

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

December 5, 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, Matthew Elder and William Fowler. Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. November 21, 2022

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the November 21, 2022, meeting minutes. Yea: Fowler, LaVenture, Russ, and Fenby. Nay: 0. Abstain: Elder, Fay and Hodge. Motion carried. 4-0.

2. Chair's Business

A. Unaccepted Streets – *No Updates*

B. Holiday Party

The Board agreed to have their Holiday Party on December 19th after the meeting.

3. Approval Not Required

A. 57 Main Street, Marlborough, MA 01752, Map 70, Parcel 291

Owner of Land:	Marlborough TOTG, LLC (206 Ayer Rd. Suite 5, Harvard, MA 01451)
Name of Applicant:	JW Capital Partners, LLC (34 Washington St. Suite 230, Wellesley, MA 02481)
Name of Surveyor:	Bruce Saluk & Associates, Inc. (576 Boston Post Rd E, Marlborough, MA 01752)
Deed Reference:	Book: 74006 Page: 273
	Book: 74006 Page: 276

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

Mr. LaVenture read the November 22, 2022, correspondence from Mr. DiPersio into the record.

ii. Form A

iii. Plan of Land Dated: November 9, 2022

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to accept and file the correspondence and endorse the above referenced Plan of Land dated November 9, 2022, as Approval Not Required under the Subdivision Control Law. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 7-0.

4. Public Hearings

A. 7:05 - Council No. 22-1008721 – Proposed Zoning Amendment to Chapter 650, Mixed Use and Affordable Housing

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:

City Council Vice President, Kathleen Robey (97 Hudson St, Marlborough) spoke on behalf of the proposed zoning amendment. Mrs. Robey explained the proposed amendment to the City Code covers two areas in Chapter 650 Zoning, one is the definition of mixed-use and one is related to affordable housing. She went on to say, "If you're familiar with the table of use regulations, you might know that mixed-use is listed in the business use section with

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the number 42 beside it. Mixed-use is allowed in neighborhood business, business and Wayside Village with the special permit and in Marlborough Village by right. While section 18 condition of uses, is where you can find the description for 42 and all the other numbers in the table of uses. We also have Section 5, definitions word usage, I'm not recommending a change to the information on number 42, but I have submitted an amendment to Chapter 650 Section 5. Specifically, the definition of mixed-use. The current language allows mixed-use in several districts of the City, the definition in place seems to only care about a vibrant downtown atmosphere. The current language restricts ground floors of buildings fronting streets or public access ways to residential but does allow two exceptions for residential on the ground floor. One exception is for a building that is set behind another building that has commercial uses on the ground floor and the other allows a residential portion of the ground floor of a building if it is set behind street front prime residential uses in the same building. There was nothing in the current language to delineate how big the commercial space is versus the residential space, and I'm concerned that developers may take advantage of this exception and submit plans with the small portion of mixed-use as commercial and having as much residential as they can. So rather than try to figure out what a percentage should be, I'm suggesting language that requires all ground floor of a building, fronting streets of public access ways to be nonresidential, with one exception. That exception would allow dwelling units on the ground floors of a building that is set behind and mixed-use building that has business uses on the ground floor and residential uses on other floors. This would allow a developer to take a large parcel of land, such as a site in the Wayside Village, to be developed as mixed-use with buildings fronting Route 20 having the lower level be commercial and the upper levels residential, and then having another building with ground floor residential behind that building. On the other hand, I believe most of the buildings in the Marlboro Village District would have the lower portion be all commercial with residential above.

The second proposed amendment is on affordable housing. As a Council has discussed mixed-use projects, we were reminded that current language specifically lists and exemption or affordable housing in the Marlborough Village District. It is clear to me that regardless of where multifamily housing is built, it should have a component of affordable housing as a requirement. The proposed amendment would require future, by right mixed-use projects in the Marlborough Village District that are site plan approval only to include affordable housing. It also removes the ambiguity in the language of 20 or more amendments versus 19 or fewer units requiring special permits by simply requiring them all to have at least 15% of the units as affordable housing. It also removes the ability to buy out this requirement or to allow a builder to build part of the affordable housing unit off site. Back in 2015, the \$50,000 per unit we allowed the developer to give us for economic development versus actually building affordable units sounded like a good idea. I think we all know the City can't afford to build affordable units with the funds we receive. The builders don't want to lose income by having affordable housing as part of their project. I also amended the exemption for affordable housing for future retirement communities for additions to existing sites and the final amendment is to simply clarify the language of mixed-use described in the special provisions of the Wayside zoning that the solicitor thought would be important to use."

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:

No one spoke in opposition.

Dr. Fenby closed this portion of the Public Hearing.

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Questions and Comments from the Planning Board:

Dr. Fenby and Mr. Elder expressed support in the proposed to change to no longer accept \$50,000 from a developer in lieu of building the affordable units.

The Board members and Mrs. Robey discussed specifics on current language of the zoning code.

Dr. Fenby closed the Public Hearing.

The Board reviewed the voting criteria for proposed zoning amendments and discussed its benefit to the City.

City Engineer, Thomas DiPersio asked, is the definition of affordable in the ordinance such that it's the same for every project and does it always mean in perpetuity? Mrs. Robey explained there is language that talks about the period of affordability being a minimum of 99 years, and that the Council refers to the state formula when calculating the amount. The language also reads that 70% of the affordable housing should go to Marlborough residents.

The Board determined they would keep the proposed zoning amendment on the agenda for further discussion.

5. Subdivision Progress Reports

A. 342 Sudbury Street

i. Correspondence from Kevin O'Malley

Mr. LaVenture read the December 1, 2022, correspondence from Mr. O'Malley into the record.

On a motion by Mr. Elder, second by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 7-0.

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

7. Definitive Subdivision (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

A. Working Group

Mr. LaVenture went over email correspondence he had with the City Solicitor Jason Grossfield.

The correspondence discussed the following:

- Changes to the Rules and Regulations
 - o Changes to the numbers of copies required during the submission process
 - o Refining the Limited Developments portion of the rules and regulations by adding a 90-day time limit for the Board decision after the public hearing
- Public hearing requirements
- Flowcharts for Open Space Developments and Limited Developments
- Boilerplate documents of the covenant and certificate of vote for developers to use

Mr. LaVenture explained the legal department is reviewing his questions/comments.

Mr. LaVenture went over the following draft documents.

- i. Draft Appendix M
- ii. Draft Flowcharts

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(1) Approval Not Required (ANR)

The Board determined to remove the ZBA block from this flowchart.

(2) Preliminary Plan

(3) Acceptance Procedure – Start of Maintenance Period

(4) Acceptance Procedure – After Maintenance Period

Board members discussed minor changes to the draft documents.

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the above draft documents and to approve the use of the flowcharts with minor type-o corrections. Yea: Elder, Fay, Fowler, Hodge, LaVenture, Russ, and Fenby. Nay: 0. Motion carried. 7-0.

11. Calendar Updates (None)

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

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

Respectfully submitted,



George LaVenture/Clerk

/kmm