

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

April 8., 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, Phil Hodge, Sean Fay, George LaVenture, Chris Russ and Matthew Elder. Also in attendance were City Engineer, Thomas DiPersio, City Solicitor, Don Rider, and Planning Board Administrator, Krista Holmi.

1. Meeting Minutes

A. March 25, 2019

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the meeting minutes of March 25, 2019 as amended. Motion carried. (Amended to include Mr. Fay's statement of conflict with the 46 East Dudley ANR presented on March 25.)

2. Chair's Business (None)

3. Approval Not Required

- A. ANR – Applicant:** East Dudley Heritage Realty Trust, 46 East Dudley St., Marlborough, MA 01752; **Engineer:** Hancock Associates, 35 Elm St.; **Description of Property:** Middlesex South Registry of Deeds, Book 54065, Page 211.

Mr. LaVenture read the 4-8-19 letter from Assistant City Engineer Collins into the record. After completing his review of the subject plan, Mr. Collins made a favorable recommendation to the Marlborough Planning Board to endorse the plan. On a motion by Mr. Elder, seconded by Mr. Russ, it was duly voted to accept, file and endorse the plan of land believed to be "Approval Not Required under Subdivision Control Law" of East Dudley Heritage Realty Trust, 46 East Dudley St., Marlborough, MA 01752; Engineer, Hancock Associates, 35 Elm St.; Description of Property- Middlesex South Registry of Deeds, Book 54065, Page 211. Location and description of property: 46 East Dudley (Assessor's Map 66-114) and 58 East Dudley (Assessor's Map 66-13). Mr. Fay abstained.

4. Public Hearings

- A. Public Hearing Notice – City Council Order No. 19-1007552, Section 650-8, "Boundaries Established"** Proposed rezoning of Map 82, Parcels 112 and 113, and adjacent portions of John Street to the center line in the Business District. (31 and 35 John Street) Mirick O'Connell Attorneys at Law on behalf of St. Mary's Credit Union.

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:

Attorney Brian Falk of Mirick O'Connell represented the proposed amendment on behalf of St. Mary's Credit Union. Also present - Jim Petkewich, Sr. VP at St. Mary's Credit Union and Josh Swerling representing Bohler Engineering. Mr. Falk explained that the purpose of the proposed zoning amendment is to rezone the two parcels adjacent to the St. Mary's Credit Union (35 John St, Assessor's Map 82-112 and 31 John St., Assessor's Map 82-113) From Residence C to Business. St. Mary's is located at 133 S. Bolton St. (Assessor's Map 70-242A) and is in the Business District. St. Mary' now owns all three parcels.

St. Mary's wishes to build a new bank with a separate drive-thru operation along with a coffee shop next to the bank. The new proposed building will be pushed back on the expanded lot, which is necessary to deal with the significant lot slope.

The new building placement will allow for more green space on the South Bolton Street side. There is planned greenspace, screening and fencing on the Bridge St. side to minimize any impact to residential neighbors. They have been unable to contact the neighbor most impacted on John Street. They would add additional screening on the John St. side to minimize impact to the neighbor at 39 John St. The City has additional control, as the planned drive-thrus (two) will require City Council approval, and the new plan will also go through the Site Plan Committee approval.

Speaking in Favor:

As no person spoke in favor of the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Speaking in Opposition:

As no person spoke in opposition to the proposed amendment. Chairperson Fenby closed that portion of the hearing.

Questions and Comments from Board Members:

Mr. LaVenture asked whether a financial analysis was done to determine the net impact to the City. Mr. Falk stated no, but he anticipated a net positive impact to the City.

Mr. Fay noted that the trash bins appeared to be situated close to the John St. neighbor. Josh Swerling of Bohler Engineering was present. He will look at that. Chairperson Fenby felt that the entrance to the bank was close to the crosswalk for the playground across the street on John. She also was concerned that increased traffic leaving the property would have difficulty turning left at that intersection.

Mr. Elder was also concerned about increased cars and traffic at that intersection. He speculated that neighbors on John St. would not favor a coffee shop on the street, since traffic flow would increase.

As there were no further questions or comments, Chair Fenby closed the public hearing.

5. Subdivision Progress Reports (Updates and Discussion)

A. Engineer's Report- Subdivision Status Report

City Engineer DiPersio informed the Board that in preparation for street acceptance, Howes Landing provided As-Built and Acceptance Plans to the City for review.

B. Signed Order No. 19-1007530B Acceptance of Goodwin Street, McDermot Way (Cider Mill Estates)

Mr. DiPersio said the signed order was included for informational purposes. McDermot and Goodwin have been accepted as public ways. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to waive the reading of the order and accept and file the correspondence. Motion carried.

Ms. Fenby requested that Item 10 be moved up in the agenda. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to reorder the agenda and take up item 10. Motion carried.

10. Unfinished Business

A. City Council Order No. 19-1007543, Proposed Zoning Amendment to Section 650-5, Entitled "Definitions word usage" Mobile Food Truck; Section 650-18, entitled "Conditions for Uses"; Section 650-48, entitled Off-street Parking; and Section 650-17, entitled "Table of Uses".

Councilor Ossing was present. He asked permission to address the Board. Granted. Mr. Ossing mentioned that during her review of the proposed zoning amendment, Councilor Robey identified overlap with the City's Section 444, Open Air Markets. A supplement to the proposed amendment will be necessary and Section 444 may need amendment. After some discussion about holding off on a recommendation, Solicitor Rider suggested that since comments are due within 21 days of the Planning Board's public hearing, the Board should move forward with their discussion and recommendations. Mr. Fay commented that permanently parked food trucks should be included in the regulations. He also feels that ice cream trucks should be included. He said that in some communities an RFP (Request for Proposals) is issued for these types of businesses. Some of the Board members felt that an RFP process could be unnecessarily exclusionary. Mr. LaVenture believes the proposed ordinance should include language regulating sound levels from the food trucks. Other members agreed.

Mr. Elder wondered whether the food trucks could simply have an annual permit or licensing fee.

Members felt that any mobile food truck parked on City property (i.e. beach or park) should be paying a fee to the City. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to pass along their favorable recommendation and comments to the City Council. Motion carried.

- B. City Council Order No. 18-1007484, Proposed Zoning Map Amendment to Sec. 650-8, Rezoning Map 104, Parcels 29 and 29A (Mill St. South and Brigham St.) from Industrial (I) Zoning District to Commercial Automotive (CA) Zoning District. Mr. Fay made a motion to make a favorable recommendation to the City Council on the proposed amendment. Mr. Elder seconded the motion. Motion carried 3-2 with Mr. Hodge abstaining and Mr. LaVenture and Ms. Fenby opposed. Ms. Fenby asked if the opposition wished to comment on the opposed opinion. Mr. LaVenture responded that he did. He is not in favor of expanding the Commercial Automotive zone beyond the natural border provided by Mill St. South. Automotive properties are often the least aesthetically pleasing properties, and he feels there is no justification to expanding the zone into Brigham St. and the beginning of a scenic route.

The Board moved on to item 9.

9. Informal Discussion

- A. Sign Variances – Jeff Cooke- Building Commissioner and Code Enforcement Officer Wilderman. Discussion of Sign Variance Authority. The Board had invited the Building Dept. to provide guidance on the Board's authority to grant variances and to discuss past requests and the Board's desire to act consistently on variance applications.

Ms. Wilderman said that historically, enforcement of electronic displays was limited to signs that were visible from the public way. The City Council believed electronic displays should be part of their special permit review process. Code Enforcement Officer Wilderman indicated that her letter to the Board re: Colbea Enterprise's request for variances was missing a couple of items. Her letter did not address the issue of multiple electronic displays per pump or the distance between displays. Since displays on gas pumps would naturally occur at distances less than 100 feet, the current code regulations under Chapter 526-13 for Electronic Message Displays does not appear to have contemplated this gas station application. Adding clarity to the electronic message display section seems appropriate, since the City anticipates receiving more of these types of requests.

Ms. Wilderman indicated that changing out pumps at gas stations requires the sign off by the Fire Marshal, but not City officials. Multiple electronic display units on each gas pump with distances under 100 feet (pump to pump) appears to be a use not contemplated under section 526-13; therefore, by applying the authority granted under Section 526-12, Code Enforcement believes the Planning Board acted within its authority. Mr. Cooke mentioned that he has asked Winchendon's zoning officer whether the town regulates video displays on gas pumps. They do not. Mr. DiPersio asked under what circumstance the unit becomes a sign... When it displays advertising, yes, if it is only displaying point of sale information, no. Mr. Cooke did not have an issue with either the red/green standard for regular and diesel fuel. He also expressed that changing prices electronically may have safety benefits vs. changing prices by hand.

Solicitor Rider said the special permit authority is often confused, because the use of the words "special permit" relative to signs is not accurate. It is not a special permit in the sense of a zoning special permit; therefore, one may not apply the variance standards of MGL Chapter 40A Section 10 for evaluating sign variances. They are not zoning-related.

The Board believes that the best approach would be to modify the ordinance for electronic message displays. On a motion by Mr. Fay, seconded by Mr. Russ, the Board would like to request City Council come to a future meeting of the Planning Board to discuss the matter. Motion carried.

The Board returned to item 6.

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

A. Hager St. Open Space Special Permit-Peter Bemis

Mr. LaVenture read the April 3, 2019 email from Mr. Bemis regarding the planned schedule for providing documentation to the Board.

Further documentation was necessary to complete the Board's review of the applicant's open space special permit application on Hager St. Mr. Bemis plans to submit the information in advance of the April 29 meeting deadline and will attend the meeting on April 29. On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence. Motion carried.

7. Definitive Subdivision Submissions / Updates (None)

8. Signs (None)

11. Calendar Updates

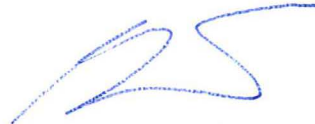
12. Public Notices of other Cities & Towns

A. City of Framingham –7 Notices

On a motion by Mr. Russ, seconded by Mr. LaVenture, 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,



George LaVenture/Clerk

/kih