

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

Call to Order

April 23, 2018

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, Sean Fay, Phil Hodge, Colleen Hughes, George LaVenture, Greg Gallagher, and Chris Russ. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes

A. April 2, 2018

On a motion by Ms. Hughes, seconded by Mr. LaVenture, the Board voted to accept and file the minutes of April 2nd. (Fay abstained). Motion carried.

2. Chair's Business

A. Set Public Hearing Date: Proposed Zoning Amendment, Section 650-36 new definitions: Ancillary Auto Sales and Modification to Table of Use Regulations Section 650-17. Council Order 18-1007224. Hearing set for Monday, June 4, 2018.

3. Approval Not Required (None)

As time allowed, item 5 was moved up in the agenda.

5. Pending Subdivision Plans - Engineer's Report

Subdivision Status Report – City Engineer DiPersio indicated progress on two subdivisions, Slocumb (Blackhorse Farms) and Mauro Farms. Slocumb: The City now has as-built Mylars. A draft Council order for acceptance is in progress. Mauro: Acceptance plans have been received. A draft Council order for acceptance has been prepared. Deed for open space is still necessary. Q: Member Hodge requested an update on Goodale Estates. Mr. DiPersio indicated that progress has been slow. A crushing operation of site ledge has been ongoing. Mr. Hodge asked about the bonding status of the subdivision. He had heard that the developer may be having financial difficulties. Mr. DiPersio was unaware of the financial status of the developer and explained that the bond was not yet in place.

4. Public Hearings

A. Proposed Zoning Amendment to further amend Chapter 650-36 – Commercial Village Housing Overlay District, Council Order 18-1007134.

Chairperson Fenby opened the hearing at 7:05 p.m. Ms. Hughes read the public hearing legal notice into the record. Chairperson Fenby 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 Board members.

Presentation:

Attorney Robert Buckley of Reimer and Braunstein and developer, Eric Katz of Katz Group were present. The proposed overlay district is on the site of an approved, 23-lot, single-family traditional subdivision on the corner of Ames and Forest Street. Mr. Buckley explained that the proposed overlay district provides a more suitable use for the site as it sits in what he described as a transitional zone. Mr. Buckley stated that the development is consistent with recent housing studies indicating that a diverse housing stock is necessary in the City, and that this proposed development would target the fastest growing population, 50+. The development planned is for owner-occupied condominium units containing amenities and layouts for the targeted market.

Mr. Katz spoke to address the market and concept plan. Katz Group has a 20-year history with this type of housing and has 15 other developments to their credit. The conceptual plan includes three, 4-story buildings, each unit on one level with two bedrooms and underground parking. There would be 32 units/building. Katz Group has three similar developments currently under construction. The owner-occupied concept allows individuals to "age in place" and provides a more stable community with less turnover than a rental environment. The plan also showed a potential retail component at the corner of the development. Single-family development would be prohibited in the zone if adopted.

Speaking in Favor of the Amendment: Speaking in Opposition to the Amendment:

No individuals spoke in favor or in opposition to the proposed amendment.

Chairperson Fenby declared that portion of the Public Hearing closed.

Questions and Comments from the Planning Board:

Ms. Hughes asked for further explanation of what was meant by "transitional zone." Mr. Buckley explained that the site is "in between" - adjacent to other business, multi-family and multi-use areas, not just traditional single-family homes. Mr. Fay expressed concern for the "as-of-right" retail element of the proposed amendment. Mr. Buckley stated that the developer would submit a "Master Plan" to the City Council for approval. Mr. Fay wondered whether there would be any rental restrictions on the owners. Mr. Katz said the development will not allow rentals. Mr. Fay asked what the developer's standard is for the public interest. This proposed development is adjacent to a residential community that has already dealt with other high-impact projects (particularly, the Apex project). This proposal will significantly increase the housing density in the area surrounding the Glen Street neighborhood. The developer explained that Marlborough, in a way, is a victim of its own success. There is a fair amount of rental property in the City, but little housing inventory to allow residents to age in place. This development has the advantage of addressing that need without adding the burden of educating school-age children. Ms. Hughes asked the developer to explain what he meant by age-targeted vs. age restricted. Mr. Katz explained that in their company's experience, the age-targeted designs are essentially self-selecting for an older population. Two-bedroom units in the 1400-1800 ft² range and no "children-targeted" amenities such as playgrounds makes these developments less desirable to families. Sales efforts are also directed to an older population. Mr. LaVenture commented that the "as-of-right" uses are very broad. Mr. Buckley explained that the proposed retail area is modest - in the 5,000 to 10,000 ft² range. He offered that a good fit retail tenant would be a Lambert's Market style business. Chairperson Fenby declared the hearing closed at 7:24 pm.

- B. Proposed Zoning Amendment to Section 650-8 - Boundaries Established; Zoning Map, Marlborough Village District, Council Order 18-1007195.

Councilor Delano and developer representative, Arthur Bergeron of Mirick O'Connell were present to address the proposed amendment. Councilor Delano and Mr. Bergeron explained that the proposed amendment essentially expands the boundary of the existing Commercial Village Overlay District to include the stairway adjacent to a planned Main St. development parcel. Attorney Bergeron explained that the expansion of the District will allow the developer to make necessary improvements to the stairway.

Speaking in Favor of the Amendment: Speaking in Opposition to the Amendment:

No individuals spoke in favor or in opposition to the proposed amendment.

Chairperson Fenby declared that portion of the Public Hearing closed.

Questions and Comments from the Planning Board:

There were no questions from the Board. Chairperson Fenby declared that portion of the hearing closed.

On a motion by Mr. Fay and seconded by Ms. Hughes, the Board voted to make a positive recommendation on the proposed zoning amendment. Motion carried.

- C. Continuation of Public Hearing on Proposed Zoning Amendment to further amend Chapter 650, several subsections as it pertains to the Medical and Recreational (Adult Use) of Marijuana, Council Order No. 18-1007163-2.

On a motion by Ms. Hughes, seconded by George LaVenture, the Board voted to reopen the public hearing of April 2, 2018 on the above referenced amendment. Councilor Delano and Assistant Solicitor Panagore Griffin were present to address the Board. Councilor Delano explained that Ms. Panagore Griffin had worked to revise the proposed ordinance following recommendations by the Urban Affairs Committee. He explained that changes were limited and straight forward. Councilor Doucette was also present. He questioned the Board on their earlier recommendation to restrict the eastern siting boundary to Diconzo Boulevard. Ms. Hughes explained that the current boundary (Phelps St.) would allow siting of these establishments in areas with higher concentrations of children. Councilor Doucette countered that by further reducing the allowed areas, businesses would be driven into locations with forward facing access along RT 20, including the plazas near Stephen Anthony's and Subway. It was Council's position that these sites were less appropriate than other potential locations along RT 20 which would be available with a less restrictive boundary.

Mr. Fay questioned why the 500' buffer included in the proposed zoning amendment was measured from a property's center vs. the border of a property. Mr. LaVenture also asked how other "exclusionary zoning boundaries" currently work. Mr. Delano said that the center was less restrictive by design to ensure that the City was not effectively preventing medical or adult use businesses within the City. This zoning is an effort to allow reasonable access. Businesses still require a special permit granted by City Council. Mr. Fay reiterated a familiar concern - that a future, changed composition of City Councilors may have viewpoints very different from existing Councilors. Putting the power with an uncertain future body poses risks. Councilor Delano explained that he would not characterize the City Council as pro-marijuana. The voters of Marlborough cast their votes in favor of marijuana legalization, and the Council is doing its job by enacting appropriate zoning legislation. Chairperson Fenby declared the public hearing closed.

6. Preliminary/Open Space / Limited Development Subdivisions (None)

7. Definitive Subdivision Submission (None)

8. Signs (None)

9. Informal Discussion

A. Metropolitan Area Planning Council (MAPC) – Mark Racicot, Land Use Planning Division Director
Meredith Harris from the Marlborough Economic Development Corporation was present to introduce Mr. Racicot to the Board. Ms. Harris explained that the MAPC has worked closely with the City on various issues. Mr. Racicot described MAPC's function. MAPC is a regional planning agency headquartered in Boston that serves 101 cities and towns in Metro Boston. The MAPC has been working with MEDC since 2012, providing technical and planning resources to the City. Currently his organization is working with both the Urban Affairs Committee and MEDC to develop design review guidelines for multi-family housing in the City. Mr. Fay commented that recently the Planning Board has been "buried in overlay districts". The Board welcomes an approach to evaluate these recent developer-introduced zoning amendments. The Board is particularly concerned with a method to weigh the benefit of the development against the neighborhood impact.

Mr. Racicot explained that the approach is to help identify the City's goals and to provide the City with a means to evaluate what is in the City's best interest. In addition to a design review guideline, the MAPC is working with the City to develop a development review checklist that he described as a type of "score sheet" to further evaluate proposals. Developers will also produce better projects for the City if they have guidelines up front.

For example, the guidelines would define height restrictions in developments abutting residential neighborhoods. Guidelines can also assist in defining how a developer can meet the required affordable housing component. Mr. Racicot described the three methods: 1) On-site 2) Off-site 3) Payment in Lieu of Units. On-site may be preferred, but if a payment is made, what is a reasonable cost to a developer? His advice to the City – Lock down as many development details as possible in the form of a recordable document.

Mr. Racicot explained that the City's guidelines serve as an advertisement, attracting the most desirable projects to the City. The guidelines are a working document. The first deliverable is anticipated in the May 1 timeframe. The document can be used as a means-test for the developer or as a point for discussion. Mr. LaVenture asked what other communities are using these means for evaluating proposals. Mr. Racicot indicated that design review guidelines are fairly common. Development review checklists or score sheets are not common. Mr. LaVenture asked whether these guidelines or checklists could create difficulties with developers. Mr. Racicot was unaware of any specific examples, but he offered that the special permit process allows a degree of influence by the City Council. Solicitor Rider also added that the guidelines could be formalized by incorporation into the special permit process. Mr. LaVenture indicated that he likes having a "yardstick" to assist in review. Solicitor Rider said by its nature, the special permit process is an exercise in discretion. The design review guideline should be consistent with the objectives of zoning, as set forth in the zoning ordinance. He would like to see how other cities and towns are using these tools.

Chairperson Fenby suggested moving from a broad discussion to a specific example before the Board – the Assabet River Rail Trail Overlay District. Mr. Racicot described that when first proposed, the Overlay District spanned the entire length of the rail trail from downtown to the Hudson Line. MAPC encouraged the developer to take a more targeted approach. Having too many parcels included in the overlay could result in unintended consequences, he explained. Thriving businesses should not be encouraged to leave. On the other hand, certain parcels may require incentives to redevelopment. Chairperson Fenby thanked Mr. Racicot for the valuable discussion and very much appreciated MAPC participation.

B. Informal Discussion – Joe May and Counsel Sem Aykanian, Hemenway Street/Concord Rd. Discussion Attorney Aykanian was in attendance to represent his client, Joe May. Mr. May wishes to create a building lot between two existing parcels along Concord Rd. For a lot to be entitled to an endorsement by the Planning Board as an ANR, the lot must front one of three types of ways, must meet minimum frontage requirements and must also have Planning Board determination of vital access.

Attorney Aykanian began by explaining that in the late 1800's cities and towns could declare a road as a public way. To demonstrate Hemenway Street as a public way, Mr. Aykanian showed the Board an 1890 map listing Hemenway St. Mr. May does not intend to use Hemenway St. for access to the proposed lot, but he wishes to use Hemenway as the basis for creation of the necessary frontage. Hemenway St. is not open to vehicular traffic and current maintenance of the pathway is limited to clearing of felled trees. Attorney Aykanian addressed the issue of vital access by presenting an email written by Marlborough Fire Chief, Kevin Breen. The email described potential access to the proposed home site near the back of the lot via the unimproved pathway (road) called Hemenway St. Mr. Fay wondered about the requirements for obtaining a curb cut. Mr. DiPersio stated that the curb cut would be on the way that has present and adequate access (Concord Rd.) Mr. Fay wondered why Mr. Aykanian referenced the Ball case, in which the Leverett Planning Board denied an ANR for access reasons. Mr. Aykanian said that he felt that the email from Chief Breen addressed the basis for rejection. The Planning Board has remaining questions about determining adequate access. On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to request that Chief Breen be invited to the Board to further explore considerations of safety and access to the proposed lot. Motion carried.

10. Unfinished Business

- A. Proposed Zoning Amendment - Council Order No. 18-1007136 Retirement Community Overlay District Section 650-8 (Marlborough Airport Property)

On a motion by Mr. Hodge and seconded by Ms. Hughes, the Board voted to make a negative recommendation (without prejudice) to the City Council for the proposed zoning amendment. Motion carried with Mr. Fay voting in opposition. In its decision, the Board cited the uncertainty presented by an additional proposed zoning amendment to Section 650-22- Retirement Community Overlay District, currently pending in the City Council (Council order 18-1007198). Thus, the Board is currently unable to evaluate the potential impact of expanding the District (at the site of the Marlborough Airport) under Council order 18-1007136; the Planning Board's public hearing on Council order 18-1007198 is scheduled for May 7, 2018. Mr. Fay expressed that the Board should make its determination on the expansion of the Overlay District as presented and as affected by the pending Council order.

- B. Proposed Zoning Amendment- Council Order No. 18-1007137, Assabet River Rail Trail Overlay District. (ARRTOD).

On a motion by Mr. Fay and seconded by Ms. Hughes, the Board voted to make a favorable recommendation to the City Council for the proposed zoning amendment with the following additional recommendations:

- Retail and restaurant use be allowed only along Lincoln Street. The consensus of the Board was that potential retail/restaurant uses along Ash Street would have too great of a potential impact on established residential neighborhoods near the proposed redevelopment project.
- Assessor's Map 43, Parcel 29 (19 Ash St.) be restricted to residential use only.
- Include the "Fossile Property"- Assessor's Map 69, Parcels 337, 338, 338A, 339 and 339A in the Assabet River Rail Trail Overlay District.

Motion Carried.

11. Correspondence: (None)

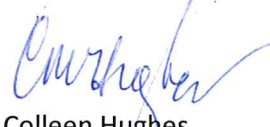
12. Public Notices of other Cities and Towns:

On a motion by Ms. Hughes, seconded by Mr. Hodge, the Board voted to accept and file item 12A, notices. Motion carried.

Adjournment: On a motion made by Mr. Russ, seconded by Mr. LaVenture, it was voted to adjourn at 9:15 pm. Motion carried.

/kih

Respectfully submitted,


Colleen Hughes
Clerk