

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

July 22, 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. Absent: Matthew Elder. City Engineer, Thomas DiPersio, and Planning Board Administrator, Krista Holmi, were also present.

1. Meeting Minutes

A. June 17, 2019

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to approve and file the meeting minutes of June 17, 2019. Ms. Fenby abstained. Motion carried.

2. Chair's Business (None)

3. Approval Not Required

- A. ANR APPLICATION – Douglas and Sharon Stanczak, 48 Hager St., Marlborough, MA 01752; Engineer, Engineering Design Consultants, 32 Turnpike Rd Southborough, MA; Description of Property - Middlesex South Registry of Deeds, Book 44717 page 281 and Book 68015 page 229, Assessor's Map 62 Parcels 7 and 6A.

Peter Bemis of Engineering Design Consultants presented the plan to the Board. Mr. Bemis explained that the proposed ANR is his last effort to develop a portion of the land owned by South Coast Advisors LLC off Hager St. Most recently, his client withdrew the application for a 3-lot subdivision and open space parcel. The least desirable development option is a five-lot subdivision that could be built as-of-right, but this option would not preserve any open space. A simple two-lot ANR plan was desired, but he was unable to meet the lot shape rectangle requirement. The proposed ANR includes a portion of land acquired from an abutter, the Stanczaks. The resultant Lot 2, while not ideal, is the only way he could make the lot shape geometry work. Parcel "C" is planned agricultural space that will be attached to one of the existing lots owned by the Wambolt family. Q: Chair Fenby wondered if there was any way to move the back line (of Lots 1 and 2) to meet lot shape. A: Mr. Bemis said they have tried every conceivable option, and the geometry just doesn't work. Q: Mr. Russ asked for clarification on Parcel "C". Is it located in only Marlborough or in Framingham? A: Mr. Bemis indicated Parcel "C" is partially in Marlborough (109,835+ - ft²) and partially in Framingham (52,318 - ft²). This plan creates no new lines in Framingham, and they are only proposing to subdivide land in Marlborough. An option of requesting relief from the ZBA was considered, but they didn't feel a decision would be in their favor. One cannot seek relief after creating their own hardship. City Engineer DiPersio said that Engineering reviewed the plan, and it does meet the criteria of a plan not requiring approval under the subdivision control law. Board members expressed some concern over the shape of Lot 2. They are generally opposed to odd-shaped lots. Mr. DiPersio said nothing in the ordinance speaks to this issue. Q: Ms. Fenby expressed the Board's desire to be consistent in their decisions. There was another informal request before the Board from a homeowner seeking to develop land by utilizing frontage along another "public way". Mr. DiPersio said the circumstances were different. There were significant questions about the adequacy of access along the "public way". There was not an actual roadway in that instance. Q: Mr. Russ wondered if a structure could be built on the portion of Lot 2 fronting Boston Post Road. A: Mr. Bemis said no, there will be an agreement to that effect so that nothing will ever be built there. Q: Ms. Fenby asked Mr. DiPersio whether Engineering had written a letter of recommendation to the Board. A: Mr. DiPersio said he brought the letter, but it wasn't completed in time to include in the packet. Ms. Fenby requested that Mr. LaVenture read the letter from Assistant City Engineer Collins into the record.

Mr. Collins reviewed the zoning requirements for frontage, area, lot shape and present adequate access and included his favorable recommendation to the Board to endorse the plan. Following the reading, Mr. Fay felt the Board had little discretion to deny. Q: Mr. LaVenture wondered whether the majority wetland frontage on Boston Post Road would be considered adequate access. A: Mr. Bemis responded that there is adequate upland to gain access to the parcel. Q: Mr. LaVenture wondered what would be the Lot 2 street address? A: Mr. Bemis confirmed that the house will have a Hager St. address. Ms. Fenby asked for feedback from other members. Mr. Russ wished the plan was cleaner, but there weren't other apparent viable options, unless the owner pursued the as-of-right five-lot development. With restrictive language added regarding further development, he felt comfortable with endorsement. Mr. Hodge doesn't like the lot shape, but he acknowledged that it isn't the worst he has seen. On a motion by Mr. Russ, seconded by Mr. Fay the Board voted to accept and file the Engineering recommendation letter and endorse the referenced plan of land believed to be Approval Not Required under the subdivision control law. Motion carried. The Board based its decision on the following:

- The two-lot development with preserved open space is preferable to a five-lot development.
- A private agreement to restrict building on Parcel A will be recorded in the deed.
- This ANR is differentiated from other formal filings or informal discussions presented that utilize frontage on a "cart path" to create frontage.
- Engineering recommends endorsement. The plan meets the required frontage, area, lot shape and present adequate access for a plan of land believed to be Approval Not Required under the subdivision control law.

4. Public Hearings

- A. Continued Public Hearing: Council Order 19-1007673 – Proposed Zoning Amendment to Section 650-12 Nonconforming uses.

Chair Fenby reopened the public hearing. Mr. LaVenture read the July 16, 2019 correspondence from City Solicitor Grossfield into the record. The letter details several suggested changes to the previously submitted proposed zoning amendment. He also referenced a previous correspondence to City Council from Building Commissioner Cooke. The Commissioner had suggested additional language for inclusion in the proposed zoning amendment. On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to accept and file the correspondence from Solicitor Grossfield. Councilor Ossing was present at the meeting and informed the Board that a new version of the proposed ordinance will appear before City Council that evening. He anticipates City Council ordering the readvertisement of the proposed zoning amendment. The Planning Board should expect to receive a referral for recommendation on the newly proposed amendment at the next meeting. Chair Fenby closed the public hearing. On a motion by Mr. Fay, seconded by Mr. LaVenture, the Board voted to accept and file the correspondence by Commissioner Cooke and make no recommendation pending the receipt of a new version of the proposed amendment. Motion carried.

5. Subdivision Progress Reports (Updates and Discussion)

- A. July 17, 2019 email from Attorney Angela Conforti of FRE Builders requesting return of two \$500 cash bonds.

Tom DiPersio, City Engineer, recommended that the Planning Board return both checks held to secure the completion of a small patch of landscaping at Cider Mill Estates. The grass has grown sufficiently to be considered complete.

On a motion by Mr. Fay, seconded by Mr. Russ, the Board voted to release the two referenced "cash bonds". Motion carried. The checks will be mailed back to Attorney Conforti as detailed in her email.

- B. Goodale Estates Update- Mr. DiPersio informed the Board that erosion occurred at the site stemming from heavy rain on an open trench. The trench was left open to allow an inspection of an electrical installation. The site is now secure.

- C. Mosher Lane and Shaughnessy Estates – City Engineer DiPersio informed the Board that Engineering is working through a few issues related to two older subdivisions owned by Avidia Bank. A request for a waiver vote may come up as a “housekeeping” matter on Mosher Lane. Mr. Fay and Chair Fenby explained that the vote was not previously taken, since action was pending a decision on a lock box at the site. That matter is now resolved.

Also, utility easements from four properties were required for street acceptance for the Shaughnessy Estates II Subdivision. The developer left and Avidia Bank took over the responsibility of completing the subdivision. Signed easement agreements are now in place, so the process of street acceptance can proceed.

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

7. Definitive Subdivision Submissions / Updates (None)

8. Signs (None)

9. Informal Discussion (None)

10. Unfinished Business (None)

11. Calendar Updates


12. Public Notices of other Cities & Towns

- A. Town of Southborough - 2 Notices
- A. City of Framingham - Notices

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



George LaVenture/Clerk

/kih