

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

October 15, 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, Phil Hodge, Sean Fay, George LaVenture and Chris Russ. Also in attendance were City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes

A. September 24, 2018

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to accept and file the minutes of September 24, 2018. Motion carried.

2. Chair's Business

- A. Set public hearing date: Council Order 18-1007404, Proposed Zoning Amendment to Sections 650 §34 & Section 650 §41 to amend certain provisions of the Marlborough Village District and Table of Lot Areas, Yards and Height of Structures (Main Street Area).** Mr. LaVenture read the September 20, 2018 letter from Brian Falk of Mirick O'Connell into the record. On behalf of his client, Enza Sambataro, he requests consideration of the referenced zoning amendment. On a motion by Mr. LaVenture, seconded by Mr. Fay, the Board voted to accept and file the correspondence. The public hearing is scheduled for November 5, 2018. Motion carried.
- B. How to use MAPC to assist in the evaluation of proposed zoning amendments.**
On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to address this matter under informal discussion later in the meeting. Motion carried.
- C. Due to early voting taking place in Memorial Hall over the next weeks, Chairperson Fenby informed the Board that the October 29th meeting of the Planning Board will be held in the 4th Floor Mayor's Conference Room beginning at 7:00 pm. The Board will resume meetings in Memorial Hall on Monday, November 5.**

3. Approval Not Required (None)

4. Public Hearings (Continued)

- A. Council Order 18-1007337, Proposed Zoning Amendment Section 650, §7, §17, new §39 & §41 relating to the Neighborhood Business District (Lincoln St.) Parcel Review - Engineering Recommendations.** Chair Fenby reopened the public hearing. Mr. LaVenture read into the record the City Engineer's October 11, 2018 letter RE: Proposed Zoning Change – New Neighborhood Business District (off Lincoln St.) Following its review of the proposed zoning amendment, Engineering recommends including a revised parcel list in the district and adherence (to the extent possible) to current parking and landscaping requirements within the new development district. Mr. Fay lead a brief discussion about parking in the area, noting the loss of a lot that was once under City control. He also expressed some concern that the current height restriction within the Neighborhood Business District could be an impediment to redevelopment of a "boutique-style" hotel in the area. On a motion by Mr. Fay and seconded by Mr. LaVenture, the Board voted to make a favorable recommendation to the City Council for the proposed zoning amendment with the following conditional recommendations:
 - That City Council allow Engineering to review the final list of parcels included within the proposed amendment. This review will ensure zoning consistency within the district.
 - That development within the Neighborhood Business District adhere, to the extent possible, to current parking and landscaping zoning requirements.
 - That the amendment allows for some flexibility in building height within the Neighborhood Business District, particularly the Johnson-Claflin property, to preserve the possibility for that parcel to be used for a downtown-area hotel. Motion carried.

- B. Public Hearing: Council Order 18-1007338, Proposed Zoning Amendment Section 650, new §40 - Large Scale Ground Mounted Solar Photovoltaic Installation Overlay District.

Chair Fenby reopened the public hearing. Conservation Officer Ryder reviewed the ***purpose and objectives*** of the installation, the ***general requirements*** for all large-scale ground mounted solar installations, the ***dimensional and density requirements and design standards*** as well as ***abandonment and decommissioning***. ***Purpose and Objectives:*** The City code currently only addresses roof-top and ground mounted installations that serve a building's energy needs. Large-scale installations are for "electricity production". Since Marlborough is already a Green Community, the district could be either as-of-right or by special permit. ***General Requirements:*** As written, the district would allow an as-of-right installation, but must still follow all existing laws, must obtain a building permit and is subject to site plan review. Large-scale installations have a minimum nameplate capacity of at least 250 kW DC. This planned project is 4 MW and would encompass approximately 20 acres. ***Dimension and Density Requirements and Design Standards:*** The district requires front, side and rear setbacks including 50 feet of no cut, and an additional 50 feet no build if near conservation, residential or a public way. Any site equipment must be shaded from view, adequate screening from abutters is required, top soil must be preserved to allow for restoration following decommissioning, and light pollution must be minimized at the site. ***Abandonment and Decommissioning:*** Installation timeframe is 20+ years, financial surety submitted and approved prior to any issuance of building permits. Surety held by Comptroller. Points yet to finalize include taxation approach (taxed as personal property or payment in lieu of taxes agreement -PILOT), setting of building permit fees and protection agreement of the O'Donnell land following decommissioning.

Mr. LaVenture asked for clarification on the land arrangement. Ms. Ryder said that the solar field would be leased by the producer for a 20 to 30-year lease. It is not a typical land bank arrangement. She has contacted several land trusts for feedback, since the more common location for these solar installations is a brownfield. Mr. Russ asked how the solar installation would be accessed. Ms. Ryder indicated that there would be an access roadway that would be 40' to 50'. Ms. Fenby closed the public hearing. On a motion by Mr. Hodge, seconded by Mr. Russ, the Board voted to make a favorable recommendation on the proposed zoning amendment. Motion carried.

5. Subdivision Progress Reports (Updates and Discussion)

A. Subdivision Status Report

Mauro Farm: Mr. DiPersio confirmed that the Conservation Commission issued a Certificate of Compliance. Legal is finalizing deed and municipal easement descriptions with the developer's attorney in preparation for acceptance.

Cider Mill: The subdivision expiration is January 19, 2019. Mr. DiPersio indicates that the subdivision road is complete and documentation for acceptance is prepared. He recommends that the subdivision maintenance period be shortened so that street acceptance may proceed prior to winter. Engineering will contact the developer to arrange for final inspection with recommendation for acceptance to follow.

Marlborough Hub: Mr. DiPersio informed the Board that Mirick O'Connell submitted an additional extension request on behalf of their client Marlborough Hub, LLC. (See Item 7B)

- B. Howe's Landing: Attorney Galvani provided the Board with proof of two recorded documents: i) Extension of Performance Secured by Tripartite Agreement and ii) 4th Revision Performance Secured by Tripartite Agreement. The \$70,000 maintenance bond is now in effect with a subdivision expiration of September 13, 2019.

- C. Goodale Estates: The developer and lending company responded to the Planning Board's October 9, 2018 letter regarding the approaching subdivision expiration date of November 14, 2018. Mr. Ricciardi and Northborough Capital Partners will attend the Planning Board meeting on October 29 to update the Board. Engineering requested a new construction schedule, Code Enforcement confirmation that the site is blight-free and a letter from the Collector's Office that all taxes have been paid. Assistant City Engineer Collins outlined numerous conditions of the Open Space Special Permit. Prior to the issuance of building permits, the open space parcel must be surveyed and marked out, the open space parcel must be inspected by the Marlborough Tree Warden to identify and remove potential "hazardous" trees, and the developer is required to deed over the open space parcel to the City.

6. Preliminary/Open Space/Limited Development Subdivisions

A. 72 Hager St. Open Space Special Permit

Mr. LaVenture read the October 10, 2018 initial review letter from City Engineer DiPersio into the record. While Engineering is in general agreement with the concept of the project, several details remain unresolved:

- 1) The total area of the project must be at least 5-acres to qualify for an open space development special permit. The land area in Marlborough is less than 5 Acres. The developer is considering acquiring land from a Marlborough abutter, or using land in Framingham to supplement the Marlborough development land area.
- 2) Lot 4 area is less than the required 43,560 sq. ft. and the lot shape rectangle is not aligned along the mean direction line of the frontage.
- 3) Parcel "A" use has not been clarified in the permit. Use should be defined in the special permit decision.

The Board's decision on the special permit is due 12-17-18 (Closest meeting date prior to December 23, 2018 deadline).

The developer's engineer, Engineering Design Consultants, has been informed of these issues. To date, Engineering has not received a revised plan set meeting the requirements for an open space development.

7. Definitive Subdivision Submission (Continued Discussion)

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

The Board previously requested the City's Legal Dept. opinion regarding their requirement that a covenant be in place prior to endorsement of the definitive subdivision at 215 Simarano. Mr. LaVenture read from an October 15 email from the Assistant City Solicitor which stated in part, "81U requires ("shall") security without regard to a developer's intent. Because there are no cases on point, it may not be in the Planning Board's, City, or public's bests interests to disregard the requirements of 81U. Also, if the developer sold the property to a successor within the 2-year completion period, the successor, who could actually construct the approved subdivision plan, would also succeed to the developer's obligations under a covenant or bond." The Board maintains its position that a covenant or other acceptable form of surety be in place prior to endorsement.

B. Marlborough Hub – Request for Extension (Continued from 5A. Subdivision Updates)

Mr. LaVenture read the October 10, 2018 email from Attorney Bergeron of Mirick O'Connell on behalf of his client, Marlborough Hub, LLC. Copies of the emailed letter were distributed to members at the time of the meeting. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the October 10, 2018 emailed correspondence. The Board further voted to grant the requested extension for discussion on the pending application until November 19, 2018, and with Attorney Bergeron's written consent, agreed to a modified date for the extension of time for a decision on the subdivision submission until January 31, 2019. Motion carried.

8. Signs

- ### **A. Application for Sign Appeal/Variance to Planning Board: Speedway LLC, 770 Boston Post Road East, Applicant representative, Andrew Upton, Esq. and Cindy Lewis, Speedway District Manager attended.**
- Mr. Upton addressed the Board on behalf of his client, Speedway LLC. Mr. Upton explained that his client requests a variance from the Board to install "GSTV" Point of Sale (POS) devices at gas pumps at 770 Boston Post Road East. The Building Department had rejected their sign application as these devices violated section 526-13 of the Marlborough City Code.

Mr. Upton informed the Board that the devices are used at 129 sites in New England and provide modern POS transactions that assist in preventing credit card fraud and credit card skimming as well as providing directed advertising, news and weather services.

Use of these devices, he explained, decreases the amount of signage required at sites, since each monitor replaces the need for additional “stand-alone” signs by consolidating messaging onto each small device. He understands the City’s intent in limiting electronic displays, but said these small devices are not distractions or nuisances to passing motorists or pedestrians. The displays provide each pump with information and transactional access without interference with adjacent pumps.

Questions and Comments from Board Members:

Chairperson Fenby noted that other Marlborough stations already have these displays, but this is the first time a variance has been before the Board. It was suggested that the installations predated the 2014 ordinance. She will reach out to Code Enforcement. Mr. Fay asked Ms. Lewis if her station at 770 Boston Post Road was otherwise compliant with the City’s sign ordinance. She stated that she could not say with complete surety, but it is Speedway’s practice to comply with local ordinances. Their POS display is integral to their transaction and business model. She requested the Board’s favorable vote on the variance. Mr. LaVenture likes to look at the bigger picture. Instead of dealing with each sign variance like this individually, he would prefer that the sign ordinance be reviewed for possible amendment. Long standing members explained that there have been past efforts to rewrite sections of the sign ordinance, and it may not be practical to wait until the ordinance was modified. While Mr. LaVenture leans toward a favorable vote on this variance, he prefers that applicants be forthcoming with requests prior to installation. A favorable vote could encourage non-compliance of future applicants. Ms. Fenby felt that the applicant had provided enough information to the Board to reach a decision at a future meeting. The applicant need not attend. The applicant representative will be informed of the Board’s vote once taken.

9. Informal Discussion

A. Tracking Spreadsheet

The Board feels that operationally the Board is working well. Incremental improvements to project management and calendar tracking was discussed. As a trial, the Board would like to add a discussion point to the agenda: Calendar Updates. The Board would review current business and note necessary calendar updates. Following each meeting, those calendar items would be updated for member access. Also, the tracking spreadsheet should provide a quick reference for board members. The Planning Board tracking spreadsheet could be set up to sort by either project or meeting date.

B. How to effectively use MAPC to assist in the evaluation of proposed zoning amendments (Item moved from Chair’s Business item 2B.)

Since the City does not have its own planner, the Board discussed how best to use MAPC as a resource for informed decision making. Zoning amendments are common agenda items in recent history, yet the Board often lacks a frame of reference or body of research to inform its decisions. Chair Fenby will revisit this issue with Mayor Vigeant and determine the best approach when seeking input for decision making.

10. Unfinished Business (None)

11. Correspondence (None)

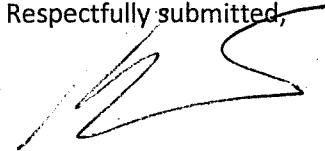
12. Public Notices of other Cities & Towns

A. Town of Berlin Planning Board, 1 Notice

On a motion by Mr. Fay Seconded by Mr. LaVenture, the Board voted to accept and file the notice.
Motion carried.

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

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. LaVenture', written over a horizontal line.

George LaVenture/Clerk

/kih