

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

November 7, 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, Phil Hodge, George LaVenture, Chris Russ and Matthew Elder. Meeting support provided by City Engineer, Thomas DiPersio. Members Absent: Sean Fay and William Fowler.

1. Draft Meeting Minutes

A. October 17, 2022

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the October 17, 2022, meeting minutes. Yea: Elder, Hodge, LaVenture, and Russ. Nay: 0. Abstained: Fenby. Motion carried. 4-0.

2. Chair's Business

A. Millham Estates – Request to amend 1995 special permit

i. Correspondence from Joseph P. Anderson, Esq. (Crowley & Cummings, LLC)

Mr. LaVenture read the November 3, 2022, correspondence from Mr. Anderson into the record.

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the correspondence.

Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

ii. Recorded special permit

Mr. DiPersio updated the Board on discussions he had with the Legal Department regarding this request and explained if the request is to amend the special permit, Chapter 40A would require a formal request along with a public hearing. He explained there has been an roughly 15-20 conveyances since the special permit was recorded and with no price restrictions.

On a motion by Mr. Elder, seconded by Mr. LaVenture, The Board voted to refer the 55 Gregoire Drive, Millham Estates special permit to the Legal Department for an opinion as to whether the restriction on the price for the homes applies to all the homes in the subdivision in perpetuity or if the language in the permit stating: "This restriction shall only apply to the original purchaser" was intended to apply to both items 5 and 6 under conditions on the recorded special permit. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

B. Unaccepted Streets – *No Updates*

Dr. Fenby informed the Board City Council would be referring a proposed zoning amendment to the Planning Board for mixed used and affordable housing. The Board set the public hearing date for December 5, 2022.

3. Approval Not Required (None)

4. Public Hearings

A. 7:05 - Council No. 22-1008679 – Proposed Amendment to Chapter 650, §40 – Location and Height of Buildings, relative to Attached Roofs for Entryway/Porches.

i. MISC supporting documents, including Plan Set

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.

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Presentation:

City Council President Michael Ossing (43 Varley Road, Marlborough, MA 01752) spoke on behalf of the proposed zoning amendment. Mr. Ossing provided a background on the proposed zoning change and explained in November of 2021 a resident submitted a plan to build a 5x7 foot portico at their front door which was denied in February of 2022 by the building department because it did not meet the setback requirements. In May of 2022 the resident applied for a variance with the Zoning Board of Appeals (ZBA) for relief, where the ZBA Chair advised the resident to work with City Council to identify a potential zoning change. The variance was withdrawn, and the resident contacted City Council. In the summer of 2022 Council members Sean Navin and Michael Ossing discussed the potential zoning change with the building department. The Building Department drafted the changes which have been reviewed and put in proper legal form by the Legal Department.

Mr. Ossing went over the following proposed zoning amendment:

- I. By amending Chapter 650 (Zoning), Section 650-40 (Location and Height of Buildings), Subsection F(5) to read as follows (new text shown as underlined):
 - (5) (a) Nothing herein shall prevent the projection of cornices or eaves not exceeding 18 inches in width or of uncovered steps, unroofed porches or windowsills into a required yard or other open space.

(b) For single-family and two-family dwellings, in all zoning districts: An attached roof covering an entryway or porch may project into the required yard setback, subject to compliance with all of the following requirements:
 - [1] Attached roof is permitted to project up to sixty (60) inches into the required yard setback;
 - [2] Attached roof shall not exceed forty (40) square feet;
 - [3] Attached roof shall not exceed allowable height per §650-41, Table of Lot Area, Yards and Height of Structures;
 - [4] Entryway or porch may not be enclosed nor living space or balconies erected above, excepting required elements such as railings;
 - [5] Space beneath the porch may not be occupied; and
 - [6] Minimum setback from any street or way for an attached roof authorized under this subsection shall be five (5) feet.

Questions and Comments from the Planning Board:

Mr. Russ addressed concerns regarding homes that are already situated close to the setback. Mr. Ossing explained they would have the limitation of 40 square feet and have a requirement to be 5 feet from the street.

Mr. LaVenture addressed concerns regarding residents who wish to put a portico on the back of their home. Building Commissioner Tin Htway explained the intention for these are to be installed at their main entrance way and explained no matter which side of the house the portico is installed; it would only be permitted to project up to sixty (60) inches into the required yard setback and explained each side of a house has a required setback per the zoning code.

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The Board discussed general concerns and the Mr. Htway went over the current zoning code for accessory structures.

Speaking in Favor of the Amendment:

Michael Smith (257 Lakeshore Drive, Marlborough, MA 01752) spoke in favor and explained this zoning change would help enhance a project he is currently working on and address how difficult it is to present a hardship to the ZBA for relief.

Michael Carney (43 Bouffard Drive, Marlborough, MA 01752) spoke in favor and explained covered steps are safer than uncovered steps and argued it adds value and safety to the community.

Dr. Fenby closed this portion of the Public Hearing.

Speaking in Opposition to the Amendment:

No one spoke in opposition.

Dr. Fenby closed this portion of the Public Hearing.

Dr. Fenby closed the Public Hearing.

On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to send a favorable recommendation to the City Council without further guidance on the proposed Council Order No. 22-1008679. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. LaVenture, second by Mr. Russ the Board voted to move item 7.A. Definitive Subdivision, Tobin Drive, Definitive Subdivision Plan up. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

7. Definitive Subdivision

A. Tobin Drive, Definitive Subdivision Plan

Map 44, Parcel 148 (0 Stevens Street), Marlborough, MA 01752

Owner of Land: James & Rebecca Chaousis (283 Bolton Street, Marlborough, MA 01752)

Name of Applicant: Charles Bourque (P.O. Box 642, Weston, MA 02493)

Name of Engineer: Jason Lavoie, WSP, (100 Summer Street, 13th Floor, Boston, MA 02110)

Deed Reference: Book: 9742 Page: 148

i. Correspondence from Assistant City Solicitor, Jeremy McManus, Legal Department

Mr. LaVenture read the November 3, 2022, correspondence from Mr. McManus into the record.

The administrator informed the Board the tax document had been provided and the signature pages were given to the developer to be signed and notarized by the owners.

The developer requested lot 4 be retained as surety, as required by the regulations, and the Board agreed.

ii. Final Draft Certificate of Vote

iii. Final Draft Covenant

iv. Correspondence from City Engineer, Thomas DiPersio, Engineering Division

v. Correspondence from WSP – Response to Thomas DiPersio’s August 18, 2022, comments

vi. Revised Plan Set Dated: October 14, 2022

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On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to approve the Tobin Drive, map 44, parcel 148 (0 Steven Street, Marlborough, MA 01752) Definitive Subdivision Plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to endorse the covenant. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to endorse the plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

Carol Dennison, WSP, (100 Summer Street, 13th Floor, Boston, MA 02110) explained the plans would be delivered to the Planning Board office within the week and Dr. Fenby asked the administrator to inform the members when the plan was ready for endorsement.

On a motion by Mr. LaVenture, second by Mr. Russ, the Board voted to accept and file all the correspondence under 7.A. Definitive Subdivision, Tobin Drive, Definitive Subdivision Plan. Yea: Elder, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 5-0.

The Board endorsed the covenant and certificate of vote.

5. Subdivision Progress Reports (None)

6. Preliminary/Open Space/Limited Development Subdivision

A. Howe's Landing Subdivision / Acceptance of Gikas Lane as a Public Way

- i. Correspondence from City Engineer, Thomas DiPersio, Engineering Division
Mr. LaVenture read the November 3, 2022, correspondence from Mr. DiPersio into the record.
- ii. Communication Assistant City Solicitor, Jeremy McManus
- iii. Referral from City Council

Mr. DiPersio reminded the Board that City Council is waiting for comment back and updated the Board on previous correspondence that he has sent to the developer notifying them that the crack sealing would likely delay the acceptance process.

On a motion by Mr. Russ, second by Mr. LaVenture, the Board voted to notify the developer that the Board cannot give a favorable recommendation to the City Council for the acceptance of Gikas Lane as a public way until the crack sealing has been completed as indicated in City Engineer, Thomas DiPersio's correspondence. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

On a motion by Mr. LaVenture, second by Mr. Russ, the Board voted to accept and file the November 3, 2022, correspondence from Mr. DiPersio. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

8. Signs (None)

9. Correspondence (None)

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10. Unfinished Business

A. Working Group

i. Approval Not Required (ANR) Flowchart – See attached

Mr. LaVenture went over the flowchart and explained if the Board approves this flowchart its formatting would be used to generate other flowcharts for submissions, such a preliminary subdivision plan, definitive subdivision plan, open space developments, etc.

He updated the board on the Working Group's discussions regarding street acceptance language and their plans to further review the information.

The Board requested to leave the ANR Flowchart on the agenda for the November 21st meeting.

11. Calendar Updates

- A. Tobin Drive (F.K.A: Pettes Drive/Colchester Drive) (0 Stevens Street), Definitive Subdivision Plan, 135 days is Sunday July 24, 2022. Extension granted, vote by **November 7, 2022**, meeting.

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

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to adjourn the meeting. Yea: Elder, Hodge, LaVenture, Russ and Fenby. Nay: 0. Motion carried. 5-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm