

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

1A

**Call to Order**

**June 5, 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. Member Absent: William Fowler.

**1. Draft Meeting Minutes**

**A. May 22, 2023**

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file the May 22, 2023, meeting minutes with minor typo corrections. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

**2. Chair's Business**

**A. Street Acceptance - No updates**

**3. Approval Not Required (None)**

**4. Public Hearings**

**A. 7:00 PM Council Order No. 23-1008872- Proposed Zoning Amendment to Chapter 650 "Zoning §36 "Executive Residential Overlay District" (EROD) to increase the cap on the number of multifamily dwelling units**

- i. Legal Notice
- ii. Presentation

Chairperson Fay opened the hearing. Mr. LaVenture read the public hearing legal notice into the record. Chairperson Fay 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:**

Arthur Bergeron of Mirick O'Connell, DeMallie & Lougee, LLP (100 Front Street, Worcester, MA 01608), Andy Montelli, John Mcfadyen and Tom Montelli of Post Road Residential, Inc. (11 Unquowa Road, Fairfield, CT 06824) and John Shipe, Shipe Consulting, (33 Baker Avenue, Suite 1-11, Concord, MA 01742) spoke on behalf of the proposed zoning amendment for Marlborough Apartment Partners 2, LLC (MAP2).

Mr. Bergeron explained MAP2 is currently constructing phase 2 of a previously approved development and is here proposing the zoning change in hopes of adding phases 3 and 4 to the development. The Proposed Zoning Amendment to Chapter 650 "Zoning §36 "Executive Residential Overlay District" (EROD) to increase the cap on the number of multifamily dwelling units, consists of two changes:

- 1. Changing the cap on the number of units from 475 to 950
- 2. Adding mixed used development consisting of combination of by-right / business uses as listed in this section by special permit

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Mr. Bergeron went over the Planning Board standards for proposed zoning amendments and argued the following:

- Is the proposed change in keeping with the character of the neighborhood?
  - Mr. Bergeron explained the neighborhood is mostly business, but the development is directly next to a large multi-family development, and argued it is in keeping with the character of the neighborhood and that their objective is to get people to live as close as possible to the jobs that have been generated in the area.
- Does the proposed change negatively impact the neighbors?
  - Mr. Bergeron explained the closest single-family residential development is over a mile away.
- Does the proposed change benefit the City, or provide a use not permitted elsewhere?
  - Mr. Bergeron discussed the increase in the City's population and tax revenue.
- Is the proposed change in keeping with the intent and purposes of the City's zoning ordinances?
  - Mr. Bergeron said yes, the original proposal was adopted by City Council because they believed it was an appropriate kind of use to be used in this location. He explained there was a cap on the number of the units because of the size of the development and the council wanted reassurance it would work and that developer would stand true to their proposal. Mr. Bergeron explained he believes they have proven their case.

Mr. Andy Montelli, went over the presentation and discussed the following key points:

- Summary of the project
  - Project started in 2017, in 2019, phases 1 and 2 were approved
  - Phase 1, known as the Burrow has 235 units, which is completed
    - 165 units are now leased
  - Phase 2, known as the Loft has 240 units, which is under construction
- Proposed phases 3 and 4, including a retail component
- Traffic
  - No conflict with the businesses in the area
  - Easy access to route 495
- Minimal impact on the neighborhood
  - Mr. Montelli explained they had received one complaint during the blasting phase of Loft build
- Increase in tax income to the City
  - Phase 1 and 2, Estimated yearly tax revenue \$1,750,000.00
  - Phase 1 and 2 paid \$3,700,00.00 in one-time fees to the City
  - Phase 3 and 4, Estimated yearly tax revenue \$1,750,000.00
  - Phase 3 and 4, Estimated to pay \$3,700,00.00 in one-time fees to the City
- Trail system
  - ½ mile trail system currently built
  - .66 mile trail system to be built if phases 2 and 3 are approved

Mr. Fay closed this portion of the public hearing.

**Speaking in Favor of the Amendment:**

No one spoke in favor.

Mr. Fay closed this portion of the public hearing.

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**Speaking in Opposition to the Amendment:**

No one spoke in opposition.

Mr. Fay closed this portion of the public hearing.

**Comments or questions from the Board:**

Dr. Fenby addressed concerns about how this development would be a neighborhood of itself, apart from the City of Marlborough and asked how the development could be integrated with the City. She asked about opening the trails to the City.

Mr. Andy Montelli explained they are for the idea of opening the trails to the public but that it would be at the discretion of their lawyers and argued tenants are providing a lot for the business along Route 20 and because the development is strictly residential, their tenants must travel to restaurants and grocery stores.

Mr. Mcfadyen explained new tenants are given a welcome package directing them to local establishments like the Apex Center and any event that is hosted on site is supplied by locally sourced vendors.

Mr. Russ asked for a demographic of their tenants.

Mr. Andy Montelli explained most of the units are one or two bedrooms. Estimated 50% are singles, 50% are couples/roommates with very few children, ranging from 20's to mid 30's.

Mr. Russ argued the development would generate a lot of tax revenue but also generate a lot of expenses like additional children in the school system.

Mr. Andy Montelli explained there are seven children getting on school buses, four or five of which were existing Marlborough residents prior to moving to the development. He continued to argue these roads are private. The City does not maintain, plow or provide trash pickup.

Mr. Fortin asked what phase the retail commercial space would be done.

Mr. Andy Montelli explained it would likely be completely in between phase 3 and 4, but was unsure if it would be a restaurant, coffee shop or something else and estimated it would be 10,000 sq ft.

Mr. Fortin asked if residents have had any issues with Ken's Foods, Inc. during their cooking phase? He suggested this be monitored as this project continues because the new buildings will be closer to the business.

Mr. Andy Montelli explained no, there has not been any issues and agreed that their goal was to keep their residents happy.

Mr. DiPersio explained Site Plan Review Committee will be reviewing their site plan and explained the Engineering Division hasn't had any issues with the construction that has occurred on site.

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

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On a motion by Dr. Fenby seconded by Mr. LaVenture, the Board voted to make a favorable recommendation to the City Council for the amendment to Chapter 650, §36 Executive Residential Overlay District. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

The Board provided the following reasons in reaching its recommendation:

- The developer established that the proposed Zoning Amendment is consistent with the character of the surrounding neighborhood and is isolated from the nearest single-family homes;
- In the Planning Board's opinion, approval of the Zoning Amendment would not be overly burdensome to the neighbors;
- The developer established the proposed Zoning Amendment would be beneficial to the City;
- The developer established the proposed Zoning Amendment would be in keeping with the intent and purposes of the City's Zoning Ordinance.

**5. Subdivision Progress Reports**

**A. 76 Broad Street**

Mr. Gary White updated the Board and explained he contacted Attorney Daniel Burger, who has contacted the Assistant City Solicitor, Jeremy McManus. He explained Mr. Burger had submitted a revised covenant today June 5, 2023, to the Administrator.

Mr. Fay, explained to the Board, this covenant would be subject to the old rules and regulations unless Mr. White agreed to the new rules and regulations. Mr. Fay explained this could be gone over in more detail at the next meeting and told Mr. White, the revised covenant would be reviewed by the Board at the next meeting and then referred to the Legal Department for their review.

The Administrator agreed to keep 76 Board Street on the agenda and to include the revised covenant on the June 26, 2023, agenda.

**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. Flowchart**

**ii. Correspondence from Assistant City Solicitor, Jeremy McManus**

Mr. LaVenture read the June 2, 2023, correspondence into the record.

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

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

**iii. Special Permit** Revised: May 31, 2023

Mr. Fay explained essentially the Board does not have enough eligible member to vote on the special permit and the Board must hold a re-hearing. He confirmed everyone would be able to attend the June 26, 2023, meeting.

Mr. Fay explained the developer has requested an extension through June 26, 2023. – See attached.

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On a motion by Dr. Fenby, seconded by Mr. LaVenture, 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) through June 26, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture and Russ. Nay: 0. Motion carried. 6-0.

Mr. Fay reminded the Board that language within special permit would change to reflect the re-hearing and the members in attendance.

Time Stamp: 1:18:40

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to set the public hearing date for June 26, 2023. Yea: Fay, Fenby, Fortin, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

**7. Definitive Subdivision**

**A. 689 Pleasant Street, Marlborough, MA 01752 - 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. Flowchart

ii. Correspondence from Assistant City Solicitor, Jeremy McManus

Mr. LaVenture read the June 2, 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.

The Board discussed the below documents and suggested the following revisions:

iii. Certificate of Vote Dated: June 1, 2023

(1) First paragraph under section E, needs to be repeated before sub paragraph E.2.

iv. Covenant Dated: June 1, 2023

(1) Remove item 10.2

(2) Under item 15, add language "not" (the City of Marlborough shall "not" be responsible)

v. Draft Homeowners Association Dated: May 17, 2023

Make the paragraphs listed below consistent and explicit throughout all three documents and removing the language "establish".

- Certificate of Vote
  - Item D under section "Conditions"
- Covenant
  - Item 14
- HOA Document
  - Item 3 under section "Under Duties of Association"

Mr. Fay and Mr. DiPersio discussed the intent of the HOA document. Which is to memorialize the maintenance of the easement within lot one and the maintenance of the private sewer system.

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The Board and Dan Koravos agreed that Jennifer Martin, their attorney would work with the Assistant City Solicitor, Jeremy McManus on making the above reference revisions and getting all three documents in final legal form for the June 26, 2023, meeting.

Mr. Fay asked the Board if anyone had any reservations about voting in favor of approving the plan? No one had any reservations.

Mr. Fay asked the Board if anyone had any reservations on reducing the right-of-way to 40-feet. No one had any reservations.

Mr. Fay asked the Board if anyone is in favor of waiving the portion of the sidewalks. No one spoke in favor.

The administrator suggested including the recorded covenant and certificate of vote as exhibits A and B on the HOA document. Mr. Koravos explained he could put a couple of exhibits together that show what the waivers are for and what the responsibilities are.

The administrator reminded Mr. Koravos that both the certificate of vote and covenant had sheets that needed Tim Beauchemin' signature that are required to be notarized.

**8. Signs (None)**

**9. Correspondence (None)**

**10. Unfinished Business**

- A. Working Group – no updates

**11. Calendar Updates**

- A. Stow Road, Open Space Development Special Permit Application – 90 days expires Sunday, March 19, 2023, extension granted to June 11, 2023 - Vote on or before **June 5, 2023**, meeting
- B. Beauchemin Estates, 689 Pleasant Street Definitive Subdivision – 90 days expires Sunday May 14, 2023 – Extension granted to June 26, 2023 - Vote on or before **June 26, 2023**, meeting

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

On a motion by Mr. Fortin, seconded by Mr. Russ, the Board voted to adjourn the meeting. Yea: Fay, Fenby, Fortin, Fowler, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Respectfully submitted,



George LaVenture/Clerk

/kmm