

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

July 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, George LaVenture, Greg Gallagher and Christopher Russ*. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi. (*amended)

As Ms. Hughes was not present, Ms. Fenby requested that Mr. La Venture serve as Clerk for the meeting.

1. Meeting Minutes

A. June 18, 2018

On a motion by Mr. LaVenture, seconded by Mr. Gallagher, the Board voted to accept and file the minutes of June 18, 2018. Motion carried. (Ms. Fenby abstained.)

2. Chair's Business

- A. Set Public Hearing Date: Council Order 18-1007287, Proposed Zoning Amendment Section 650-5, entitled "Definitions; word usage" Ancillary Residential Community, Section 650-17, entitled "Table of Uses" and addition to Section 650-22 Subsection C (14) Ancillary Residential Community requirements. The public hearing was set for Monday, August 27, 2018 at 7:00 p.m.
- B. Set Public Hearing Date: Council Order 18-1007311, Proposed Zoning Amendment Section 650-5, entitled "Definitions; word usage" Coffee Roastery and Section 650-17, entitled "Table of Uses". The public hearing date was set for Monday, August 27, 2018 at 7:05 p.m.

3. Approval Not Required

- A. Application of Carlos Fernando Marcolino, Engineer - Hancock Associates, Location - Middlesex South Registry of Deeds Book 70243, Page 26, Assessor's Map 55, Parcels 49 & 50 (Roosevelt St.) Applicant Representative, Jacob Lemieux of Hancock Associates, was present to discuss the plan. Mr. Lemieux reminded the Board that Hancock Associates had previously come before the Board informally (November 13, 2017). Since Roosevelt is a dead-end street, the Board had recommended that the Fire Dept. be consulted to review emergency vehicle access. Mr. Lemieux explained that a temporary turnaround easement was incorporated in the ANR plan and that the Fire Dept. had reviewed and commented on the proposed design. Ms. Fenby asked for a copy of the correspondence from the Fire Dept. to Hancock Associates. Mr. Lemieux provided the email correspondence dated February 16, 2018 to Hancock Senior Project Engineer, J. Dan Bremser. In the email, Assistant Chief, Fred Flynn acknowledged that he and Chief Breen had reviewed the plan and found it acceptable. Due to the abbreviated summer schedule, Assistant City Engineer Collins had reviewed the plan and provided a recommendation letter for inclusion on the July 23rd agenda. Mr. LaVenture read the July 18th favorable recommendation letter from Mr. Collins into the record. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the correspondence and voted to endorse the plan of land believed to be approval not required under the subdivision control law of Carlos Fernando Marcolino (Middlesex South Registry of Deeds Book 70243, Page 26; City Assessor's Map 55, Parcels 49 & 50). Motion carried.

4. Public Hearings

A. Proposed Zoning Amendment 650-22 Retirement Community/Retirement Community Multifamily, Council Order 18-1007198D, Proponent William Pezzoni, Day Pitney.

Chairperson Fenby opened the hearing. Mr. LaVenture 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:

Mr. Pezzoni, representing his client Jon Delli Priscoli (Owner 90 Crowley Dr.) presented the amendment. Mr. Pezzoni indicated that following feedback by both the Marlborough City Council and the Planning Board, changes were made to the previously submitted zoning amendment. Changes included limiting the number of bedrooms allowed (maximum of two) in Retirement Community Overlay - Multifamily (RCO-MF), setbacks for RCO-MF were doubled from the previous proposed amendment, and additional siting restrictions were added to the amendment. Mr. Pezzoni indicated that the Board's expressed concern over parking was not supported by data. He also pointed to data indicating the positive financial impact of age-restricted housing in the City. Mr. Pezzoni asked that Mr. Brian Blaiser of Robinson & Cole address the Board to share some of the data based on average daily utilization for similar properties. Statistics provided by Mr. Blaiser indicated that research by the Institute of Traffic Engineers for this type of use do not indicate a need for parking exceeding 1 space per dwelling unit. The Board remained unconvinced that a maximum of 1 parking spot was adequate.

Speaking in Favor of the Amendment:

No individual spoke in favor of the amendment.

Speaking in Opposition to the Amendment:

Gina DiMatteo of 721 Farm Rd. spoke in opposition to the proposed amendment as it could affect a potential retirement community at the former site of the Marlborough Airport. She would like reference to the multifamily units for retirement communities to be stricken from the amendment. She also expressed that there should be a consistent maximum height restriction when residential properties abut a limited industrial zone.

Chairperson Fenby declared that portion of the Public Hearing closed.

Questions and Comments from the Planning Board:

Since there were no questions from the Board, Mr. Fay made a motion to provide a favorable recommendation to the Marlborough City Council on the proposed zoning amendment. There were no seconds to the amendment. Ms. Fenby declared the hearing remain open to allow further discussion on the proposed amendment.

B. Proposed Zoning Amendment 650 § 5B & 650 § 17 Ancillary Auto Sales, Council Order 18-1007224A, Proponent Brian Falk, Mirick O'Connell

Chairperson Fenby opened the hearing. Mr. LaVenture 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:

Brian Falk, Attorney at Mirick O'Connell was present on behalf of Route 20 Marlboro Properties LLC (R.K. Centers) who is the owner of 735 Boston Post Road East (currently Joy Asia). Marlborough Nissan would

like to utilize the area of the Joy Asia restaurant for Ancillary Auto Sales. Mr. Falk explained several elements of the proposed amendment:

- 1) Ancillary auto sales would be allowed by special permit.
- 2) Ancillary auto sales use would only be allowed in the Business and Commercial Automotive Zoning Districts.
- 3) Ancillary auto sales use would only be allowed within 1500 feet of an existing auto sales use.
- 4) The ancillary use could be no larger than the primary operation.

Speaking in Favor of the Amendment:

Mr. LaVenture read the March 29, 2018 Letter from Mr. Falk on behalf of his client, RT 20 Marlboro Properties LLC into the record.

Speaking in Opposition to the Amendment:

Mr. LaVenture read the April 2, 2018 Letter from Mayor Vigeant to Council President Clancy into the record. In his letter, Mayor Vigeant expressed his opposition to the proposed amendment. The Mayor believes this proposal will result in *"repercussions far beyond the parcel identified in his letter. This is not a minor change: it will impact the majority of Route 20, Lincoln Street and Maple Street."* In his letter, the mayor encouraged the rejection of the proposed zoning amendment, believing that the City can attract better uses for these key business districts, indicating that the City already has ample locations for auto sales in Marlborough.

Ms. Fenby declared that portion of the public hearing closed.

Questions and Comments from the Planning Board:

Mr. Fay asked if the proponent could identify the City locations affected by this proposed zoning amendment. Mr. Falk indicated he could provide additional information to the Board following the meeting.

Chair Fenby requested that the public hearing remain open to allow for the submission of additional information.

- C. **72 Hager St. Open Space Special Permit Application-** Peter Bemis, Engineering Design Consultants, on behalf of South Coast Advisors, LLC.

Presentation:

Mr. Bemis explained that he is back before the Board with a new plan to subdivide his client's property with three lots while preserving a roughly three-acre open space parcel to continue grazing cows. Plans for the parcel spanning both Framingham and Marlborough (identified as "parcel A" on the drawing), include a barn that would allow his client to winter his cows. Mr. Bemis has also submitted a copy of a 5-lot definitive subdivision showing what could be built by right on the property. Solicitor Rider had identified a legal issue related to zoning requirements for open space developments. Specifically, § 650-28.E(1) states: "The total area of the site proposed for open space development shall be at least five acres." To meet the 5-acre requirement (in Marlborough), the applicant is working with a neighbor (Mr. Stanczak) to acquire 11,800 sq. ft. of land.

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

No individual spoke in favor or in opposition to the special permit. Chairperson Fenby declared that portion of the public hearing closed.

Questions and Comments from the Planning Board:

Mr. Fay asked who was going to be responsible for the management of the open space parcel.

Specifically, Mr. Fay wondered who would be responsible for the maintenance of the open space parcel and who will ensure that the cows are secure? Mr. Bemis indicated that there would be an "Association

Document” that would govern the open space parcel. Mr. Bemis wished to have the Board refer the proposed ANR lots to Engineering to expedite things.

Chairperson Fenby indicated that the Board cannot endorse an ANR plan until they have ruled on the special permit. She suggested that Mr. Bemis work on the many “moving pieces” that are still in play: the open space document, the land acquisition, and the creation of an updated plan.

Chair Fenby indicated that the public hearing would be continued until the next meeting of the Planning Board on August 27, 2018.

D. 215 Simarano, Definitive Subdivision, William Hall of Stamski and McNary, Inc. on behalf of Jeremiah 229, LLC

Presentation:

William Hall of Stamski and McNary introduced the definitive subdivision explaining proposed soil absorption of the project and several details of the development including a road and two 3000 sq. ft. office buildings.

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

No individual spoke in favor or in opposition to the development. Chairperson Fenby declared that portion of the public hearing closed.

Questions and Comments from the Planning Board:

Mr. Fay questioned whether the proposed plan included any requested waivers. Mr. Hall responded, “No”. Mr. Fay reminded the Board that the applicant’s submission to subdivide the parcel was only done to preserve zoning. City Engineer DiPersio noted that a road was not actually required to develop the lot with two office buildings. He questioned whether the Board would be within its right to deny the subdivision since a roadway was not required. Furthermore, an approval comes with the anticipated completion of the subdivision within a two-year period. Mr. Hall confirmed that his client does not actually wish to build the proposed plan.

Mr. LaVenture read the Thursday, July 19, 2018 email correspondence from William Hall on behalf of his client, Jeremiah 29, LLC. The email requests an extension for the decision on the definitive subdivision submission for 215 Simarano Drive until September 10, 2018. On a motion by Mr. LaVenture, seconded by Mr. Gallagher, the Board voted to accept and file the correspondence and grant the September 10th extension request of Stamski and McNary on behalf of their client, Jeremiah 29, LLC. Motion carried. On a motion by Mr. Gallagher seconded by Mr. Russ, the Board voted to refer the definitive subdivision submission to Engineering. Motion carried.

4. Public Hearings (4A Continued)

A. Proposed Zoning Amendment 650-22 Retirement Community/Retirement Community Multifamily, Council Order 18-1007198D, Proponent William Pezzoni, Day Pitney.4.

Chairperson Fenby requested a motion to continue the discussion on item 4A. On a motion by Mr. Gallagher, seconded by Mr. Russ, the Board voted to return to the matter of the proposed zoning amendment 650-22 Retirement Community/Retirement Community Multifamily, Council Order 18-1007198D. Motion carried.

The Board discussed whether to take a vote this evening on the proposed amendment. Mr. Fay summarized that the proponent had previously introduced a similar zoning amendment; The Board made recommendations, and the proponent returned with an updated amendment addressing most of

their concerns. Chair Fenby noted that another proposed zoning amendment was introduced by a different proponent this evening (Item 2A) for an additional zoning change to the retirement community overlay district. Mr. Fay said the matters may remain independent. Ms. Fenby asked for other Board member opinions. Mr. LaVenture acknowledged that the proponent had taken steps to address their concerns. Mr. Hodge felt that the Board could take a vote this evening. There were no further objections to taking a vote. On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to make a favorable recommendation to the City Council on the proposed zoning amendment. The Board requested that the City Council provide further evaluation of parking needs to determine the adequacy of one (1) parking space per dwelling unit. Motion carried.

5. Pending Subdivision Plans: Updates and Discussion

A. Howe's Landing Definitive Subdivision

The subdivision extension was granted until July 30, 2018. The subdivision is substantially complete. Mr. DiPersio said that Engineering will contact Attorney Galvani to inform the developer they must formally request a reduction in bond as well as request to enter the 1-year maintenance period.

B. Marlborough Hub Definitive Subdivision

Mr. LaVenture read into the record the July 18, 2018 letter (via Email) from Attorney Arthur Bergeron- Re: Request for Extension – Marlborough Hub. On behalf of his client, Marlborough Hub, LLC, Attorney Bergeron requested an extension for a decision on the definitive subdivision approval until September 28, 2018. Further discussion on the pending application will occur at the next Planning Board meeting, August 27, 2018. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the correspondence and to extend the time for decision on the Marlborough Hub subdivision plan until September 28, 2018. Motion carried.

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

7. Definitive Subdivision Submission (None)

8. Signs

A. Continuation 175 Lakeside Avenue, Thomas Energy – Application for Sign Appeal/Variance to Planning Board

Prior to the applicant presentation, Mr. Fay commented on signs he believed were in violation of the City's sign ordinance. He noted that the APEX sign has pictures that change, and there are signs posted on the fence on the corner of Broadmeadow and Farm Rd. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to send correspondence to the City's Code Enforcement Officer for review and follow up. Motion carried.

Attorney Sandra Austin was present to represent the sign variance application of Thomas Energy for an electronic sign to display gas prices. As detailed in Code Enforcement Officer Wilderman's letter of May 22, 2018, the current and proposed electronic sign location is closer than the 200' residential setback required by the ordinance. The sign in question is approximately 140 feet from the residential district. The ordinance states the Planning Board may grant a variance for closer placement, provided that the digital display portions of the sign are oriented so that no portion of the sign is visible from an existing primary residential structure in that district. Attorney Austin quoted the following passage from §526-12 C. (2) Variances- *The Planning Board may vary the provisions of this chapter in specific cases which appear to it not to have been contemplated by this chapter, and in cases wherein its enforcement would involve practical difficulties if, in each instance, desirable relief may be granted without substantially*

derogating from the intent and purpose of this chapter but not otherwise. It was noted that there is a specific ordinance § 526-13 that addresses electronic message center signs; digital display signs. Attorney Austin argued that public safety would be compromised by moving the sign to an “allowed distance” from the residential zone. She indicated that due to the curvature of the road in the area, coupled with the site distances to the gas station, moving the sign creates a safety issue for passing drivers. She argued that following the ordinance to a “T” was not worthwhile considering the implications to safety. Mr. Hodge commented that moving the sign was an option available to the applicant, but was viewed as problematic (due to the sign’s age and additional wiring required.) Mr. Fay commented that the visuals provided by the applicant show another sign violation (sandwich board display). Mr. LaVenture expressed that he would like to find an acceptable solution to assist the business owner. Solicitor Rider offered a suggestion to use the location of the existing building sign for the electronic display (that would be visible to westbound traffic), which would meet the setback requirement of the ordinance. The current free-standing sign could house the electronic display for eastbound traffic. (which is not visible from a residential district.) The applicant did not feel this was a practical option. Mr. LaVenture would like Attorney Austin to provide a more detailed analysis on the articulated safety issue. He did not feel that the argument contained any actual evidence of a safety issue created by moving the sign to an allowed setback distance. Attorney Austin and the applicant agreed to review their options. The Planning Board did not vote on the issue.

9. Informal Discussion (None)

11. Correspondence (None)

12. Public Notices of other Cities & Towns

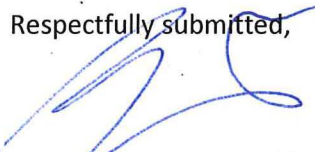
- A. City of Framingham 8 notices (Planning Board, Zoning Board of Appeals)

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

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

/kih

Respectfully submitted,



George LaVenture
Acting Clerk