

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

December 18, 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, Patrick Hughes, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio.

1. Draft Meeting Minutes

A. December 4, 2023

On a motion by Dr. Fenby, seconded by Mr. LaVenture, the Board voted to accept and file the December 4, 2023, meeting minutes. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

2. Chair's Business

A. Right of First Refusal - Red Spring Road – Correspondence from Brian Falk, Mirick O'Connell

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to accept and file the correspondence. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

B. Beauchemin Estates – 689 Pleasant Street – Lot Release

Mr. DiPersio explained Beauchemin Estates is the most recently approved 7 lot subdivision off Pleasant Street. Lot 7 was drawn around the existing house on the property. The covenant for this subdivision speaks about all 7 lots and he explained lot 7 shouldn't have been part of the covenant. Lot 7 is not dependent on the new roadway; it has an existing driveway and utilities off of Pleasant Street. The owner is selling lot 7 separate from selling the subdivision lots and roadway to a developer, as part of the closing, it was noted by the attorney that lot 7 is restricted by the covenant.

Mr. DiPersio explained he spoke with the Legal Department, and they drafted the release of lot(s) and agreed the best option would be to release lot 7 from the covenant now.

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to authorize the lot release. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Mr. Fay endorsed the release of lot(s).

3. Approval Not Required

A. 982 Boston Post Road East, Marlborough, MA 01752, Map and Parcel 62-3 & 3A

Name of Applicant/Owner: Dasilva Farms LLC (110 Dartmouth Street, Marlborough, MA 01752)

Name of Surveyor: Richard Reid Jr., c/o Engineering Design Consultants, Inc.
(32 Turnpike Road, Southborough, MA 01772)

Deed Reference: Book: 75382 Page: 28

i. Flowchart

ii. Form A

iii. Correspondence from City Engineer, Thomas DiPersio – Engineering Review

Mr. LaVenture read the December 12, 2023, correspondence into the record.

iv. Plan of Land

Dated: December 5, 2023

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Peter Bemis spoke on behalf of the ANR plan and explained the plan shows the former lot line, new lot line and the remaining land. The plan cuts out the existing house located at 982 Boston Post Road East and reconfigures the existing lot. The plan is to remove the existing barn and to build a new home on lot 1. Mr. Fay asked if a permit has been pulled for this. Mr. Bemis explained he believes it has been filed but not issued. Mr. Bemis explained their plan is to get the plan recorded in 2023 for taxation and the ability to convey the lots and remaining land in 2024.

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to accept and file the December 12, 2023, correspondence from City Engineer, Thomas DiPersio and to endorse the above referenced Plan of land dated December 5, 2023, as Approval Not Required under the Subdivision Control Law. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

- B. 547 Stow Road, Marlborough, MA 01752 Map and parcel 8-163 & 164, 20-150A
- | | |
|--------------------------|-----------------------------------------------------------------------------------------------------------------|
| Name of Applicant/Owner: | Kendall Homes (PO Box 766, Southborough, MA 01772) |
| Name of Surveyor: | Varoujan Hagopian, PLS, Connorstone Engineering, Inc.
(10 Southwest Cutoff, Suite 7, Northborough, MA 01532) |
| Deed Reference: | Book: 78814 Page: 590
Book: 66136 Page: 582 |
- i. Flowchart
 - ii. Form A
 - iii. Correspondence from City Engineer, Thomas DiPersio – Engineering Review
Mr. LaVenture read the December 14, 2023, correspondence into the record.
 - iv. Plan of Land Dated: November 21, 2023, Revised: December 7, 2023

Mr. Daniel Burger spoke on behalf of the ANR and explained the ANR shows the reconfigured lot lines for lots 1 and 2 and included the proposed surface soil relocation area for the arsenic contaminated soil on ANR lot 1.

Mr. Fay asked if there was anything different on the configurations of the ANR lots from the configurations of the of the ANR lots on the definitive subdivision plans the Board has been reviewing. Mr. Burger explained he didn't believe so.

Mr. Fay and Mr. DiPersio discussed if the surface soil relocation area could be referenced in the covenant. Mr. DiPersio explained the contaminated soil is coming from lot 1 and staying on lot 1. Mr. Fay asked if this had any bearing on whether or not the Board could vote on the ANR plan. Mr. DiPersio said no, and explained and the soil management plan needs to go to the Board of Health for review and approval. He explained he spoke with the Health Director about how the surface soil relocation area gets documented on the record in perpetuity, in a deed restriction and on the plan once recorded.

The Board discussed the word "proposed" on the plan. Mr. Burger explained anywhere the area is referenced, it would be referenced by referring to the language as displayed on the plan "proposed surface soil relocation area".

The Board discussed the relocation area and Mr. DiPersio explained the area does not require any setbacks.

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On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to accept and file the December 14, 2023, correspondence from City Engineer, Thomas DiPersio, to endorse the above referenced Plan of land dated November 21, 2023, revised December 7, 2023, as Approval Not Required under the Subdivision Control Law and to notify the Board of Health of the proposed surface soil relocation area on ANR lot 1, and advise it to require a deed restriction in perpetuity. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

4. Public Hearings (None)

5. Subdivision Progress Reports (None)

6. Preliminary/Open Space/Limited Development Subdivision

A. Open Space Definitive Subdivision Application, Stow Road, Map and Parcels 8-164, 8-163, and 20-150A

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

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

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

i. Flowchart

ii. Extension Request to January 30, 2024

iii. Draft Certificate of Vote

iv. Draft Covenant

The Board reviewed the certificate of vote and covenant.

Mr. LaVenture addressed concerns on the language under item 8 on the covenant. "No Lot shall be sold or built upon until released by the Planning Board after acceptable bonding. If at any time said bonding as required in Paragraph 6 expires, then all Lot releases of Lots not transferred to third party purchasers or mortgaged subsequent to release, shall be void." He argued we have the bonds to ensure the completion of the roadway and the infrastructure, if the bond expires, that means the bond hasn't been reduced or turn to 0, and the work hasn't been completed. If the work isn't completed, and we don't have a bond there to ensure that work is completed, what happens to the lots that have already been turned over to a third party or mortgage? He argued they're left with land that has no completed infrastructure.

Mr. Fay explained item 8 would bring the lots not transferred to a third party, or mortgaged back under the covenant, the lot releases would be expired, but that doesn't address the issue of a partially completed subdivision.

The administrator confirmed item 8 is the same language from the previously approved covenant.

The Board and Mr. Burger discussed the sidewalk waiver and the Board agreed this was not a waiver they approved and requested it be removed from both the certificate of vote and covenant.

Mr. Fay and Mr. Burger discussed what was changed, and Mr. Burger explained he updated the departments and confirmed he did not change the two-year timeline.

Mr. LaVenture suggested implementing a procedure that would require applicants to use the tracked changes feature when drafting the certificate of vote and covenant to help the Board and their review process.

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The Board discussed requesting the developer to label the street as private until the roadway has been accepted as a public way. Mr. DiPersio suggested putting a private way sign above the street name sign during the one-year maintenance period as a condition of the final bond reduction. The Board reviewed and discussed the option of temporary sign reading "Notice Unaccepted Street, maintenance is the responsibility of the Developer or Abutters, not the City of Marlborough".

On a motion by Dr. Fenby, seconded by Mr. Russ, the Board voted to refer the Certificate of Vote and Covenant to the Legal Department for review. In addition to the Legal Departments general review, the Board is looking for a detailed review on the language under item 8 on the covenant pertaining to the expiration and to determine if the soil management plan can be referenced on the covenant. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

ii. Extension Request to January 30, 2024

Mr. LaVenture read the December 13, 2023, correspondence into the record.

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the December 13, 2023, correspondence from Daniel J. Burger, Esq. and to grant the extension for the decision on the Open Space Definitive Subdivision on Stow Road (547 Stow Road) to January 30, 2024. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture and Russ Nay: 0. Motion carried. 7-0.

7. Definitive Subdivision (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

A. Working Group

Mr. LaVenture updated the Board and explained the working group had meet on December 12th. They have reached out to a number of people regarding porous pavement including the Burlington, Department of Public Works since they have an existing porous pavement parking lot and companies, such as natural path landscaping and Northeast Porous Paving.

Mr. LaVenture summarized information from a study he found that was released in April of 2023 by a Professor and staff from UMass Amherst. This study looked at the Eastern Massachusetts watershed area and it states that Massachusetts is now subject to a paradoxical situation, which summer drought follows spring flooding.

He explained the study ran models through a FORTRAN program and project trends for the year 2100, resulting in the following:

- Decrease of 51% of forested land
- Increase of 75% of impervious areas
- Increase of 3% in annual stream flow
- Increase of 69% in annual runoff
- Increase of 54% of topsoil found in runoff
- Increase of 12% of phosphorus concentration found in runoff
- Increase of 13% of nitrogen concentration found in runoff

He went over ways to slow down the runoff, such as rain gardens, pervious surfaces, and vegetated swales and discussed the benefits porous pavement.

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He explained the Working Group plans to meet with one of the companies and hopes that they will come to a future Board meeting. The Board discussed the importance of learning about porous pavement options to implement during future projects.

Mr. Russ explained he spoke with a colleague of his, and he had explained the technology is not ready for roadway use. He has used it on a couple of driveways with varying success. It needs to be designed in a manner that on days with heavy rainfall there is an overflow system.

11. Calendar Updates

- A. Planning Board Holiday Party – December 18th

12. Public Notices of other Cities & Towns

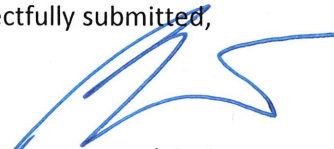
- A. Town of Northborough – Public Hearing Notice

On a motion by Dr. Fenby, second by Mr. LaVenture, the Board voted to accept and file the town of Northborough public hearing notice. Yea: Fay, Fenby, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Dr. Fenby endorsed the ANR plans for 982 Boston Post Road East and 547 Stow Road.

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

Respectfully submitted,



George LaVenture/Clerk

/kmm