

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

1A

**Call to Order**

**September 09, 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 and Matthew Elder. Chris Russ absent. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

**1. Meeting Minutes**

**A. August 26, 2019**

On a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to approve and file the meeting minutes of August 26, 2019. Motion carried.

**2. Chair's Business**

- A.** Set public hearing date- Council Order 19-1007756 Proposed Zoning Amendment Section 650-5 (B), entitled "Definitions; word usage", relative to the definition of Home Office/Home Occupation. The public hearing was set for October 7, 2019.

**3. Approval Not Required (Votes)**

- A.** ANR 215 Sudbury St.: Applicants- Timothy and Jennifer Shannon, 150 Prides Crossing Sudbury and 60 Carver Hill Rd., Marlborough, MA 01752; Engineer- HS & T Group, 70 Hammond St., Worcester, MA 01610; Description of Property - Middlesex South Registry of Deeds, Book 72970, Page 178.

Mr. LaVenture read the September 5, 2019 favorable recommendation letter from Assistant City Engineer Collins into the record. The purpose of the ANR plan (rev. 9-4-19) is to divide the existing 5+- acre lot at 215 Sudbury St. into two lots; Lot 1R meets the zoning, frontage, area, Lot Shape and meets the criteria for present adequate access for a property in the Rural Residence zone. Parcel 2 (containing roughly 4 acres) was correctly identified as "Not to be Considered a Separate Building Lot", as it lacks the zoning criteria for frontage to be considered a building lot in a Rural Residence zone. As noted on the plan, it is the intention of the property owner to combine Parcel 2 with the abutting land at #60 Carver Hill Road, presently owned by the proponents of the plan.

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence and endorse the above reference plan believed to be Approval Not Required under the Subdivision Control Law. Motion carried.

- B.** ANR 11 Paquin Dr.: Applicant- Estate of Richard C. Berte c/o Attorney John Gosselin, 635 Massachusetts Ave., Arlington, MA 02476; Engineer- Bruce Saluk Assoc., Inc., 576 Boston Post Road East, Marlborough, MA 01752; Description of Property – Middlesex South Registry of Deeds, Book 71938 page 338. (Assessor's Map 7, Parcel 99)

Mr. LaVenture read the September 4, 2019 favorable recommendation letter from Assistant City Engineer Collins into the record. The purpose of the ANR plan (August 8, 2019, rev. 9-5-19) is to divide the existing lot into two lots, Lot 1 and Lot 3. Both lots meet the zoning requirements for frontage, area, Lot Shape and meet the criteria for present adequate access for properties in a residence A-3 zone. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence and endorse the above referenced plan believed to be Approval Not Required under the Subdivision Control Law. Motion carried.

**4. Public Hearings (None)**

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

### **A. TABLED Goodale Estates Update Kevin Gillis, Northborough Capital Partners, LLC.**

As Mr. Gillis was not yet present, on a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to table item 5A. Motion carried.

- B. Howe's Landing Request for Bond Reduction and Initiation of Acceptance – Attorney Paul Galvani.** Mr. LaVenture read the August 30, 2019 letter from Attorney Galvani requesting that funds being held as security by the Tripartite Agreement be reduced to zero and the Agreement be terminated. Attorney Galvani further requests that the street acceptance process be initiated. On a motion by Mr. Elder, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence and to refer the matter to Engineering for recommendation. The Board requested that the minutes reflect that the request for bond reduction and initiation of the street acceptance process was made in advance of the September 13, 2019 maintenance period expiration. Motion carried.

## **6. Preliminary/Open Space /Limited Development Subdivision Submissions / Updates (None)**

## **7. Definitive Subdivision Submissions / Updates (None)**

## **8. Signs (None)**

## **9. Informal Discussion**

- A. TABLED ANR Discussion: Robert Parente – For Richard Lavoie, 24 Clearview Dr. and Robert Archibald, 18 Clearview Dr.** As Mr. Parente was not yet present, on a motion by Mr. LaVenture, seconded by Mr. Elder, the Board voted to table item 9A. Motion carried.

## **10. Unfinished Business**

- A. Heritage Farm LLC – Notice of Intent to Sell Land and Convert Use – Parcel IDs 72-35 (339 Boston Post Road East) , 73-26A,73-28, 73-24 and 73-26.**

Mr. LaVenture read the 09-09-19 letter from City Solicitor Grossfield to Ms. Valthea Fry and Atty. Geoffrey Smith into the record. The letter details several deficiencies in the Notice of Intent Pursuant to MGL C 61A Sec. 14 to Sell Land and Convert Use.

- Purchase and sale must be “limited to only the property classified under this chapter [.]” Current agreement includes land not classified under c. 61A.
- “a good faith offer, not dependent upon potential changes to current zoning,...” Agreement mentions pursuing zoning changes for price determinations.
- The notice of intent to sell “shall be sent by the landowner...” It appears that land classified under c. 61A as referenced in the Notice may include additional ownership.
- The Agreement identifies more parcels than the Notice. The City does not waive any future notice of intent to sell.

The conclusion is that the City's right of first refusal has not yet been triggered, and the period to exercise any such right has not commenced.

On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence and take no action. Motion carried.

## **5. Subdivision Progress Reports (Updates and Discussion) (Off Table)**

### **A. Goodale Estates Update Kevin Gillis, Northborough Capital Partners, LLC.**

On a motion by Mr. Fay, seconded by Mr. Elder, the Board voted to take item 5A off the table. Motion carried.

Mr. Gillis informed the Board that the subdivision is progressing. They are preparing the property for the roadway base course paving. Additional staking is required.

The City Solicitor is reviewing the open space deed, and they have also submitted a tree assessment letter from Tree Warden, Chris White, an environmental site assessment and verification of ownership for deeding the open space to the City.

Once the open space deed is executed, the \$5,000 open space maintenance fee is paid, and the Solicitor verifies that there are no outstanding payments due to the City, Solicitor Grossfield will prepare a Council Order for the City's acceptance of the open space parcel.

City Engineer DiPersio asked Mr. Gillis whether additional gravel would be brought to the site. Mr. Gillis indicated that he thought they had adequate gravel on site. Mr. DiPersio requested a site visit prior to paving and informed Mr. Gillis that boring samples and compaction tests are necessary to verify proper gravel depth and compaction.

Mr. Gillis informed the Board that they will be requesting an extension on the approval of the subdivision at a future meeting. Ms. Fenby shared that requests for extensions must be made with adequate lead time prior to the November 24<sup>th</sup> subdivision expiration. Mr. Fay set the expectation to limit the request to no more than a one-year extension.

Mr. Fay asked Mr. DiPersio, "What was the final decision on the walkway?" Mr. DiPersio explained that the intent was to improve the shoulder to allow for pedestrian travel. Stone dust was applied to the shoulder area, and some of the material washed into abutters' yards during heavy rains. Those areas will be cleaned up and a layer of mulch will be added to the surface.

#### **9. Informal Discussion (Off Table)**

- A. ANR Discussion: Robert Parente – For Richard Lavoie, 24 Clearview Dr. and Robert Archibald, 18 Clearview Dr.

On a motion by Mr. Elder, seconded by Mr. Fay, the Board voted to take item 9A off the table.

Mr. Parente explained that the purpose of the plan informally presented to the Board was to resolve an existing property line issue resulting from a skewed lot line between neighbors. Back in the 1980s, a properly permitted garage was built on a portion of the neighbor's lot. The lot line adjustment would resolve this issue for both neighbors. The new lot line would run along the existing stone fence between the neighbors, which is natural dividing line between 18 and 24 Clearview Dr. While the adjustment of the line would resolve the garage issue, the new lot line would create zoning issues. One of the created lots would have insufficient frontage for an A-3 zone.

Mr. DiPersio informed the Board that his research indicates that the proponent cannot use the ANR process to achieve the desired result. The applicant must file a definitive subdivision plan, request a waiver for frontage and then approach the Zoning Board of Appeals for a frontage variance and any other zoning relief necessary as a result of the plan. Mr. Fay and Chair Fenby recalled a similar situation at 26 Pembroke, when three small lots were reconfigured to create two lots - one lot that met zoning requirements, and another lot that would require a Planning Board waiver under the Subdivision Control Law as well as variance relief from the Zoning Board of Appeals. In the Clearview situation, both lots already contain homes. The Board expressed that this was more of a housekeeping matter to correct the lot line situation. Mr. Fay pondered whether there was an easier way to approach this situation.

Mr. Parente will speak with the homeowners and consult with Attorney Brewin.

#### **11. Calendar Updates**

- A. Public hearing date- Council Order 19-1007756 Proposed Zoning Amendment Section 650-5 (B), entitled "Definitions; word usage", relative to the definition of Home Office/Home Occupation.  
Hearing Date: October 7, 2019.

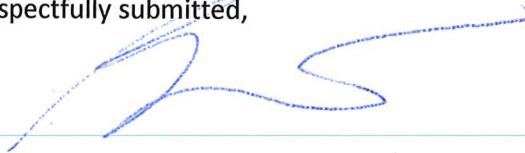
**12. Public Notices of other Cities & Towns**

- A. City of Framingham – 3 Notices
- B. Town of Southborough – 1 Notice
- C. Town of Sudbury – 1 Notice

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

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

Respectfully submitted,



/kih

George LaVenture/Clerk