

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

1A

**Call to Order**

**February 11, 2019**

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, Philip Hodge, George LaVenture, Chris Russ and Matthew Elder. Sean Fay absent. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider and Planning Board Administrator, Krista Holmi.

**1. Meeting Minutes**

**A. January 28, 2019**

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept and file the meeting minutes of January 28, 2019. Mr. Hodge Abstained. Motion carried.

**2. Chair's Business**

- A.** Chair Fenby acknowledged the enclosed appreciation letter to Cynthia Panagore Griffin thanking her for her service to the Board and extending best wishes on her retirement.
- B.** Set Public Hearing Date Order No. 19-1007533, Proposed Zoning Amendment-Chapter 650-36- Executive Residential Overlay District. The Public Hearing was set for March 11, 2019.
- C.** Ms. Fenby informed members and public that she attended the City's recent joint workshop with the Metropolitan Area Planning Council (MAPC). She explained the focus of the workshop was municipal vulnerability preparedness in the face of climate change. The workshop was informative and impactful. The recommendations from the workshop will be compiled into a report that will be shared in a public listening session held at a future date.

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

**4. Public Hearings**

Since there were many members of the public present for Public Hearing Item 4B, Ms. Fenby asked whether anyone objected to moving 4B up in the agenda. There were no objections.

- B.** Proposed Zoning Amendment, Council Order No. 18-1007500, Sections 650-5, 650-17 & 650- 18 Relative to Home Offices and Contractor Storage Yards- Councilor Delano representative.

Ms. Fenby opened the public hearing. Mr. LaVenture read the public hearing 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:**

Councilor Delano was present to represent the proposed zoning amendment. The amendment, supported jointly by the Building Commissioner, Mayor and Mr. Delano (Chair of the Urban Affairs Committee), bring forward this amendment out of necessity. There are issues throughout the City with certain businesses becoming public nuisances. Noise from equipment and radios, equipment storage, neighborhood houses being utilized as contractor rooming houses and equipment lots are contributing to blight, diminished safety and quality of life in the City. He acknowledged that there are many contractors operating without issue, but this ordinance provides support for contractors, since there is currently no allowed use for contractor or landscaper storage yards in Marlborough. This proposed zoning amendment is an effort to reasonably regulate home businesses as well as contractor and landscape contractor storage yards through a process that is equitable and levels the playing field for all. The proposed amendment will create a basis for consistent enforcement. The process will create transparency and eliminate the appearance of preferential treatment in the City. He acknowledged that there has been a strong reaction from pre-existing, non-conforming businesses, contractors running legitimate businesses and property owners leasing out spaces to contractors.

**Speaking in Favor:**

Mayor Vigeant was present to express his support for the proposed zoning amendment. He explained that he has traveled with the Building Commissioner to various sites throughout the City and seen issues first-hand. Without any ordinance on the books, these uses are not allowed. The proposed zoning amendment puts necessary rules in place. He said that the amendment is not targeted at the small business owner, such as a plumber or electrician who parks their equipment vehicle at their home and stores their equipment in their vehicle. He also acknowledged that some of these businesses and uses predate City zoning. He wants to be transparent and seek input in this public forum.

**Question:** Monique Duross of 261 DeSimone Drive. It wasn't clear how the contractor and landscape storage yards can legally operate. Must they run in conjunction with a primary business? What kinds of materials will be allowed to be stored on these sites? Mr. Delano said those were good questions and the details must be worked through such as what kinds of things will be allowed in outdoor storage and whether people can be allowed to use these yards to store things from other locations in the City or rented, for example, by people from outside the City.

**Speaking in Opposition:**

Pat Mauro, 91 Royce Rd. operates CMS at 379 South Street. His business would be affected by the proposed zoning amendment. He is particularly concerned that there appears to be no grandfather clause within the new ordinance. He would like to see a grandfather clause detailed. This clause was also requested by Charlie Trombetta, 42 Whispering Brook Rd., who operates a business at 655 Farm Road. He currently rents to landscape contractors. He indicated that the Marlborough Code Enforcement Officer sometimes refers contractors to his location to rent space. Gina DiMatteo of 721 Farm Rd. hosts small businesses and has a landscape contractor yard. She is also interested in how grandfathering would work. She also wants to better understand who would be required to go through site plan. She wishes to be counted in opposition to the amendment. Laura Barsamian, who operates a business at 655 Farm Rd., is in opposition. Dennis Demers of 49 Northboro Rd. has a 2-acre parcel used as a contractor's yard. He once owned 28 acres of land in the area but sold off the land over the years. He stores equipment in the yard and generally operates between the hours of 7am and 7pm. He said that during snow storms, however, "all bets are off". If equipment needs maintenance during a storm, it would not be uncommon that he will be in operation at any hour. His abutter does have a fence that they maintain. The problem is that fences are now dilapidated and contributes to a junkier appearance. Gary Lynde, 780 North Bigelow Street, operates Lakeside Sewerage Services. He said that small business owners struggle enough without having to incur the added burden of a special permit. Paul DiTullio of 274 Brigham Street operates the Lacombe Business Center. He has contractor yards that abut the City's Department of Public Works. He is concerned that contractor storage yards would not be allowed within Commercial and Automotive Zones, which is the current zoning in most of the Center. He is also opposed to the special permit process. Other members of the public expressing opposition include David Veron, 112 Forest Street and Patrick Mauro, 91 Royce. Toure Foster, 36 Bolton Street, operates an excavating company in a business zone on West Main St. Small businesses have a hard time "doing the dance". Grandfathering details are unclear. Charlie Trombetta further expressed that there was a disregard for the current businesses in operation. Jean Rabelo of 785 Boston Post Road (Post Road Auto) is opposed. She is in a business zone but rents to others. Business zone is excluded from contractor storage yards. Paul Connor, 297 DeSimone, identified himself as the brother-in-law of Mr. DiTullio. He would like to also register his opposition. The proposed zoning amendment has a clause that appears ominous in its retroactive application to currently operating businesses. He wondered what involvement there was from contractors or neighbors in formulating the ordinance. He would think that something far reaching like this proposed amendment would have more input. Additional members of the public expressing opposition include Rebecca Lynde, Michael Monteiro of 667 Farm Rd. and Jim Riessle of 245 Forest St. With no further input from the public, Ms. Fenby closed that portion of the hearing.

**Questions and Comments from Board Members:**

Mr. Elder was concerned that the proposed zoning amendment may be a broad over-reach by the City. He believes blight is a zoning (code) enforcement issue. He felt that requiring applicants to list employees and hours, etc. is too specific and not helpful. He surmised that that employees, for example, would be a variable that is too difficult to track. He also felt that the wording of 47c under conditions for home offices is convoluted and not clear. He also felt that requiring a special permit is cumbersome.

Mr. LaVenture would like to commend the effort to impose some order in this area. As someone who ran a home office for 15-16 years, he felt that there were some legitimate concerns raised. He can appreciate the time and expense that may be involved in the process and hopes that this is an initial draft that is open for comment and discussion. He echoed the sentiments of many speakers who felt that a defined grandfather process is necessary. He asked Councilor Delano what can be done to make the process less onerous? He acknowledged the working history of the City and hoped that the City can work to accommodate existing business concerns.

Mr. Russ echoed Mr. LaVenture's comments and believes this proposed zoning amendment is an initial pass at adding some rules and order to these sites.

Mr. Hodge hoped the process would allow for input from those affected.

Ms. Fenby commented that the proposed ordinance obviously affects many in the City. She commented that the sentiment in the room was particularly centered around the details surrounding a grandfather clause. With no further comment from the Board, Ms. Fenby closed the public hearing.

- A. Proposed Zoning Amendment, Council Order No. 18-1007452A, Sec. 650-5, entitled Definitions; word usage: Retirement Community- Detached and Townhomes, Retirement Community- Multifamily; Section 650-22A, entitled "Purpose", and Section 650-22C, entitled "Permitted Uses". William Pezzoni, Day Pitney, on behalf of Jon Delli Priscoli.

Ms. Fenby opened the public hearing. Mr. LaVenture read the public hearing 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 Jon Delli Priscoli told the Board that this proposed zoning amendment meets a demonstrated need for a diverse housing stock, particularly for the 55+ category. The previously proposed zoning amendment was a much larger overlay district than the current proposal. The area is a quadrant of approximately 10 acres, with an anticipated density of 12 units/acre. The zone was reduced to accommodate previous concerns yet remains large enough to avoid any potential spot zoning issues. Councilors had previously asked whether the proposed zone could "bleed" out from the current boundaries. Mr. Pezzoni stated no, the boundaries are clearly defined under this proposed amendment. He has also provided a traffic impact study and addressed parking concerns. He also stated that the financial impact is net positive for the City. While a townhouse-style development would net approximately \$114,000 in City tax revenue, this independent living community will generate approximately double that. Mr. Pezzoni identified Robert Micheau, PE, Managing Principal at MDM Transportation Consultants in Marlborough. Mr. Micheau explained that their study provided both baseline counts as well as 7-year projections for the independent living facility. This type of development is among the lowest in terms of traffic impact with less than a 2% differential. Their study identified no safety deficiencies. In fact, the area has 4-5x lower incidents than typical intersections in the City. There have been no crashes involving pedestrians. No infrastructure upgrades are necessary. Due to previously expressed concerns that peak parking requirements could exceed the "at least one space per unit" allotment, they will be pursuing discussions with the abutting property to provide potential overflow parking in their lot. The development will contain approximately 130 units.

**Speaking in Favor:**

Richard Lodi of 3 Bradford Circle spoke in favor of the proposed zoning amendment. Representing the 69-unit Regency at Assabet Ridge Condominium Association, Mr. Lodi stated that the proposed development on a parcel proximate to their development provides a logical transition for seniors downsizing from condo ownership to apartment-style living. He commented that the LFB industrial building sat vacant for two years with nothing going on. He fears the empty industrial parcel proposed for the 55+ community could suffer a similar fate and thinks that the current proposal offers a good fit with their property.

Charles Frank of 26 Bowood Lane also spoke in favor of the proposed zoning amendment. He is a member of the Trustees. He complimented Mr. Delli Priscoli's honesty. Mr. Frank indicates Mr. Delli Priscoli has been forthcoming and has openly communicated with the residents of the Regency at Assabet Ridge.

**Questions and Comments from Board Members:**

Mr. LaVenture asked whether the traffic studies were factored with an age-bias. Mr. Micheau stated that land use categories vary and carry an associated data set. Mr. LaVenture further asked if there was a target age for the development. Mr. Delli Priscoli answered the average age estimate was 75 years. Mr. LaVenture asked whether the proposed 1 car per unit was adequate. Mr. Micheau said studies support that number, but the adjacent parcel provides potential additional parking if necessary. Mr. Hodge commented that the City's past focus centered on single family homes, but multi-family seems to make a lot of sense for seniors.

Ms. Fenby felt that the development should consider a "land bank" on site for future additional parking. With no further questions or comments, Ms. Fenby closed the public hearing.

**As item 7A relates to an open public hearing matter, Ms. Fenby requested that 7A be addressed at this time.**

**7. Definitive Subdivision Submissions / Updates**

- A. Marlborough Hub – Letter from Jacob Lemieux, Hancock Associates  
On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept and file the February 8, 2019 letter signed by Jacob Lemieux of Hancock Associates on behalf of Marlborough Hub, LLC. The Planning Board further voted to grant Hancock Associates' requests in that letter to close the public hearing on the definitive subdivision application, which hearing had been opened at a regular meeting of the Planning Board on May 21, 2018, and to withdraw the application without prejudice. Motions carried.

**4. Public Hearings (Continued)**

- C. Continued - Proposed Zoning Map Amendment, Council Order No. 18-1007483, Section 650-8, Rezoning Map 82, Parcels 42 and 42E (Lacombe St.) from Industrial (I) zoning district to Commercial Automotive (CA) zoning district – Peter Bemis, Engineering Design Consultants, Inc.  
Mr. LaVenture read the February 8, 2019 letter from Mr. Bemis on behalf of Lacombe Business Center, LLC. The applicant wishes to withdraw the proposed zoning amendment to address an omission in the filing and to understand possible implications of City Council Order 18-1007500 relative to home offices and contractor storage yards. On a motion by Mr. Russ, seconded by Mr. Hodge, the Board voted to accept and file the February 8 letter and to grant the request to withdraw without prejudice. Motion carried.
- D. Continued - Proposed Zoning Map Amendment, Council Order No. 18-1007484, Sec. 650-8, Rezoning Map 104, Parcels 29 and 29A (Mill St. South) from Industrial (I) zoning district to Commercial Automotive (CA) zoning district.  
Mr. LaVenture read both the February 8, 2019 email from Neal Vigeant and the February 8, 2019 letter from Peter Bemis on behalf of Stephen Vigeant, Trustee of 22 Englewood Trust into the record.

The correspondences request an extension of discussion on the proposed zoning map amendment until March 25, 2019. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the correspondences and to grant the extension of discussion on the proposed zoning amendment, Council Order No. 18-1007484, until March 25, 2019. Motions carried.

**5. Subdivision Progress Reports (Updates and Discussion)**

**A. Engineer's Report- Subdivision Status Report**

City Engineer DiPersio indicated that he had no additional updates than those identified on the agenda.

**B. Mauro Farms, Release of Tri-Partite Agreement**

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to refer the draft release of the Mauro Farms Tri-Partite agreement to the City's Legal Department. Motion carried.

**C. Referral for Recommendation - Council Order 18-1007530 Acceptance of Goodwin Street and McDermot Way as public ways, and their appurtenant easements be accepted as municipal easements. (Cider Mill Estates).**

Mr. DiPersio stated Engineering recommends the Board send a favorable recommendation to the City Council.

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to recommend to the Marlborough City Council that Goodwin Street and McDermot Way be accepted as public ways, and that their appurtenant easements be accepted as municipal easements in the City of Marlborough, as shown on a plan thereof and as hereinafter described:

Plan entitled, "Cider Mill Estates" - Acceptance Plan of Goodwin Street, McDermot Way, and Municipal Easements, Marlborough, Massachusetts," Owner: West Hill, LLC, 120 Quarry Drive, Milford, MA 01757; To Be Deeded to: City of Marlborough, 140 Mail Street, Marlborough, MA 01752; Prepared By: Guerriere & Halnon, Inc., Engineering & Land Surveying, 333 West Street, Milford, MA 01757; Dated: July 19, 2018; Scale: 1"=40'. Motion carried.

**6. Preliminary/Open Space /Limited Development Subdivision Submissions / Updates**

**A. Hager St. Open Space Special Permit\_ i) Draft Findings ii) Legal Opinion on Open Space Zoning iii) Draft Conservation Restriction iv) Draft Declaration of Covenants Easements and Restrictions**

- i. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to refer item i, Draft Findings, to the Legal Department and Engineering. Motion carried.
- ii. On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to refer item ii, Legal Opinion on Open Space Zoning, to the Legal Departments and to the Building Commissioner. Motion carried.
- iii. On a motion by Mr. Russ, seconded by Mr. Elder, the Board voted to refer item iii, Draft Conservation Restriction, to the Legal Department and the Conservation Officer. Motion carried.
- iv. On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to refer item iv, Draft Covenants, Easements and Restrictions to the Legal Department and Engineering. Motion carried.

**8. Signs (None)**

**9. Informal Discussion (None)**

**10. Unfinished Business (None)**

## 11. Calendar Updates

- A. March 11, 2019, Public Hearing on Council Order No. 19-1007533, Proposed Zoning Amendment-Chapter 650-36- Executive Residential Overlay District.
- B. March 25-Continued Discussion Public Hearing- Proposed Zoning Map Amendment, Council Order No. 18-1007484, Sec. 650-8, Rezoning Map 104, Parcels 29 and 29A (Mill St. South) from Industrial (I) zoning district to Commercial Automotive (CA) zoning district

## 12. Public Notices of other Cities & Towns

- A. City of Framingham (3 notices)

On a motion by Mr. Elder, seconded by Mr. Russ, the Board voted to accept and file the notices. Motion carried.

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

Respectfully submitted,

A handwritten signature in blue ink, appearing to read 'George LaVenture', is written over the text 'Respectfully submitted,'.

George LaVenture/Clerk

/kih