

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

Call to Order

December 4, 2017

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, Philip Hodge, Colleen Hughes, Sean Fay, Brian DuPont and George LaVenture. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes

A. November 27, 2017

On a motion by Mr. DuPont, seconded by Mr. Fay, the Board voted to approve the Planning Board meeting minutes of November 27, 2017. Ms. Hughes abstained. Motion carried.

2. Chair's Business (Tabled)

A. Lacombe St. Lot Releases

City Solicitor Rider was not present at the time the agenda item was first called.

On a motion by Mr. DuPont, seconded by Mr. LaVenture, the Board voted to table Items 2 and 3 until later in the meeting. Motion carried.

3: Approval Not Required (Tabled)

4: Public Hearings (None)

Chairperson Fenby requested that Item 5, Engineer's Report, be moved up in the agenda.

5. Pending Subdivision Plans: Updates and Discussion

A. Engineer's Report

Mauro Farm – City Engineer DiPersio updated the Board on the status of the deeds. We are in receipt of the deeds and plans and are reviewing to confirm that they are in order. In accordance with City procedures, the developer must make a request to the City Council that the roadways be accepted by the City. The Council will then refer to the Planning Board for recommendation.

B. Howe's Landing Extension Request

Ms. Hughes read a letter from Attorney Paul Galvani into the record. Attorney Galvani requested an extension of time to complete the subdivision to June 30, 2018. On a motion by Mr. DuPont and seconded by Mr. LaVenture, the Board voted to accept the correspondence and place on file. The subdivision expiration date is currently December 18, 2017. City Engineer DiPersio explained that a new construction schedule was submitted along with proof that the property taxes are up to date. Code Enforcement Officer Wilderman will provide the required property blight status report in time for the next agenda. Solicitor Rider explained that he is reviewing the updated Tripartite Agreement. There are a few typographical errors to correct and Engineering will also submit a clean copy of EXHIBIT "C", Estimate for Bonding Purposes.

On a motion by Ms. Hughes, seconded by Mr. DuPont, the Board voted to resume Item 2A. Motion carried.

2. Chair's Business

A. Lacombe St. Lot Releases

City Solicitor Rider explained that while the subdivision was completed some time ago, there was not a letter or recording indicating that the lots were ever released from the covenant. Solicitor Rider worked with the owner's attorney, Bill Brewin, to create a lot release for the subdivision. On a motion by Mr. Fay and seconded by Ms. Hughes, the Board voted to release lots 1,2,3,4,5 and 6 from the covenant. Motion carried. Board members signed the Release of Covenant/Lots document to enable recording.

3. Approval Not Required:

A. 159 Stevens Street ANR Decision

Owners' representative Bruce Saluk was in attendance. Ms. Hughes read the letter from Assistant City Engineer Collins into the record. The letter detailed the Engineering Division's favorable recommendation for the Planning Board's endorsement of the ANR plan dated 11-13-17 rev. 12-04-17 (note: the letter referenced an incorrect plan date of 11-1-17). On a motion by Mr. Fay, seconded by Mr. DuPont, the board voted to accept the correspondence, place on file and endorse the 11-13-17 rev. 12-04-17 ANR plan. Motion carried.

B. 215 Simarano ANR Decision

Matthew Watsky, Counsel for Jeremiah 29, LLC was in attendance along with a representative from Stamski and McNary. Ms. Hughes read the letter from Assistant City Engineer Collins into the record. The letter detailed the Engineering Division's favorable recommendation for the Planning Board's endorsement of the ANR plan dated 11-01-17. On a motion from Mr. LaVenture, seconded by Ms. Hughes, the Board voted to accept the correspondence, place on file and endorse the 11-01-17 ANR plan. Motion carried.

Chairperson Fenby requested that Item 5 be resumed.

5. Pending Subdivision Plans: Updates and Discussion: (Continued)

C. Commonwealth Heights Subdivision Expiration

Ms. Hughes read into the record the 11-30-17 letter from Planning Board Chair Fenby to Scott Weiss, Vice President of Development for The Gutierrez Company, RE: Commonwealth Heights Subdivision Extension Expiration. The letter acknowledged that The Gutierrez Company would not pursue an additional extension for the subdivision that expired on 11-27-17. Should the Gutierrez Company elect to proceed with the subdivision in the future, they will re-file for a new approval. Q: Mr. Fay wondered whether the site was left in a condition that may pose any danger to anyone who may enter the premises? City Engineer DiPersio indicated that he did not believe that the site posed any danger to the public. Mr. DiPersio indicated that the detention basin may require some future maintenance to keep it clear and functional. On a motion by Mr. DuPont and seconded by Ms. Hughes, the Board voted to accept and place on file. Motion carried.

D. Hager St. Decision Letter

Ms. Hughes read into the record the 11-30-17 letter from Planning Board Chair Fenby to the owner representative, Peter Bemis, of Engineering Design Consultants, Inc. RE: Vote of the Marlborough Planning Board. The letter detailed two votes by the Board. 1) a denial of all 10 waivers of the definitive submission plan 2) a denial without prejudice of the definitive subdivision plan for the 72 Hager St. & Boston Post Road East property described in the Middlesex South Registry of Deeds Book 68015, Page 229, Marlborough Assessor's Map 62, Parcel 7. On a motion by Mr. Fay, seconded by Ms. Hughes, the Board voted to accept the correspondence and place on file. Motion carried.

E. Slocumb Lane Bond Reduction Request and Street Acceptance

Ms. Hughes read the 11-22-17 letter sent by Attorney Paul Beattie on behalf of his client, Slocumb Realty, LLC. The letter was addressed to the City Clerk (and copied to Planning Board Chair, Barbara Fenby) Re: Request for street acceptance and bond reduction of the Black Horse Subdivision (Slocumb Lane). On a motion by Ms. Hughes, seconded by Mr. DuPont, the board voted to accept and place on file. Attorney Beattie was advised that he must first send a letter to City Council requesting that Slocumb Lane be accepted as a public way. The matter will then be referred to the Planning Board for a determination and formal recommendation.

Motion by Ms. Hughes, seconded by Mr. Fay, to move item 9A up in the agenda. Motion carried.

9. Unfinished Business

A. Proposed Zoning Amendment – 650-59. C (11)

Powers and Procedures of Special Permit Granting Authorities

Follow up discussion on the public hearing held Monday, November 13, 2017

Chairperson Fenby requested Board members' opinions on the proposed amendment. Mr. Fay expressed reservations about the amendment. Enabling extension agreements by the Council President or Vice-President without the necessity of a formal vote reduces the transparency of the body and removes the discussion regarding the justification for the extension from public view. Ms. Hughes agreed, and expressed that she was not in favor of the amendment providing this extension provision. Mr. LaVenture favored a middle ground on the issue and wondered whether an extension could be granted until the next scheduled Council meeting. Additionally, although the Board expressed its confidence in the current makeup of the Council and spoke highly of more experienced councilors and leadership, the makeup of the Council changes with each election. While the intent of the contemplated changes is to provide administrative convenience, the Board's consensus is that an expansion of power for administrative convenience could result in unintended consequences.

The Board took the following action regarding the above referenced zoning amendment:

On a motion by Mr. Fay, seconded by Mr. DuPont, the Board voted to make a negative recommendation to the City Council for the proposed zoning amendment, Section 650-59. C (11), entitled "Extension of time for action; leave to withdraw" with a request that the letter highlight the following reservations: a) potential lack of transparency b) discretionary powers of future, unknown Councilors, and future, unknown Council leadership could result in unintended consequences. Motion carried. (Mr. Hodge abstained.)

Motion by Ms. Hughes, seconded by Mr. Fay, to return to item 6A. Motion carried.

6. Preliminary Subdivisions

A. **215 Simarano Drive-** Stamski and McNary, Engineer, on behalf of Jeremiah 29, LLC
Matthew Watsky, Council for Jeremiah 29, LLC, was in attendance.

The preliminary plan submission was briefly addressed by Solicitor Rider. His recommendation was for the Board to move forward with a referral to Engineering. Once Engineering has an opportunity to review the plan, the Board would make one of three decisions: Approval, approval with conditions, or disapproval of the preliminary plan. The Board's recommendation is due by December 28 (Vote on Dec. 18) Q: Mr. Fay – Can the Planning Board request an extension of the 45-day review period. A: Solicitor Rider- There does not appear to be a provision for the extension of the 45-day review period. City Engineer DiPersio indicated that an Engineering review could be completed by December 18. On a motion by Ms. Hughes and seconded by Mr. LaVenture, the Board voted to refer the preliminary plan to Engineering. Motion carried.

7. Definitive Subdivision Submission: (None)

8. Signs: (None)

11. Correspondence: (None)

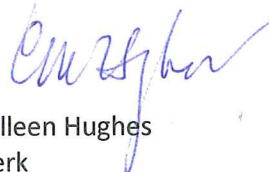
12. Public Notices of other Cities and Towns:

On a motion made by Ms. Hughes, seconded by Mr. Fay, item 12 accepted and placed on file. Motion carried.

Adjournment: On a motion made by Mr. LaVenture, seconded by Ms. Hughes, it was voted to adjourn at 8:00 pm. Motion carried.

/kih

Respectfully submitted,



Colleen Hughes
Clerk