: 1.60 acres  
Parcel 4A: 6.37 acres (not a buildable lot)

Mr. Parente explained there are wetlands on the back property and a sewer easement that runs through the property connecting into Miele Road, which will have to be dealt with if future development were to occur on parcel 4A. He also explained the sheds/barns on the properties will have to be taken down because of new proposed property lines.

On a Motion by Mr. LaVenture, seconded by Mr. Elder the board voted to refer the December 15, 2021 Approval Not Required Plan for 547 Stow Road to the Engineering Division for review. Yea: Fay, Hodge, LaVenture, Russ, Elder, Fowler, and Fenby. Nay: 0. Motion carried.

**4. Public Hearings (None)**

**5. Subdivision Progress Reports**

**A. Commonwealth Heights Subdivision – ongoing discussion – no new information**

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

**7. Definitive Subdivision Submissions**

- A. 342 Sudbury Street, Marlborough, MA 01752 – Definitive Subdivision Plan – ongoing discussion  
Owner of Land: The 342 Sudbury Street Trust  
Name of Engineer: Robert Parente, P.E., P.L.S. (328 Desimone Drive, Marlborough, MA 01752)  
Deeds Reference: Book: 77825 Page: 110  
Revised Plans, dated December 15, 2021

Mr. LaVenture read the December 9, 2021 email correspondence from abutter John Brackett (42 Harper Circle, Marlborough, MA 01752) into the record. Dr. Fenby explained in response to this email she called Mr. Brackett and had a discussion with him explaining the Planning Board process, the constraints of the subdivision by laws and applicants' rights.

The Planning Board received a letter from abutters residing at 24, 36 and 45 Harper Circle after the agenda closed. Dr. Fenby asked abutters present at the meeting it was OK to pass this letter the applicant. They said yes and Dr. Fenby explained this letter would be read into the record at the next meeting.

Mr. LaVenture read the December 16, 2021 correspondence from City Engineer Thomas DiPersio, Engineering Division into the record.

Mr. LaVenture read the December 15, 2021 correspondence from Andy Felix, MA certified Arborist, Tree Tech, Inc. into the record.

Mr. LaVenture read the December 15, 2021 correspondence from Robert Parente into the record.

Mr. LaVenture read the December 20, 2021 email correspondence from Neal Vigeant into the record. – See attached.

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

Mr. Parente explained in addition to the changes listed in his correspondence the existing condition plan shows a new portion labeled "save trees". Mr. Russ pointed out the electric utilities run underneath one of the trees. Mr. Parente explained they can put up silt fence around the tree to protect it during the construction process and re-route the utilities around the tree.

Dr. Fenby asked the Board if anyone had any additional questions or comments and suggested going through the list of waivers to provide feedback to the applicant, specifying this review is not binding but simply to give the applicant direction.

**Waivers:**

- 1) § A676-12.C.1.a: "To allow the reduction in the roadway layout to 40 feet."
- 2) § A676-24.B.2.a: "To allow a reduction in the pavement width to 18 feet."
- 3) § A676-26.A: "To allow the elimination of sidewalks."
- 4) § A676-26.B: "To allow cape cod berm in lieu of granite curbing."

Mr. Russ noted on the cross section the plans show a 20-foot pavement width. After discussions Mr. Parente, Mr. Vigeant and Mr. DiPersio all agreed to a 18-foot paving width, edge to edge including the cape cod berms.

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- 5) § A676-24.A.4-1/2 and A676-24.C: "To allow the construction of the roadway in accordance with the cross section on the profile sheet, including the elimination of the geotextile fabric under the road base and the reduction of the pavement thickness to four inches of bituminous concrete."
- 6) § A676-12.E.2: "To allow the construction of a hammerhead turnaround in lieu of a circular 44' radius paved turnaround."
- 7) § A676-25.C.2: "To allow the use of HDPE drainage pipe in lieu of RCP pipe."
- 8) § A676-21: "To allow the elimination of street lighting in the roadway."
- 9) § A676-10.L.1: "To allow the roadway to remain in private ownership and to be owned and maintained by the Owner of Lot 2."

The board indicated that they had no issues with the waivers listed on the plan other than the note regarding the pavement width differences discussed above.

Mr. Fay provided a list of proposed findings that justify the Board's decision on granting the waivers:

- 1) "Applicant has demonstrated to the satisfaction of the Board that the construction of an as-of-right subdivision is not in the public's best interest or the best interest of the abutters; and that a less intrusive subdivision is more in keeping with the character of the neighborhood."
- 2) "The buffer zone delineated on the subdivision plan alleviates, in part, the concerns raised by the neighbors."
- 3) "The developer has established, to the satisfaction of the City Engineer, that the subdivision as proposed will not exacerbate water runoff issues in the neighborhood."
- 4) "The developer has demonstrated to the Board that the subdivision property is unique in character and that this subdivision cannot and should not be used as a precedent for other potential developments within the City. For example, not as justification for cape cod berms in lieu of granite curbs on other roadways."
- 5) "The subdivision as proposed does not present the sight line issues and roadway width issues the Board has encountered in the past with proposed subdivisions on Sudbury Street."
- 6) "Based upon the findings listed above, the Board is prepared to approve the Subdivision upon the following conditions after a vote on the proposed waivers individually:
  - a. "The proposed buffer zone be included as a restriction in all deeds in perpetuity."
  - b. "That no storage structures be allowed in the buffer zone."
  - c. "That the conservation commission be specified as the entity designated to enforce the buffer zone."
- 7) "That the covenant includes the previous three conditions."

Mr. Elder expressed concerns for setting a precedent for future projects. Mr. Fay explained the boards reasoning will be part of the public record and it would be the next property owners' burden to prove that their property is so unique that these waivers would benefit the neighbors to such an extent that the Board would be willing to make those same findings.

Mr. Parente, Mr. DiPersio, and Mr. Fay had a discussion on specifications of drafting the covenant and the review/appeal process.

Mr. DiPersio and Mr. Russ explained there are two changes that need to be displayed on the plans.

- 1) Electric utility lines need to be moved to avoid the "save trees" area.
- 2) Pavement width to be displayed as 18-feet-wide throughout the plan.

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8. Signs (None)

9. Correspondence (None)

10. Unfinished Business (None)

11. Calendar Updates

A. Vote on 342 Sudbury Street Definitive Subdivision Application – February 27, 2022

12. Public Notices of other Cities & Towns (None)

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

Respectfully submitted,



George LaVenture/Clerk

/kmm