

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

1A

Call to Order

January 10, 2022

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 Matthew Elder. Meeting support provided by City Engineer, Thomas DiPersio.

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

Dr. Fenby opened the organizational meeting.

Mr. Elder opened the nominations for the Planning Board Chairperson. Mr. Russ nominated Dr. Barbara Fenby, seconded by Mr. LaVenture. There were no additional nominations. On a motion by Mr. Russ, seconded by Mr. LaVenture the board voted to elect Dr. Barbara Fenby as Chairperson of the Marlborough Planning Board for the year 2022. Yea: Elder, Fay, Hodge, LaVenture and Russ. Nay: 0. Motion carried.

Dr. Fenby opened the nominations for the Planning Board Clerk. Mr. Russ nominated Mr. George LaVenture, seconded by Mr. Elder. There were no additional nominations. On a motion by Mr. Russ, seconded by Mr. Elder the board voted to elect Mr. George LaVenture as Clerk of the Marlborough Planning Board for the year 2022. Yea: Elder, Fay, Hodge, Russ, and Fenby. Nay: 0. Motion carried.

1. Draft Meeting Minutes

A. December 20, 2021

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to accept and file the December 20, 2021 meeting minutes with minor typo edits. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

2. Chair's Business

A. Proposed 2022 Planning Board Meeting Calendar

The Board reviewed the draft 2022 Planning Board meeting calendar.

On a motion by Mr. LaVenture, seconded by Mr. Fay the board voted to adopt the draft calendar as the 2022 Planning Board calendar. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

B. Certification Pursuant to G.L. c. 39, Section 23D ("Mullin Rule")

Dr. Fenby announced Mr. Elder had filed the Certification Pursuant to G.L. c. 39, Section 23D ("Mullin Rule") regarding the November 8, 2021, 342 Sudbury Street Definitive Subdivision Plan's public hearing allowing him to vote on the decision. – See attached.

3. Approval Not Required

A. 547 Stow Road, Marlborough, MA 01752 – ongoing discussion

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. LaVenture read the January 7, 2022 correspondence from City Engineer, Thomas DiPersio, Engineering Division into the record.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept, file, and endorse the 547 Stow Road Plan of Land dated December 15, 2021, revised January 6, 2022, as Approval Not required under the Subdivision Control Law. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 6-0.

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

4. Public Hearings (None)

5. Subdivision Progress Reports

A. Commonwealth Heights Subdivision – ongoing discussion

Mr. LaVenture read the December 27, 2021 correspondence from City Solicitor, Jason Grossfield, Legal Department into the record.

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

The Board discussed their opinions on the definition of “commencement of work” and the need for standards the Board will follow to determine if the Board has factual basis to make a rescission. The Board discussed specifics on past rescissions and the Board’s history of holding developers accountable.

On a motion by Mr. Elder, seconded by Mr. LaVenture the Board voted to send the City Solicitor, Jason Grossfield communication requesting him to attend the next Planning Board meeting on January 24, 2022 and to provide standards and procedural guidance for rescission. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

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

Mr. LaVenture read the December 16, 2021 correspondence from abutters residing at (24, 36 & 45 Harper Circle Marlborough, MA 01752) into the record.

Mr. LaVenture read the January 7, 2022 correspondence from City Engineer, Thomas DiPersio, Engineering Division into the record.

Mr. LaVenture read the January 6, 2022 correspondence from Neal Vigeant into the record.

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

The Board reviewed the draft certificate of vote.

Dr. Fenby explained she had a discussion with Priscilla Ryder about the Conservation Commission’s willingness to enforce the buffer zone.

Mr. Fay suggested a change on page 4, number 3. “That the Conservation Commission be specified as the entity designated to enforce the buffer zone and may delegate enforcement authority to Code Enforcement at their discretion.”

Mr. Fay suggested a change on page 3, adding a number 6. “The above findings are based on the minimal impact posed by a one buildable lot subdivision.”

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

The Board reviewed the draft covenant.

Mr. Fay suggested a change on page 2, number 10, a. "The Natural Buffer Zone shall be protected as shown on the Plan in perpetuity. At the request of the Planning Board the Conservation Commission or Code Enforcement if the Conservation Commission so delegates, is the recommended steward for enforcement, and for any questions relative to allowed uses or activities in this buffer zone."

Mr. Fay and Mr. Russ discussed standards for future subdivision language and suggested a change on page 3, number 14. "Prior to the execution of this Covenant, the Covenantor agrees to submit a work schedule, and a progress report every month beginning 60-days after the Covenant is signed, to the City Engineer, with copies to the Planning Board, until said subdivision has been completed. Said progress reports shall be delivered to the Planning Board prior to the third Monday of each and every month. Failure to comply with the provisions of this paragraph shall give the Planning Board the right to rescind the approval of the application for subdivision approval after notice to the Covenantor and opportunity to be heard."

Mr. Parente and the Planning Board Administrator discussed dates that need to be updated from December 15, 2021 to January 6, 2022 referencing the most recent revised plan dates in both the draft certificate of vote and the draft covenant.

On a motion by Mr. LaVenture, seconded by Mr. Russ the board voted to send the draft covenant and draft certificate of vote to the Legal Department for review. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to approve all motions related to the waivers based upon the findings contained in the certificate of vote and the Board's determination that the approval of the waivers is in the best interest of the City. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.

Waiver Votes:

- 1) On a motion by Mr. Fay, seconded by Mr. Elder, it was duly voted:
To grant a waiver of Article IV. Design Standards § A676-12.C.1.a, to allow the reduction in the roadway layout to 40 feet. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 2) On a motion by Mr. Elder, seconded by Mr. LaVenture, it was duly voted:
To grant a waiver of Article V. Required Improvements for an Approved Subdivision § A676-24.B.2.a, to allow a reduction in the pavement width to 18 feet including berms. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 3) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article V. Required Improvements for an Approved Subdivision § A676-26.A, to allow the elimination of sidewalks. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0 Motion carried. 6-0.
- 4) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article V. Required Improvements for an Approved Subdivision § A676-26.B, to allow cape cod berm in lieu of granite curbing. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.

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

- 5) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article V. Required Improvements for an Approved Subdivision § 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. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 6) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article IV. Design Standards § A676-12.E.2, to allow the construction of a hammerhead turnaround in lieu of a circular 44' radius paved turnaround. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 7) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article V. Required Improvements for an Approved Subdivision § A676-25.C.2, to allow the use of HDPE drainage pipe in lieu of RCP pipe. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 8) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article IV. Design Standards § A676-21, to allow the elimination of street lighting in the roadway. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.
- 9) On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To grant a waiver of Article IV. Design Standards 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. Yea: Elder, Fay, Hodge, LaVenture, Russ, Fenby. Nay: 0. Motion carried. 6-0.

On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted:
To approve the following definitive subdivision plan with each of the nine waivers granted:

Definitive Subdivision Plan of 342 Sudbury Street, Marlborough, Massachusetts 01752
Owner: Neal Vigeant, Trustee of the 342 Sudbury Street Trust
Subdivider: Neal Vigeant, Trustee of the 342 Sudbury Street Trust
Prepared by: Robert Parente, P.E., P.L.S. (328 Desimone Drive, Marlborough, MA 01752
Date: October 15, 2021 (Last revised January 6, 2022)

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

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

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

12. Public Notices of other Cities & Towns

A. Town of Hudson – Zoning Board of Appeals

On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the public notices. Yea: Elder, Fay, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried.

The Board signed the 547 Stow Road mylar for the Approval Not Required.

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

Respectfully submitted,



George LaVenture/Clerk

/kmm