

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

1A

**Call to Order**

**September 10, 2018**

The Meeting of the Marlborough Planning Board was called to order at 7:00 pm in Memorial Hall, 3<sup>rd</sup> Floor City Hall, 140 Main Street, Marlborough, MA. Members present: Barbara Fenby, Sean Fay, George LaVenture and Greg Gallagher. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider and Planning Board Administrator, Krista Holmi.

**1. Meeting Minutes**

**A. August 27, 2018**

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the minutes of August 27, 2018 as amended. Motion carried.

**2. Chair's Business**

**A. Planning Board Clerk – Organizational Vote**

Following the retirement of Planning Board Clerk, Colleen Hughes, Chairperson Fenby opened the floor for replacement nominations. Mr. Fay nominated George LaVenture to serve as Clerk. There were no other nominations. On a motion by Mr. Fay, seconded by Mr. Gallagher, the Board voted to have George LaVenture serve as the Board's clerk. Motion carried.

**B. Open Space and Recreation Committee Update**

Chairperson Fenby informed the Board that the Open Space and Recreation Committee continues to seek feedback from the public regarding the open space plan. Members (and the public) are encouraged to provide input on the plan, particularly with respect to any parcels (large or small, such as opportunities for small park locations) worthy of preservation. Feedback is extremely important since potential grants often include a demonstration of the City's interest and public support. Mr. Fay asked whether the Committee had given any thought to the need for an additional cemetery in the City. Ms. Fenby said that was not mentioned but is a good consideration for the committee.

**C. Chairperson Fenby provided an informational update regarding preliminary plans for an overlay district on RT 20 East. City Engineer DiPersio added that the state has road reconstruction plans from the vicinity of Peters Avenue to the Sudbury line. Councilor Delano was also in attendance and described the conceptual plan which would include mixed-use opportunities with 1<sup>st</sup> floor retail and 2<sup>nd</sup> floor residential. Mr. Delano said the area would benefit from a new zoning district which would result in a more welcoming pedestrian layout with fewer curb cuts and traffic issues. The potential district would provide zoning consistency and encourage the "right kind of development", rather than a piecemeal, reactive approach. Mr. Delano offered to share the preliminary documents with the Board, noting that it is likely to change as additional feedback is provided. The Board will have the opportunity to provide formal comment in the future once the details are formalized and the Council refers the proposed overlay zoning to the Board.**

**3. Approval Not Required (None)**

**4. Public Hearings (continued)**

- A. 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. Proponent, Brian Falk, Mirick O'Connell was present.**

A request for extension on the discussion until September 24 was emailed to the Board after the agenda had closed. Mr. Falk indicated that they are in ongoing negotiations with the neighboring condominium association (related to sewer/water connections) and they wished to present the results of the negotiations at the next meeting. Chairperson Fenby reopened the hearing indicating the Board may have additional questions now. Mr. Fay failed to see how those negotiations directly related to the proposed zoning amendment. Mr. Fay asked whether the proposed amendment on the parcel adjacent to Crane Meadow also applied to the former Marlborough Airport property. Mr. Falk said only if the proposed ancillary residential community was part of a retirement community or located on a lot adjacent to a retirement community. (The Marlborough Airport property is not currently part of the Retirement Community Overlay District but was previously proposed for that purpose). Ms. Fenby indicated the hearing would be continued until September 24, 2018.

**B. Proposed Zoning Amendment 650 § 5B & 650 § 17 Ancillary Auto Sales, Council Order 18-1007224A**

On behalf of RK Centers and the Marlboro Nissan, Brian Falk of Mirick O'Connell returned to continue the discussion on the proposed amendment. Mr. Falk expressed that his client wished to expand operations across the street into the Joy Asia location. Mr. Falk provided a spreadsheet showing Class I, II and III auto sales locations potentially impacted by the proposed amendment. He noted that since expansion under the ancillary auto sales amendment would only apply to those currently in a business or commercial automotive zone, the number of properties affected would be less. Recognizing that the Mayor and Councilors had reservations about the city-wide impact, he presented two alternative proposals. Under the first alternative proposal, only those sites with a Class I (new car sales) designation would be included. This would reduce the potential impact to two locations in the City – Marlborough Nissan on RT 20 East and Colonial Ford on Maple Street. The second alternative would narrow the allowed locations to the business district east of Phelps St. This alternative would apply to three current locations. Both proposed alternatives remain beneficial to his client yet limit the potential impact in the city. Mr. Fay commented that he is having a hard time identifying the benefits of the zoning amendment to the City. He sees a benefit to his client, but the Planning Board must apply a set of standards to the decision. Mr. Falk indicated that his client's primary location is a pre-existing, non-conforming use and that other areas in the city are already spoken for or not viable. Since the City is actively exploring an overlay district in the RT 20 area affected by the proposed amendment, the Board questioned whether the Metropolitan Area Planning Council (MAPC) had weighed in on the proposed ancillary auto sales zoning amendment. On a motion by Mr. Fay and seconded by Mr. LaVenture the Board voted to ask MAPC whether they had contemplated the proposed auto ordinance and formulated an opinion. Motion carried.

**5. Pending Subdivision Plans: Updates and Discussion (Engineer's Report)**

- A. Goodale Estates: The developer has filed for bankruptcy. Mr. DiPersio said that Mr. White (contractor) has taken steps on his own to stabilize the drainage from the site. The subdivision approval expires on November 14, but Engineering has not received any communication from the developer on his plans for the property. On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to send a letter to the developer requesting an update on the project's status. Motion carried. Mauro Farms: Legal Dept. has reviewed plans and deeds prepared for acceptance. Mauro Farms must still request the Certificate of Compliance from the Conservation Commission. We are hopeful that the request will appear on the September 20 Conservation Commission agenda. Chairperson Fenby asked about acceptance of subdivisions such as Erin's Run. Response: A finalized Home Rule Petition will be required to address the acceptance of older subdivisions.

- B. Slocumb Lane (Blackhorse Farms): Request for bond reduction. On a motion by Mr. Fay, seconded by Mr. LaVenture, it was duly voted to accept and file the July 30, 2018 recommendation letter from Assistant City Engineer Timothy F. Collins and to reduce the bond securing the Blackhorse Farms – Slocumb Lane subdivision from \$101,000 to zero. Motion carried. The Board wishes to extend its appreciation to Attorney Beattie for his assistance in bringing the project to a successful conclusion and acceptance by the Marlborough City Council.
- C. Howe's Landing Subdivision - Request for reduction in bond and initiation of maintenance period. On a motion by Mr. Fay, seconded by Mr. LaVenture, it was duly voted to accept and file the September 6, 2018 recommendation letter from Assistant City Engineer Timothy F. Collins and to reduce the bond securing the Howe's Landing subdivision from \$234,000 to a (1) year maintenance bond of \$70,000. Motion carried. The following summarizes the remaining work items to be completed during the one-year maintenance period:
- Review of As-Built and Acceptance Plans (Engineering and Legal Dept.)
  - Obtain Certificate of Compliance from the Conservation Commission
  - Evaluate and replace street trees as necessary
  - Miscellaneous clean-up of the subdivision – final action before recommendation of street acceptance to the Marlborough City Council
- D. Walker Brook Estates – The Conservation Commission met on September 6 and voted to issue the Certificate of Compliance (pending a final inspection). Following a final inspection on September 10, the certificate was released to the developer. On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to refer the matter to Engineering for its recommendation on bond reduction and acceptance instructions.

#### **6. Preliminary/Open Space/Limited Development Subdivisions**

- A. 72 Hager St. (Open Space Special Permit continued discussion.)  
Mr. LaVenture read the August 24, 2018 letter from Cathleen Liberty, Director of Public Health, into the record. The letter details that four lots in the proposed 72 Hager St. project have suitable soil to support subsurface soil absorption systems. The fifth lot had not been tested. (The proposed open space plan contains three house lots.) On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to accept and file the correspondence.

Mr. LaVenture read City Solicitor Rider's September 6, 2018 letter RE: Question of Fee Interest vs. Easement Interest in Stanczak Land into the record. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence. In Solicitor Rider's opinion, a fee interest in the abutting neighbor's land is required to meet the 5-acre open space development requirement. Mr. Fay complimented the work of the City Solicitor, but reminded the applicant representative, Peter Bemis of Engineering Design Consultants, that the City should not be shouldering the burden of legal work on the project. Mr. Rider pointed out that the Stanczak property is under a mortgage and may need the consent of the lender. Mr. Fay offered that the consent should not be difficult to obtain from a lender.

Mr. LaVenture read the September 7, 2018 letter from Conservation Officer Ryder RE: Hager St. Open Space Development Concept Plan into the record. As required by the Open Space Development Ordinance (OSD) 650-28, the letter details the Commission's written comments. Several issues need further applicant-provided detail including the following: Define the open space and adjacent wetland protection, define the Homeowner's Association agreement ensuring the long-term maintenance of the open space, and provide details of the Conservation Restriction.

(Framingham should be consulted, as a portion of the land is in abutting Framingham.) Accept and file motion by Mr. Fay, seconded by Mr. LaVenture. Motion carried.

Mr. Bemis addressed the Board questioning how to best approach the issue of the land shortfall in Marlborough. The Wambolts have ample land in Framingham. Can't that land be included? Mr. Rider explained that he doesn't have the details of a previously written memorandum addressing that approach, but he summarized the concept of borrowing across municipal lines. You can "borrow" from the Framingham land, provided the active use proposed for the land is allowed in the abutting community's zoning.

**7. Definitive Subdivision Submission (Continued Discussion)**

**A. 215 Simarano Dr. – Decision on Definitive Subdivision Submission**

On a motion by Mr. Fay and seconded by Mr. LaVenture, it was duly voted:

To approve the May 25, 2018 definitive plan of a subdivision known as "215 Simarano Drive, Marlborough, MA", City Assessor's Map 112, Parcel 3, deed of property recorded in the Middlesex South Registry of Deeds Book 64769 Page 352, Name of Owner: Jeremiah 29, LLC, 336 Baker Avenue, Concord, MA 01742, Engineer: Stamski and McNary, Inc., 1000 Main Street, Acton, MA 01720, and prior to endorsement to require a covenant and a construction schedule submitted to the Planning Board at its September 24, 2018 meeting. (There were no requested waivers.) Motion carried.

**B. Marlborough Hub - On a motion by Mr. Fay, seconded by LaVenture, the Board voted to accept and file the September 7, 2018 emailed correspondence from Attorney Arthur Bergeron on behalf of his client, Marlborough Hub, LLC. The Board further voted to grant the requested continuation of discussion on the pending application until October 15, 2018 and agreed to the request for the extension of time for a decision on the subdivision submission until November 7, 2018. Motion carried.**

**8. Signs (None)**

**9. Informal Discussion (None)**

**10. Unfinished Business (None)**

**11. Correspondence (None)**

**12. Public Notices of other Cities & Towns (None)**

On a motion by Mr. Gallagher, seconded by Mr. LaVenture, the Board voted to adjourn the meeting of the Planning Board. Motion carried.

/kih

Respectfully submitted,

  
George LaVenture  
Clerk