

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

Call to Order

May 07, 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, 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 23, 2018

On a motion by Mr. LaVenture, seconded by Mr. Fay, the Board voted to accept and file the minutes of April 23rd. Motion carried.

2. Chair's Business

A. Communication with the Mayor – Chairperson Fenby shared that she had discussed having regular meetings scheduled with Mayor Vigeant. She would like to involve other members in these regular updates without violating open meeting laws. It was suggested that one member be consistent, and a second member participate on a rotating basis. On a motion by Mr. LaVenture and seconded by Mr. Russ, the Board voted to schedule regular meetings with Mayor Vigeant and Chairperson Fenby, with a second member participating on a rotating basis. Meetings would take place periodically prior to regular meetings of the Planning Board. Motion carried.

On a motion by Mr. LaVenture and seconded by Mr. Fay, the Board voted to move item 9A. up in the agenda. Motion carried.

9. Informal Discussion

A. Hemenway St. Proposed ANR Discussion – Fire Chief Breen

Present for the discussion was Joe May, property owner. Mr. Fay began by posing a question. Does the land owner's "path" provide present and adequate access, or just "illusory access"? Chief Breen explained that at the request of the owner, Assistant Fire Chief Gogan visited the area in July of 2016. The area of Hemenway St. that the land owner is proposing to use as the basis for establishing frontage was described by the Chief as more of a trail than a road. Using Hemenway St. for emergency access would be problematic in its existing condition. Chief Breen explained that the email he sent regarding access was motivated by a desire to provide Mr. May with a level of customer service. Chief Breen described the proposed lot's current access and acknowledged that traditional firefighting apparatus such as a ladder truck could not travel on the path. Solicitor Rider showed the Board a series of photos illustrating both access to the way (Hemenway) as well as access to the lot via Concord Rd. Chief Breen explained that Mr. May did not wish to access the lot from Hemenway St. Hemenway St. would be used for establishing frontage on a public way. Mr. Fay acknowledged that sometimes establishing whether a lot meets the standard for an ANR is complicated. This lot does not clearly meet the required standard. Mr. Fay suggested that Mr. May hire an engineer, file a plan, and allow the Board to make a formal decision.

3. Approval Not Required (None)

4. Public Hearings

- A. Public Hearing: Proposed Zoning Ordinance to Amend Chapter 650-22, Retirement Community Overlay District, several subsections pertaining to "purpose" and "permitted uses", Council Order 18-1007198.

Chairperson Fenby opened the hearing at 7:05 p.m. Mr. Fay 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:

Owner Representative, Attorney William Pezzoni, Day Pittney LLP, began the presentation by describing the purpose of the proposed amendment. The proposed amendment is designed to provide diversified housing options for seniors 55 and older who wish to live independently in a multifamily residential community. If the amendment were enacted in the Retirement Community Overlay District, a single building independent senior living multifamily community would be allowed (subject to other conditions) in addition to the existing detached and townhouse style dwellings. Need was presented by offering the following points:

- A. Limited housing options for seniors within Marlborough. Total number of independent senior living units in Marlborough is 150 units. The rest are either skilled nursing communities or assisted living and memory care units.
- B. High quality multifamily senior housing options are limited. Seniors interested in this option must look outside Marlborough.
- C. Growing senior population within an 8-mile radius of Marlborough. Nearly 7500 households aged 75+ with this population growing 3% each year.
- D. Within this same 8-mile radius, 625 independent living units have an average age of 16.75 years. There is a strong market for new, high quality, high amenity offerings.

Mr. Pezzoni referenced the Multifamily Market and Fiscal Impact Analysis Report of 2017 which indicated that age-restricted (55+) housing provides the greatest fiscal impact for Marlborough. Communities with a diverse housing stock, he explained, have greater economic stability and resilience over time.

Brian Blaisser, Robinson & Cole LLP, presented in representation of Cameron Contractors (proposed developer). Mr. Blaisser described the attraction of this type of development. The single, multifamily building would offer residents a luxury-style product with built-in amenities. While units would have kitchens, a dining hall and other services would provide residents with a resort-style, community experience. Mr. Blaisser also described another service offered to residents that provides "triage" health services that could reduce 911 calls.

Speaking in Favor of the Amendment:

No individuals spoke in favor of the proposed amendment.

Speaking in Opposition to the Amendment:

Katie Robey, 97 Hudson St., spoke as both a City Councilor and private citizen. Ms. Robey pointed out that any change made to the current overlay district language would not only affect the overlay for this site, it could apply to other retirement community overlay districts in the City. She reinforced that as currently written, detached and townhouse-style units were allowed; this amendment adds the multifamily component. She also pointed out two additional changes, new designation allowing up to 3 stories and 200' frontage vs. a maximum 2.5 stories and 250' frontage under the existing overlay. Attorney Pezzoni and Ms. Robey also discussed allowable uses of the underlying district. (Industrial or Limited Industrial in addition to age-restricted housing.)

Gina DiMatteo of 721 Farm Road in Marlborough also spoke in opposition. She is an abutter to the proposed retirement community overlay district at the site of the Marlborough Airport. She is concerned that the increased density allowed under this proposed amendment could adversely affect the overlay proposed at the airport.

Chairperson Fenby declared that portion of the Public Hearing closed.

Questions and Comments from the Planning Board:

Mr. Fay questioned whether the current setback proposed would be adequate to protect abutters. Mr. Fay also asked whether there was a way to propose an overlay district that would apply only to this lot, and perhaps to additional lot owned by the current owner that is adjacent to the property the developer would like to utilize for the currently proposed project. Mr. Fay expressed his opinion that the underlying project was perfect for the proposed site and fits into the neighborhood well. Ms. Fenby feels that the provision of only one parking spot per unit is inadequate (for units ranging from studio to 3 bedroom). Mr. LaVenture asked what the % of commercial vs. living space would be in the development. He feels that a maximum ratio should be in effect. The developer's representative said that the amenities are provided for the benefit of the community, and there were no plans to provide services to the general public. Mr. LaVenture also questioned whether there was a conflict in the language as defined in Section 3D. 5. Vs. 3D 12. (relative to distances from the principal building to the lot line.) Mr. Hodge wondered if there were any safeguards prohibiting any general multifamily housing on the site. (Response - Only retirement community would be allowed.) Mr. Hodge expressed concern of using medical triage services vs. calling 911. He wondered whether the service would be an intermediate step that could induce emergency response delays. The developer's representative said there is nothing in the service that prevents any resident from calling 911 directly. The service offers an alternative to using 911 services for non-emergency calls. Mr. Gallagher has heard the developer's perspective that this proposed amendment will fill a housing need for the City. Has the City indicated that this zoning amendment fits into their overall plan for housing in the City? Where are there similar developments? The proponent indicated that there are independent senior living developments in N. Andover, Cohasset and Holliston. They also specifically mentioned Sable Lodge in South Portland, ME 04106). Mr. Pezzoni informed the Planning Board that he has been a member of the MEDC Board since its inception. He feels that the diversity in housing studies confirms the City's need for more multifamily housing options.

Chairperson Fenby declared the public hearing closed.

5. Pending Subdivision Plans: Updates and Discussion

A. Subdivision Status Report- Engineer's Report

Mauro Farms- City Engineer DiPersio indicated that there is one outstanding Order of Conditions and the applicant should seek a Certificate of Compliance. Before the City accepts the deeds to the roadway, its easements and the open space parcels, the City will want to make sure that there is a Certificate of Compliance on record. The City received a copy of the deed indicating that parcel 33 has been transferred to Mr. Ebert (abutter). Slocumb-nearing completion. Waiting for Legal determination on next step. Mr. Fay asked whether there were any updates on the Goodale Estates subdivision. There had been a couple of inquiries at the Engineering office regarding a possible auction on the property, however this has not been confirmed. The developer may just be seeking refinancing.

A. Marlborough Hub, LLC

Mr. Fay read the 4-09-18 letter from Board of Health Director Liberty indicating that the subdivision plans were reviewed and approved by the Board of Health.

Mr. Fay read the 4-29-18 letter from Conservation Officer, Priscilla Ryder, providing the following comments:

- 1) A portion of the site falls within the 100' buffer zone to the adjacent stream that runs through Design Pak Lofts. Therefore, the applicant will need to file for a wetland permit with the Conservation Commission.
- 2) The Conservation Commission would like the applicant to confirm the soil conditions in the location of the old railroad line to determine if it is clean. If contamination exists, a treatment/removal plan will be required.

On a motion by Mr. LaVenture, seconded by Mr. Hodge, the letters were accepted and placed on file. Motion carried.

On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board waived the reading of the May 7, 2018 letter

from Assistant City Engineer Collins regarding the Engineering Department's preliminary plan review comments. The letter was accepted and placed on file. Motion carried.

The Board expressed its appreciation for the thoughtful review and asked whether City Engineer DiPersio had any additional comments.

- 1) Mr. DiPersio indicated that the current 40' width of the right-of-way would require a waiver from the 50' standard. The applicant should request the waiver and the Planning Board should specify whether the applicant must show the layout using the standard 50' layout first.
- 2) The applicant should indicate whether the roadway will remain a private way in perpetuity.
- 3) The roadway is being developed using a "Lane" status. The maximum number of potential dwelling units with this designation is eight. The development proposed contains 4 duplexes (8 units) and there are two existing dwelling units (#138 and #140) bringing the total number of potential dwelling units to 10. The request for pavement width of 26 feet servicing 10 lots would require a waiver of the Planning Board.

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

7. Definitive Subdivision Submission (None)

8. Signs (None)

10. Unfinished Business

- A. Proposed zoning ordinance to further amend Chapter 650, several subsections as it pertains to Medical and Recreational (Adult Use) Marijuana - Council Order 18-1007163-2.

On a motion by Mr. LaVenture and seconded by Mr. Gallagher, the Board voted to make a favorable recommendation to the City Council for the proposed zoning amendment noting the following additional recommendations:

- With respect to the five hundred (500) foot distance between marijuana facilities and schools/daycares. Modify language as follows: *The five hundred (500) foot distance... is measured in a straight line from the nearest point of the building...* The Board suggests: *The five hundred (500) foot distance... is measured in a straight line from the nearest point of the property line...*
- Section 650-18 Modify *Shall have "frontage"* to read *Shall have "primary access" on Massachusetts State Highway Route 20 (Boston Post Road)*
- Section 650-18 Modify *Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Interstate Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to Phelps Street* to read *Shall only be located within those portions of the B and LI Districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Northborough town line to Interstate Highway Route 495, and within those portions of the B and LI districts located along Massachusetts State Highway Route 20 (Boston Post Road) from the Sudbury town line to the westerly side of Diconzo Boulevard.*

Motion carried.

- B. Proposed Zoning Amendment, Section 650-36, Commercial Village Housing Overlay District, Council Order No. 18-1007134.

On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to make a negative recommendation to the City Council for the proposed zoning amendment. Motion Carried.

The Board provided the following reasons in reaching its recommendation:

- The developer did not establish that the proposed overlay district would result in a development that was preferable to any other potential use of the subject parcel;
- The developer did not establish to the Board's satisfaction that the proposed overlay district fits into the neighborhood, and in the Board's opinion, approval of the overlay district would have been unduly burdensome to single family residential abutters;
- The developer did not establish that the proposed overlay district would benefit the City in any compelling way;
- MAPC's finding of a particular housing need should not be used as justification that a particular type of housing should be allowed on every available parcel absent a finding that a proposed overlay district fits into the specific neighborhood involved, and approval of the overlay district would benefit the City;
- What a developer wants to build on a property, or the attractiveness of a proposed project, should not be used as the principal justifications for an overlay district.

11. Correspondence: (None)

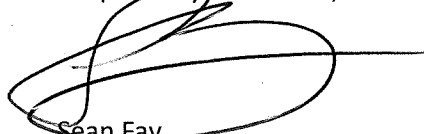
12. Public Notices of other Cities and Towns:

On a motion by Mr. Fay, seconded by Mr. LaVenture, 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 8:30 pm. Motion carried.

/kih

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Sean Fay", written over a horizontal line.

Sean Fay
Acting Clerk