

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

Call to Order

October 16, 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, 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. September 25, 2017

Following a brief discussion confirming the recording of votes for two proposed zoning amendments, with a motion made by Ms. Hughes, seconded by Mr. Fay, the Board voted to approve the Planning Board meeting minutes of September 25, 2017. Motion carried.

2. Chair's Business:

A. Hager St. Subdivision Update

Applicant representative, Peter Bemis, was present to discuss the Hager St. project. After consultation with the property owners (Mark Wambolt Jr. and Sr), there was a general feeling that the previously submitted plan with ten waivers garnered little support from the City. Multiple options were considered including a two-lot plan with frontage off Hager St.; however, lot shape requirements could not be met. The second option, a five-lot conventional plan, eliminates the open space valued by the owner. Mr. Bemis indicated that since the moratorium on special permits for housing applications is now over, the subdivision will likely move in the direction of a 3-lot, open-space plan. In this plan, the barn would be an auxiliary structure to an existing Framingham home lot. Mr. Bemis indicated that each new house lot would contain approximately 30,000 sq. ft. with the balance remaining as open space. Permission to graze cows on the open space parcel would be requested.

Chairperson Fenby reminded the applicant's representative that the two previously submitted plans (both an ANR and definitive plan) remain before the Board. The Board requested a letter indicating the applicant's wishes to withdraw those plans without prejudice. Mr. Bemis confirmed his willingness to provide the requested letter to the Board. Mr. Bemis expressed concern for refiling costs. Chairperson Fenby indicated that any request for relief on future filing fees be formally communicated to the Board in letter form.

B. Lacombe Subdivision – Housekeeping matter, lot releases

Mr. Bemis, representing owner, Paul DiTullio, was present. Mr. Bemis requests the Board address some "housekeeping" matters on the Lacombe St. Extension Subdivision. Ms. Hughes read a letter from Mr. Bemis (presented on the day of the meeting) into the record, noting that supporting documents were also provided. On a motion by Mr. Fay, seconded by Mr. DuPont, the Board voted to accept the letter and additional documentation and place on file. Motion carried. The letter chronicles the Board's votes beginning in December 8, 1998, requiring the applicant's posting of a \$26,000 performance bond to secure the completion of the subdivision and release of lots. The one year maintenance period of the subdivision expired in December of 1999, and the bond was reduced to \$2,000 – the bond amount to have Acceptance Plans completed. Final acceptance of the street as a public way was only possible once the applicant obtained the necessary rights from the private property owners along Lacombe. The street was ultimately accepted per Council Order No. 15-1006323C X14-1005847A dated November 16, 2015. The Planning Board voted to reduce the bond to zero at its regular meeting on February 8, 2016, and to release the bond to the developer.

It appears that a recordable instrument for the release of lots was never signed by the Planning Board. On a motion by Mr. Fay, seconded by Ms. Hughes, the Board voted that the applicant's attorney prepare a recordable instrument for signature at a future meeting of the Planning Board. Motion carried.

C. Set Public Hearing Date: Proposed Zoning Amendment – Section 650-59. C (11)

Powers and Procedures Special Permits – Time for extension for action; leave to withdraw

Public Hearing date set for Monday, November 13, 2017, 7:15 p.m. Proponent should be identified and invited to the meeting.

3. Approval Not Required (None)

5. Pending Subdivision Plans: Updates and Discussion

A. Engineer's Report

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

Slocumb Lane - City Engineer DiPersio indicated that November 14 marks the end of the one-year maintenance period. Engineering will contact the developer to arrange for a site walk-through, and correspondence will be sent regarding any remaining items requiring attention.

Goodale Estates – While sidewalks are strongly preferred by the Planning Board, the street area between Hutchinson and Woodland contains narrow sections that are not wide enough to accommodate a sidewalk (due to site conditions). Councilor Delano indicated that the developer's use of "stone dust" as a top treatment was not acceptable, and that other materials must be considered. Options including a mulched dressing or the possibility of narrower paved sections providing continuity to other sidewalk sections were discussed. At 7:15, the discussion was suspended to begin the first public hearing. The matter will be resumed following the public hearings.

4. Public Hearings

**A. Public Hearing: Proposed Zoning Amendment – Addition of Section 650-36
Rail Trail Overlay District**

Public Hearing Monday, October 16, 2017, 7:15 p.m. Proponent- Attorney Arthur Bergeron

Chairperson Fenby opened the meeting at 7:15 p.m. and provided introductions and instructions to those in attendance. Ms. Hughes read the notice of public hearing into the record. 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 members.

Presentation:

Attorney Bergeron identified that on behalf of his client, David Skarin, the owner of land located at 19 Ash Street, he is requesting consideration to amend the City's zoning ordinance by adding Section 650-36, Rail Trail Overlay District. (ARRTOD) Mr. Bergeron described the rationale for the proposed zoning amendment summarized as follows: The establishment goals of the ARRTOD are to enhance land use development and encourage desired growth patterns for the benefit of the public health, safety and welfare, by promoting pedestrian and bicycle friendly development complementary to the Assabet River Rail Trail. Under the zoning amendment, the City Council would be the Special Permit Granting Authority.

The amendment would apply to parcels provided that: a. A portion of the Development Parcel contained a non-residential use in operation as of July 1, 2017. b. Development parcel has a minimum area of 1.5 acres. c. The Rail Trail Development complements the rail trail. By special permit, non-residential use could be converted to either residential use or to another commercial entity. Attorney Bergeron indicated that he is not looking to "fast track" this amendment. MAPC (Metropolitan Area Planning Council), may look at the proposal and provide input. Mr. Bergeron also indicated the possibility of mitigation in the form of rail trail improvements or monetary mitigation directed toward discretionary purposes.

Speaking in Favor of the Amendment:

Lyn Weinberg, 17 Hudson St. expressed her support for the amendment. As a neighbor of the rail trail, she sits near the end of Longley St. She felt that development would clean up and improve the parcel near her home.

Speaking in Opposition to the Amendment:

Mr. Joseph Bisol of 212 Hudson St. spoke in *conditional* opposition to the ARRTOD. Mr. Bisol expressed his concern that these developed parcels could also fall into disrepair and lead to further problems along the Trail. While development at the trailheads seem to make sense, he is concerned that populating the Trail along the way and encouraging development throughout the Rail Trail may be contrary to the purpose of having a nature path – to provide a place of respite and to have a natural experience.

Larry Midura, 85 Ash St., has lived in the area for approximately 38 years. He lives near the natural area used by mountain bikers near Boston Scientific. His property is zoned A-3 – He is opposed to the categorization of the affected parcels.

Questions and Comments:

Q: Mr. Fay asked whether the Johnson parcel is currently included in the Downtown Village Overlay District? Mr. Bergeron indicated that it is not, but this may be an option to request inclusion for the future. Mr. Bergeron described the possibility of a low-density condo community on the Skarin property.

Mr. Fay offered his opposition to the language under item C. Eligible Uses, Dimensional Controls, item (1) c. Residential uses, with such density as seemed appropriate by the City Council. Mr. Fay believes that such language is far too vague, is dependent on the makeup of the Council, and needs further definition.

Mr. DuPont commented on what appears to be the City's current approach to zoning. Regardless of the potential merit of an individual project, this zoning amendment is, once again, the product of a developer and not as part of a comprehensive City plan. He is not sure this is the right avenue for the City. Mr. Bergeron said it was considered to take a different approach, but the requested change would be to change from one non-conforming use to another non-conforming use. Mr. DuPont offered these comments - What are the commonalities of the parcels? It feels as though this Overlay District has no specific boundaries, but is just numerous parcels that meet certain arbitrary criteria. The Downtown Village District was designed specifically to encourage development in the downtown area. The Downtown Village Overlay District is a zone created as the result of a well-designed plan with a specific purpose. This proposal does not have the same purpose. The Overlay District meets the needs of Mr. Bergeron's client. Others did note that the Skarin property would not be the only included parcel.

Q: Mr. LaVenture asked for a clarification on the requirement of section (2) a. A portion of the Development Parcel contained a non-residential use in operation as of July 1, 2017. Mr. Bergeron indicated that the date was somewhat arbitrary, but provided a way to differentiate qualifying parcels for the Overlay District, while excluding parcels that may change their classification after that date.

The public hearing was closed at 7:47 p.m.

**B. Public Hearing – Proposed Zoning Amendment – Section 650-5, 48 & 17
Self-Service Storage Facilities**

Public Hearing Monday, October 16, 2017, 7:30 p.m. Proponent- City Solicitor Rider

Chairperson Fenby opened the public hearing at 7:47 p.m. and provided introductions and instructions to those in attendance. Ms. Hughes read the notice of public hearing into the record.

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 members.

Presentation:

Solicitor Rider explained that the purposes of the amendment - to add clarity to the zoning bylaws by deleting the existing definition and inserting a new definition – “Self-Service Storage Facility” as well as to add specificity in siting these facilities through the amendment of section 650-17, “Table of Uses”, which currently is silent on such facilities despite the existing definition. By Special Permit, a self-service storage facility is proposed to be permissible in the following districts: Business (B) Commercial Automotive (CA), Limited Industrial (LI) and Industrial (I).

Speaking in Favor of the Amendment:

No person spoke in favor of the amendment.

Speaking in Opposition to the Amendment:

No person spoke in opposition to the amendment.

Questions and Comments:

Mr. Fay questioned whether siting a self-service storage facility in either an Industrial or Limited Industrial district would be the “highest and best use” of the land. He felt that the City would be better served by reserving our (prime) industrial sites for development opportunities that maximize revenue to the City. Solicitor Rider said there had been some discussion in the Administration to allow these facilities “as right” in both (I) and (LI) zones. But the Administration ultimately decided that these facilities be allowed by special permit in the four mentioned districts. Mr. Fay expressed caution on the use of special permits (with authority provided by the City Council) considering that the composition of City Council is variable, and that the mindset of the Council could change over time.

The public hearing was closed at 8:00 p.m.

5. Pending Subdivision Plans: Updates and Discussion- Continued**A. Engineer’s Report (Goodale Farms, continued)**

Discussion on the “sidewalk” design continued. Chairperson Fenby requested that each member visit the site prior to the next meeting to facilitate decision making.

6. Preliminary/Open Space Submissions/Limited Development Subdivisions: None**7. Definitive Subdivision Submission: None****8. Signs: None****9. Unfinished Business****A. Proposed Zoning Amendment- Expansion and Modification of Hospitality and Recreational Mixed-Use Overlay District (HRMUOD)**

Mr. Fay made the following motion: To make a favorable recommendation for the proposed zoning amendments associated with Council Order #16/17-1006443S. Motion seconded by Ms. Hughes. Motion did not carry. Further discussion highlighted the Board’s continued concerns over traffic and safety issues within the new proposed boundaries of the HRMUOD. Mr. Fay expressed that those concerns, while valid, have nothing to do with the matter before the Board. The matter of inclusion of the Wendy’s and Bank of America parcels in the HRMUOD as well as the other elements of the zoning amendment are not related to the design elements of the curb cuts or traffic patterns within the HRMUOD; they are about zoning continuity.

While acknowledging that their expression of site concerns was not solicited, members of the Board

including Mr. DuPont, Mr. LaVenture, and Ms. Hughes felt it was important to provide a conditional recommendation.

On a motion by Mr. Fay, seconded by Ms. Hughes, the Board voted to make a favorable recommendation on the proposed zoning amendments with the following condition: Existing Boston Post Road curb cuts within the expanded HRMUOD (Assessor's Map 78, Parcel 14A – 176 Boston Post Road West, Wendy's; and Map 78, Parcel 23 - 190 Boston Post Road West, Bank of America) be reviewed and reconfigured for improved traffic flow and safety.

10. Informal Discussion:

A. Public Hearing #1: Proposed Zoning Amendment – Addition of Section 650-36 Rail Trail Overlay District

The Board spent time taking a "virtual tour" of the Rail Trail utilizing Google Earth. Parcels potentially affected by the proposed Overlay District were examined and development opportunities discussed.

Q: Mr. LaVenture asked whether there was a formal charter for the Assabet River Rail Trail? A: Yes.

Q: How do we know that the proposed amendment is consistent with that charter?

Ms. Hughes commented that the public comments relative to development along the Rail Trail gave her pause. She expressed that any development should be complementary to the use of the Rail Trail as a nature path. We need to ensure that we are not simply "creating a sidewalk between commercial developments."

Chairperson Fenby requested that Mr. Bergeron invite the Board to participate in any future meetings with the MAPC (or other planning agencies) in association with the proposed Rail Trail Overlay District.

B. Public Hearing #2 – Public Hearing – Proposed Zoning Amendment – Section 650-5, 48 & 17 Self-Service Storage Facilities

On a motion by Mr. DuPont, seconded by Mr. Fay, the Board voted to make a favorable recommendation to the City Council for the proposed zoning amendment, Section 650-5, entitled "Definitions; word usage", Section 650-48, entitled "Off-street parking", and Section 48 650-17, entitled "Table of Uses" noting the following recommended revisions: Table of Use should be modified to include siting of self-service storage facilities by special permit only within the (B) Business and (CA) Commercial Automotive districts; the Board recommended that the proposed self-service storage facilities use be prohibited in the Industrial and Limited Industrial districts. Motion Carried.

11. Correspondence: None


12. Public Notices of other Cities and Towns:

On a motion made by Ms. Hughes, seconded by Mr. DuPont, it was voted to accept and place on file. Motion carried.

Adjournment: On a motion made by Mr. LaVenture, seconded by Mr. DuPont, it was voted to adjourn at 8:45 pm. Motion carried.

/kih

Respectfully submitted,


Colleen Hughes
Clerk