

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

April 24, 2023

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: Sean Fay, Barbara Fenby, James Fortin, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio. Members Absent: William Fowler.

1. Draft Meeting Minutes

A. April 10, 2023

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file the April 10, 2023, meeting minutes. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

2. Chair's Business

A. Street Acceptance - No updates

Mr. Fay updated the Board on Commonwealth Heights and explained the Board previously received guidance from the Legal Department and because a covenant is in place no action is required.

3. Approval Not Required (None)

4. Public Hearings

A. 689 Pleasant Street, Marlborough, MA 01752 – Continued from March 27, 2023, and April 10, 2023
Open Space Development Definitive Subdivision Plan

Owner of Land: Joyce Beauchemin Realty Trust, Timothy L. Beauchemin, Trustee
(P.O. Box 1067, Townsend, MA 01469)

Name of Engineer: Daniel Koravos, P.E., (59 Granite Lane, Chester, NH 03036)

Name of Surveyor: Hugo Findeisen, (P.O. Box 612 Sandown, NH 03873)

Deed Reference: Book: 45210 Page: 560

i. Correspondence from Dan Koravos, DK Engineering LLC – Response to Engineering comments

ii. Correspondence from abutter Christine Devona (705 Pleasant Street)

iii. Plan Set Dated: February 6, 2023, Revised: April 18, 2023

iv. Tree Preservation and Protection Plan Dated: April 1, 2023, Revised: April 18, 2023

v. Pre-Development Drainage Area Map Dated: April 18, 2023

Mr. Fay declared the continued public hearing open.

Mr. DiPersio explained Mr. Koravos addressed the Engineering comments with his revisions and went over item 8A.

8. Sheet 8 Plan & Profile/Utility Sheet:

a) The proposed sewer force main will remain private. Future maintenance and repairs will be the responsibility of the homeowners. A homeowner's association or other legal agreement will have to be created for this purpose. A note should be added to the plan stating this.

Mr. DiPersio explained because of the topography of the property the proposed homes will need to pump up to Pleasant Street sewer. It's the City's policy that the City doesn't want to own these private force mains. Mr. Koravos has proposed the force main to be out of the right-of-way along the frontage of the lots within an easement. The pumps and the force main would be owned and maintained by the homeowners, which would be drafted within some sort of Homeowners Association document.

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Mr. Fay requested parcels A, B, and C to be labeled "not a buildable lot" on the plan.

ii. Correspondence from abutter Christine Devona (705 Pleasant Street)

Mr. LaVenture read the April 18, 2023, correspondence into the record.

The Board/Mr. Koravos addressed the three comments/questions within Ms. Devona's correspondence.

- The sidewalk waiver request, eliminating the sidewalk along 705 Pleasant St
Mr. Koravos argued removing the sidewalk along the abutting property at 705 Pleasant Street would create more room for the utilities and easier access for future maintenance.

Mr. Fay asked if the waiver was denied would it be engineeringly impossible to install the utilities within this portion of the road/under the sidewalk? Mr. Koravos explained it would not be impossible.

The Board discussed the future maintenance and water runoff. Mr. DiPersio explained in his opinion the runoff would not change with or without a sidewalk. Its not common practice but there are situations where sewer and other utilities run under sidewalks.

- Modification of the Tree Preservation and Protection Plan
Mr. Fay asked the Board if there were any objections to remove the tree requested by Ms. Devona. There were no objections.
- Ownership and maintenance of parcel C
Mr. DiPersio explained it's his preference that the City does not own or maintain parcel C. It could be owned by lot 1 or the homeowners association. Mr. Koravos explained it could be part of an easement owned and maintained by the homeowner's association.

Mr. Koravos explained if the sidewalk waiver was granted there would be a handicap accessible crosswalk.

Mr. Koravos explained there would be a gravity fed stub left for 705 Pleasant Street, but that they would not tie in the house as part of the project.

iv. Tree Preservation and Protection Plan Dated: April 1, 2023, Revised: April 18, 2023
The Board reviewed and discussed the Tree Preservation and Protection Plan.

v. Pre-Development Drainage Area Map Dated: April 18, 2023

Mr. DiPersio explained these plans show where the runoff is on the site and where off-site runoff comes to the site and how its divided among the different areas of the parcel. The pre-development drainage area plan shows the entire watershed that contributes to the site and the post-development drainage area plan shows the same watershed and how the areas will contribute to the drainage system that will be part of the roadway. The plan shows the runoff conditions after the project is completed and how it will mimic what happens now and that there won't be any impact to the abutters, wetlands or downstream receiving waters.

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to accept and files all the correspondence under item 4. Public Hearings, A. 689 Pleasant Street, Marlborough, MA 01752, Open Space Development Definitive Subdivision Plan. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: O. Motion carried. 6-0.

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Dr. Fenby asked about access to the open space parcel. Mr. Koravos referenced a previous Conservation Commission review letter where they mentioned the Open Space Parcel was desirable for protecting the wetland and not using it for public access.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to close the public hearing and to keep the record open. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

Mr. Koravos requested an extension on the decision to June 26, 2023.

Mr. DiPersio and Mr. Fay discussed wanting to see a draft of the Homeowners Association Agreement or adding a condition to the approval requiring the agreement.

Mr. Fay explained at the May 8, 2023, meeting the Board could discuss and go over the required waivers and provide Mr. Koravos with some feed back so he could prepare for the scenic road public hearing request.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to grant the extension for the decision on the Open Space Step Two Application for the Definitive Subdivision Beauchemin Estates, 689 Pleasant Street to June 26, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

5. Subdivision Progress Reports

A. 76 Broad Street – Pending guidance from the Legal Department

Mr. DiPersio updated the Board and explained he spoke with the Legal Department, and they require more time to investigate the covenant.

The Board discussed the option of holding a public hearing to rescind the approval. Mr. Fay requested 76 Board Street to remain on the May 8, 2023, agenda.

B. 342 Sudbury Street Progress Reports – Correspondence from Kevin O'Malley

Mr. LaVenture read the April 6, 2023, correspondence into the record.

On a motion by Dr. Fenby, second by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

6. Preliminary/Open Space/Limited Development Subdivision

A. Stow Road, Open Space Development Special Permit Application

Map 20, Parcel 4A, Stow Road, Marlborough, MA 01752

Name of Applicant: Kendall Homes, Inc. (P.O. Box 766, Southborough, MA 01772)

Name of Owner: McCabe Family Irrevocable Trust and Judith McCabe (6 Erie Drive, Hudson, MA 01749)

Name of Engineer: Connorstone Engineering, Inc. (10 Southwest Cutoff, Northborough, MA 01532)

Deed Reference: Book: 66136 Page: 582, Book: 78814 Page: 590

i. Correspondence from Vito Colonna, Connorstone Engineering, Inc. - Request for Extension 45 Days

ii. Correspondence from Assistant City Solicitor, Jeremy McManus – RE: Draft Special Permit

Mr. LaVenture read the April 14, 2023, correspondence into the record.

On a motion by Mr. LaVenture, second by Dr. Fenby, the Board voted to accept and file the correspondence.

Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

iii. Draft Special Permit

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The Board requested the applicant to incorporate the Conservation Commission and the Board of Health comments into the draft special permit. Mr. Fay pointed out that Conservation requested \$5,000.00 to be deposited to the City's Conservation Maintenance Fund and the special permit references \$2,500.00

Mr. Colonna explained the revised draft special permit would be ready for the May 8, 2023, meeting.

Mr. Fay explained the Board may need to get clarification from Mr. McManus on the waiver request of the access requirement outlined in Article III, § A676-7 and whether it should be part of the open space decision.

Mr. Russ addressed concerns on the soil testing and Mr. DiPersio explained the soil testing could be done as part of the definitive subdivision submission. Mr. Colonna discussed revising the special permit conditions to include language describing the soil testing to be part of the definitive submittal.

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to grant the extension for the decision on the Open Space Special Permit Application for the Preliminary Subdivision on Stow Road (547 Stow Road) to June 11, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

7. Definitive Subdivision (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

A. Working Group

- i. Correspondence from Assistant City Solicitor, Jeremy McManus – RE: Multiple Working Group questions
Mr. LaVenture summarized the April 14, 2023, correspondence from Mr. McManus and went over the attached email correspondence. – See attached.

Mr. LaVenture explained Mr. McManus would be attending the April 26, 2023, Working Group meeting and that they would be reviewing the flowcharts based on the provided legal guidance. Once the memos and flowcharts are revised, they would be sent to the Legal Department for a final review prior to the Board's vote.

Mr. Fay suggested the Guide to Abutters be revised and Mr. LaVenture requested the document for the April 26, 2023, Working Group meeting. Mr. Fay explained the current procedures on how the public hearings are conducted is not up to date, within the guide.

Mr. Fay suggested a procedure moving forward, where at each meeting the Board and Applicant for the record state that they are both in agreeance that the decision date is "X".

Mr. Fay updated the Board and explained the revised narratives for public hearings and guidelines would be available once additional input was received.

Mr. Fay told the Board; City Council asked him to designate a Board representative to work with the Council on the amendment to the City's zoning regulations to provide input for the MBTA overlay district. He went over what this would entail and requested someone to volunteer.

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11. Calendar Updates

- A. Stow Road, Open Space Development Special Permit Application – 90 days expires Sunday, March 19, 2023, extension granted to April 27, 2023 - Vote on or before **April 24, 2023**, meeting
- B. Beauchemin Estates, 689 Pleasant Street Definitive Subdivision – 90 days expires Sunday May 14, 2023 – Vote on or before **May 8, 2023**, meeting

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

On a motion by Mr. LaForce, seconded by Mr. Russ, the Board voted to adjourn the meeting. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm

Katlyn LeBold

From: Katlyn LeBold
Sent: Wednesday, May 3, 2023 11:56 AM
To: Katlyn LeBold
Subject: FW: MPBSWG - Wed, 26 Apr 23 1pm Meeting

From: George LaVenture <GLaVenture@trinity-inc.net>
Sent: Sunday, April 23, 2023 7:03 PM
To: Jeremy McManus <jmcmanus@marlborough-ma.gov>
Cc: Christopher Russ <cpruss24@gmail.com>; Thomas DiPersio <tdipersio@marlborough-ma.gov>; Katlyn LeBold <klebold@marlborough-ma.gov>
Subject: RE: MPBSWG - Wed, 26 Apr 23 1pm Meeting

Jeremy,

Thank you for the reply to our questions. Much appreciated.

If I'm reading your responses correctly, Response 1 means a decision is not required by the Board until the public hearing is closed and Response 4 clarifies the decision timeframe:

- For a definitive plan with a prior preliminary plan that the Board has either acted on or 45 days has passed, the Board has 90 days after its submission to decide. This provides a total of 135 days to consider the preliminary and definitive plans. Date of submission is usually the date it was presented at a regular Board meeting.
- For a definitive plan without a prior preliminary plan, or one submitted less than 45 days after the submission of a preliminary plan, the Board has 135 days after submission to decide. Date of submission is usually the date it was presented at a regular Board meeting.

This would suggest that closing the public meeting for a subdivision plan, MGL 40 s81U, has no impact on the decision clock.

If I'm reading Response 3 and 5 correctly, closing the public hearing is the initiating event for the decision clock in any special permit hearing MGL c40A s9.



George LaVenture