

# CITY OF MARLBOROUGH MEETING POSTING

Meeting Name: City Council Urban Affairs Committee

Date: February 26, 2019

Time: 5:30 PM

Location: City Council Chamber, 2<sup>nd</sup> Floor, City Hall, 140 Main Street

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2019 FEB 15 A 11:11

1. 01-07-2019 – **Order No.16/17/18/19-1006443AAA-1**: Communication from Code Officer regarding Application for Temporary, freestanding sign for VENTURA X at 11 Apex Drive; Approval from Walker Realty LLC attached to the Application.  
-REFER TO URBAN AFFAIRS
2. 11-19-2018 – **Order No.18/19-1007460**: Communication from Solicitor Rider together with Proposed Zoning Petition from Councilor Delano, Chairman of the Urban Affairs Committee, to vest the ZBA with jurisdiction over applications for special permits that seek to increase or intensify the existing nonconforming nature of single or two-family residential structures, as it currently rests with the City Council.  
-REFER TO PLANNING BOARD AND URBAN AFFAIRS  
PUBLIC HEARING: DECEMBER 17, 2018
3. 12-17-2018 – **Order No. 18/19-1007500**: Proposed Zoning Ordinance Amendment, Chapter 650, §15, §17, & §18 – Home Office & Contractor Yards.  
-REFER TO PLANNING BOARD AND URBAN AFFAIRS  
PUBLIC HEARING: FEBRUARY 11, 2019

THE LISTING OF TOPICS THAT THE CHAIR REASONABLY ANTICIPATES WILL BE DISCUSSED AT THE MEETING IS NOT INTENDED AS A GUARANTEE OF THE TOPICS THAT WILL HAVE BEEN DISCUSSED. NOT ALL TOPICS LISTED MAY IN FACT BE DISCUSSED, AND OTHER TOPICS NOT LISTED MAY ALSO BE BROUGHT UP FOR DISCUSSION TO THE EXTENT PERMITTED BY LAW.

**The public should take due notice that the Marlborough City Council may have a quorum in attendance due to Standing Committees of the City Council consisting of both voting and non-voting members. However, members attending this duly posted meeting are participating and deliberating only in conjunction with the business of the Standing Committee.**

**Electronic devices, including laptops, cell phones, pagers, and PDAs must be turned off or put in silent mode upon entering the City Council Chamber, and any person violating this rule shall be asked to leave the chamber. Express authorization to utilize such devices may be granted by the President for recordkeeping purposes.**



# IN CITY COUNCIL

Marlborough, Mass., JANUARY 7, 2019

## ORDERED:

That the Communication from Code Enforcement Officer, Pamela Wilderman, re: Application for a temporary, freestanding sign for Ventura X at 11 Apex Drive, along with the approval from Walker Realty LLC, be and is herewith refer to **URBAN AFFARIS COMMITTEE**.

ADOPTED

ORDER NO. 16/17/18/19-1006443AAA-1

*City of Marlborough*  
*Commonwealth of Massachusetts*

12

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH

2018 DEC 21 P 4:33



Pamela A. Wilderman  
Code Enforcement  
140 Main Street  
Marlborough, MA 01752  
Phone: (508) 460-3765  
Fax: (508) 460-3736  
Email: pwilderman@marlborough-ma.gov

December 5, 2018

Edward J. Clancy, President  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

VA

RE: Sign Application  
Venture X

Dear Mr. Clancy and Members:

Attached please find an application package for a temporary, freestanding sign for Venture X at 11 Apex Drive along with the letter of approval from Walker Realty LLC.

While the size of the sign is well within the allowed square footage, freestanding signs are usually limited to multiple street entrances. The Apex Center of course has a number of freestanding signs at each of the major entrances so you would need to allow this as an amendment to the sign approvals.

The application also doesn't designate the extent of time they would like to have the temporary sign so you may wish to have the proponent designate a time limitation.

Sincerely,

Pamela A. Wilderman  
Code Enforcement Officer

Cc: File

# 11 APEX, LLC

Signage – X Formation

11 Apex Drive, Marlborough, MA 01752

November 28, 2018

City of Marlborough

Building Department

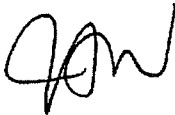
140 Main Street

Marlborough, MA 01752

ATTN: Ms. Pam Wilderman

Ms. Wilderman:

This letter is to confirm that 11 Apex, LLC, the Landlord, hereby gives permission to Venture X to install a temporary sign at 11 Apex Drive. Please let me know if there is anything you need from our end. Thank you.



Jeff White

Asset Manager

978-799-4289

[jwhite@raventures.net](mailto:jwhite@raventures.net)



# City of Marlborough BUILDING DEPARTMENT

140 Main Street  
Marlborough, Massachusetts 01752



Date: 11/27/18 Permit No. \_\_\_\_\_

Address/Location of Sign 11 Apex Drive Suite 300

Name of Business Venture X

Name of Owner of Business Ryan D. Gagne Telephone 508-431-3264

Type of Sign: (check off which applies)

\_\_\_\_\_ Flat Wall  <sup>Temporary</sup> Free Standing \_\_\_\_\_ Awning \_\_\_\_\_ Banner \_\_\_\_\_ Projecting

Does this site have a Special Permit  YES \_\_\_\_\_ NO

Is this a replacement of a same size existing sign(s) \_\_\_\_\_ YES  NO

### Dimensions Sign:

Length 96' Width 42' Height (Free Standing) 96' Area 28 SF

Location of Sign on Bld. N/A North \_\_\_\_\_ South \_\_\_\_\_ East \_\_\_\_\_ West \_\_\_\_\_

### Dimensions Façade:

Length 122' Width 7' Area 854 SF

[Signature] Telephone 508-431-3264  
Signature of Responsible Party

Installer Company Signarama Frammingham Telephone 508-875-7446

newmanjh@signarama-framingham.com  
Email

I hereby declare that I have the authority to request this permit and that the statements and information provided are true and accurate to the best of my knowledge and belief as well as to conform to the City's current Sign Ordinance and MA State Building Code, signed under the pains and penalties of perjury.

[Signature] 11/27/18  
Signature Date

Cost of Sign(s) \$500.00 Permit Fee \$ \_\_\_\_\_



CITY OF MARLBOROUGH

Building Department  
(508) 460-3776

# BUILDING PERMIT

## JOB WEATHER CARD

PERMIT NO

BP-2018-001523

ISSUE DATE

11/28/2018

APPLICANT

Sign-A-Rama Framingham

PERMIT TO

Signage

AT (LOCATION)	11 APEX DRIVE, MARLBOROUGH, MA 01752	ZONING DISTRICT		Bldg. Type:	Commercial
---------------	--------------------------------------	-----------------	--	-------------	------------

SUBDIVISION MAP BLOCK LOT	78-14	BUILDING IS TO BE:	CONST TYPE	USE GROUP	
---------------------------	-------	--------------------	------------	-----------	--

**WORK DESCRIPTION**  
Temporary Coming Soon for "Venture X" at 11 Apex Drive.

**CONTRACTOR**

LICENSE: 0000  
Construction Supervisor

SIGN INSTALLATION

AREA (SQ FT)	925,388,204.	EST COST(\$)	500.00	PERMIT FEE (\$)	50.00
--------------	--------------	--------------	--------	-----------------	-------

OWNER: GUTIERREZ ARTURO J TR

BUILDING DEPT BY

ADDRESS: 1 WALL ST

PHONE: \_\_\_\_\_

THIS PERMIT CONVEYS NO RIGHT TO OCCUPY ANY STREET, ALLEY OR SIDEWALK OR ANY PART THEREOF, EITHER TEMPORARILY OR PERMANENTLY. ENCROACHMENTS ON PUBLIC PROPERTY, NOT SPECIFICALLY PERMITTED UNDER THE BUILDING CODE, MUST BE APPROVED BY THE JURISDICTION. STREET OR ALLEY GRADES AS WELL AS DEPTH AND LOCATION OF PUBLIC SEWERS MAY BE OBTAINED FROM THE DEPARTMENT OF PUBLIC WORKS. THE ISSUANCE OF THIS PERMIT DOES NOT RELEASE THE APPLICANT FROM

<p>MINIMUM INSPECTIONS REQUIRED FOR ALL CONSTRUCTION WORK: 1) FOUNDATIONS OR FOOTINGS. 2) PRIOR TO COVERING STRUCTURAL MEMBERS (READY FOR LATH OR FINISH COVERING) 3) FINAL INSPECTION BEFORE OCCUPANCY 4) REFER TO DETAILED INSPECTION SCHEDULE</p>	<p>APPROVED PLANS MUST BE RETAINED ON JOB AND THIS CARD KEPT POSTED UNTIL FINAL INSPECTION HAS BEEN MADE. WHERE A CERTIFICATE OF OCCUPANCY IS REQUIRED, SUCH BUILDING SHALL NOT BE OCCUPIED UNTIL FINAL INSPECTION HAS BEEN MADE.</p>	<p>WHERE APPLICABLE SEPARATE PERMITS ARE REQUIRED FOR ELECTRICAL PLUMBING/GAS AND MECHANICAL INSTALLATIONS.</p>
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### POST THIS CARD SO IT IS VISIBLE FROM STREET

#### BUILDING INSPECTIONS APPROVALS

REQUIRED INSPECTIONS LISTED ON REVERSE		
	OTHER:	

WORK SHALL NOT PROCEED UNTIL THE INSPECTOR HAS APPROVED THE VARIOUS STAGES OF CONSTRUCTION

PERMIT WILL BECOME NULL AND VOID IF CONSTRUCTION WORK IS NOT STARTED WITHIN SIX MONTHS OF DATE THE PERMIT IS ISSUED AS NOTED ABOVE

INSPECTIONS INDICATED ON THIS CARD CAN BE ARRANGED FOR BY TELEPHONE OR WRITTEN NOTIFICATION.

## City Council

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**From:** Jeff Newman <newmanjh@signarama-framingham.com>  
**Sent:** Wednesday, December 19, 2018 1:02 PM  
**To:** City Council  
**Subject:** RE: Temporary Freestanding Sign for Venture X at 11 Apex Drive

That wording would be fine, Karen.

Thank you,

**Jeff Newman**  
President



*Honored as the 2014 #1 Signarama Franchisee Worldwide*  
**PROUD HALL OF FAME FRANCHISE LOCATION**  
*Mentor Location*

280 Worcester Road #118  
Framingham, MA 01702  
508-875-7446 Office  
508-875-7470 FAX  
[newmanjh@thesignbiz.com](mailto:newmanjh@thesignbiz.com)  
[www.FraminghamSigns.com](http://www.FraminghamSigns.com)



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**From:** City Council <citycouncil@marlborough-ma.gov>  
**Sent:** Wednesday, December 19, 2018 1:01 PM  
**To:** Jeff Newman <newmanjh@signarama-framingham.com>  
**Subject:** RE: Temporary Freestanding Sign for Venture X at 11 Apex Drive

Will do. I just received from our Engineering Division a scan of the large plan that came with your application. I wanted to include it with the copies to councilors and for the packet on the City Council agenda.

Would it be best to use language for the time, **eight months from the issuance of the building permit**? Feel free to suggest helpful language.

Karen

**From:** Jeff Newman <[newmanjh@signarama-framingham.com](mailto:newmanjh@signarama-framingham.com)>  
**Sent:** Wednesday, December 19, 2018 11:46 AM  
**To:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

Cc: [ryan.gagne@venturex.com](mailto:ryan.gagne@venturex.com)

Subject: RE: Temporary Freestanding Sign for Venture X at 11 Apex Drive

Hi Karen,

The temporary sign will be in place for approximately 8 months. The purpose of the sign is to advertise the Venture X business and within 8 months they expect to be at a capacity where other marketing efforts will be in full effect and at that time the roadside temporary sign will become redundant and unnecessary.

Please let me know if you require anything further for the City Council to render an approval for the temporary sign.

Thank you,

**Jeff Newman**  
President



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*PROUD HALL OF FAME FRANCHISE LOCATION*  
*Mentor Location*

280 Worcester Road #118

Framingham, MA 01702

508-875-7446 Office

508-875-7470 FAX

[newmanjh@thesignbiz.com](mailto:newmanjh@thesignbiz.com)

[www.FraminghamSigns.com](http://www.FraminghamSigns.com)



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**From:** City Council <[citycouncil@marlborough-ma.gov](mailto:citycouncil@marlborough-ma.gov)>

**Sent:** Tuesday, December 18, 2018 4:01 PM

**To:** Jeff Newman <[newmanjh@signarama-framingham.com](mailto:newmanjh@signarama-framingham.com)>

**Subject:** Temporary Freestanding Sign for Venture X at 11 Apex Drive

Dear Jeff:

The request for a temporary freestanding sign for Venture X at 11 Apex Drive will be on the January 7, 2019 City Council agenda.

As the application does not indicate a timeline for the temporary sign, the Code Officer has indicated that the applicant should be asked to designate a time limitation.

This information could be included in the agenda packet.

Please email or call me if you have any questions.

Thank you.

Karen





# IN CITY COUNCIL

Marlborough, Mass.,

MAY 9, 2016

PAGE 14

ORDERED:

- b. The height of any freestanding sign shall not exceed thirty (30) feet from the ground measured directly at the sign base;
  - c. No freestanding sign shall be located closer than five (5) feet from any property line provided that there shall be no setback requirements to interior lot lines within the HRMUOD;
  - d. Signs, logos or cabinets may be either externally illuminated or internally illuminated with translucent or transparent faces; and
  - e. Electronic Messaging Boards shall be subject to the provisions of §526-13 of the City Ordinance, except as expressly approved by the City Council, provided however, that one (1), double sided, Electronic Messaging Board ("EMB") in the HRMUOD shall be allowed by-right with a display area of up to sixty (60) square feet. Notwithstanding the provisions of §526-13 of the City Ordinance, the EMB within the HRMUOD may: 1) be located as the uppermost element of the pylon/monument sign upon which it is attached; 2) may display no more than four (4) colors from sunrise to sunrise within background, field and message during any single display or message; 3) may present logos; and 4) may have a minimum display time of twenty (20) seconds.
  6. During construction, one free standing pole, ground, monument or pylon sign per 500 linear feet of cumulative frontage on a street or way, or wall sign where applicable, may be erected or installed advertising the rental, lease or sale of the premises, or portions thereof provided that said signs shall be removed within seven (7) days of the rental, lease or sale of the premises (or applicable portions thereof).
  7. Wire frame signs and A-frame signs are prohibited.
  8. The City Council may elect to vary the requirements of this Section by Site Plan Approval if, in their opinion, such change shall result in an improved project and will not nullify or substantially derogate from the intent or purpose of this Section. This authority continues subsequent to occupancy.
- I. Application
1. Special Permits - An application for a Special Permit for a use in the Mixed Use Development in the HRMUOD shall comply with the requirements of §650-59 et. seq. of the Zoning Ordinance.

JOB #: 59367

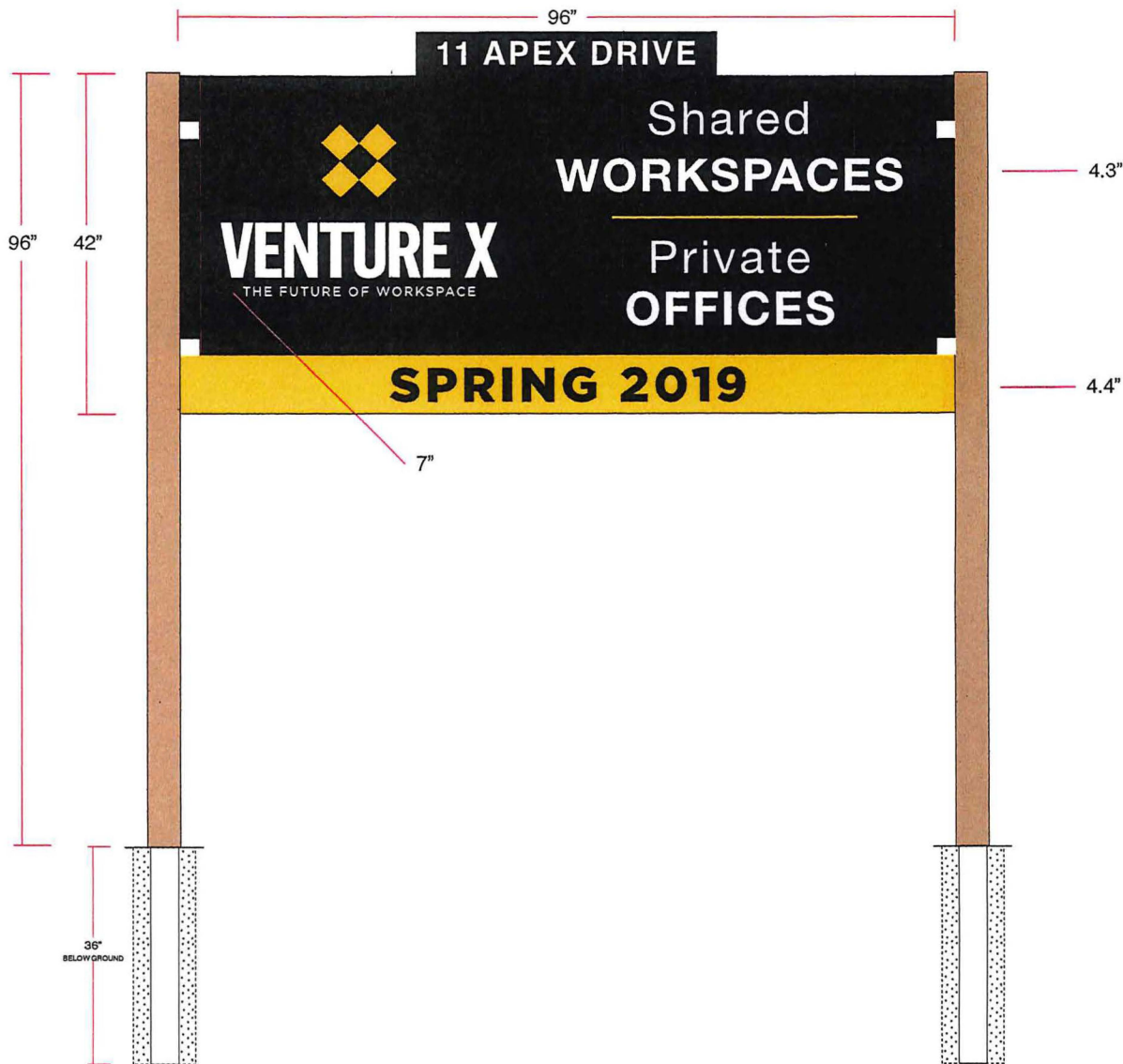
PROJECT TYPE: FREESTANDING

REVISION DATE: 11.20.18

QUANTITY: 1

PROOF DATE: 11.20.18

REVISION #: 1



42" H x 96" W x 6mm (1/2" D) MDO Sign Panel with digitally printed & matte laminated vinyl applied to one (1) side, per the approved sign proof.

Includes:

- \* QTY (2) 4" x 4" x 12' Pressure Treated Posts
- \* QTY (4) White Aluminum Post Clips & galvanized mounting hardware

PLEASE NOTE: PRICING INCLUDES UP TO TWO (2) REVISION CYCLES; AN ADDITIONAL COST MAY BE APPLIED FOR EXTRA DESIGN TIME.

These plans are the exclusive property of Sign\*A\*Rama and are the result of the original work of its employees. Their sole purpose is for client consideration as to whether or not to purchase the proposed plans or to purchase from Sign\*A\*Rama, a sign manufactured according to these plans. Distribution or exhibition of these plans to anyone other than employees of your company, or use of these plans to construct a sign similar to the one embodied herein, is expressly forbidden. In the event that such exhibition occurs, Sign\*A\*Rama expects to be reimbursed for time and effort entailed in creating these plans.

IMPORTANT: SUPERIMPOSED PHOTOS ARE NOT TO BE VIEWED AS 100% ACCURATE DEPICTIONS, THEY ARE SIMPLY A ROUGH REPRESENTATION OF SIGN PLACEMENT.

**Signarama**  
The way to grow your business.

www.framinghamsigns.com

280 WORCESTER RD.

FRAMINGHAM, MA 01702

508.875.7446 P 508.875.7470 F

JOB #: 59367

PROJECT TYPE: FREESTANDING

REVISION DATE: 11.20.18

QUANTITY: 1

PROOF DATE: 11.20.18

REVISION #: 1



**PLEASE NOTE: PRICING INCLUDES UP TO TWO (2) REVISION CYCLES; AN ADDITIONAL COST MAY BE APPLIED FOR EXTRA DESIGN TIME.**

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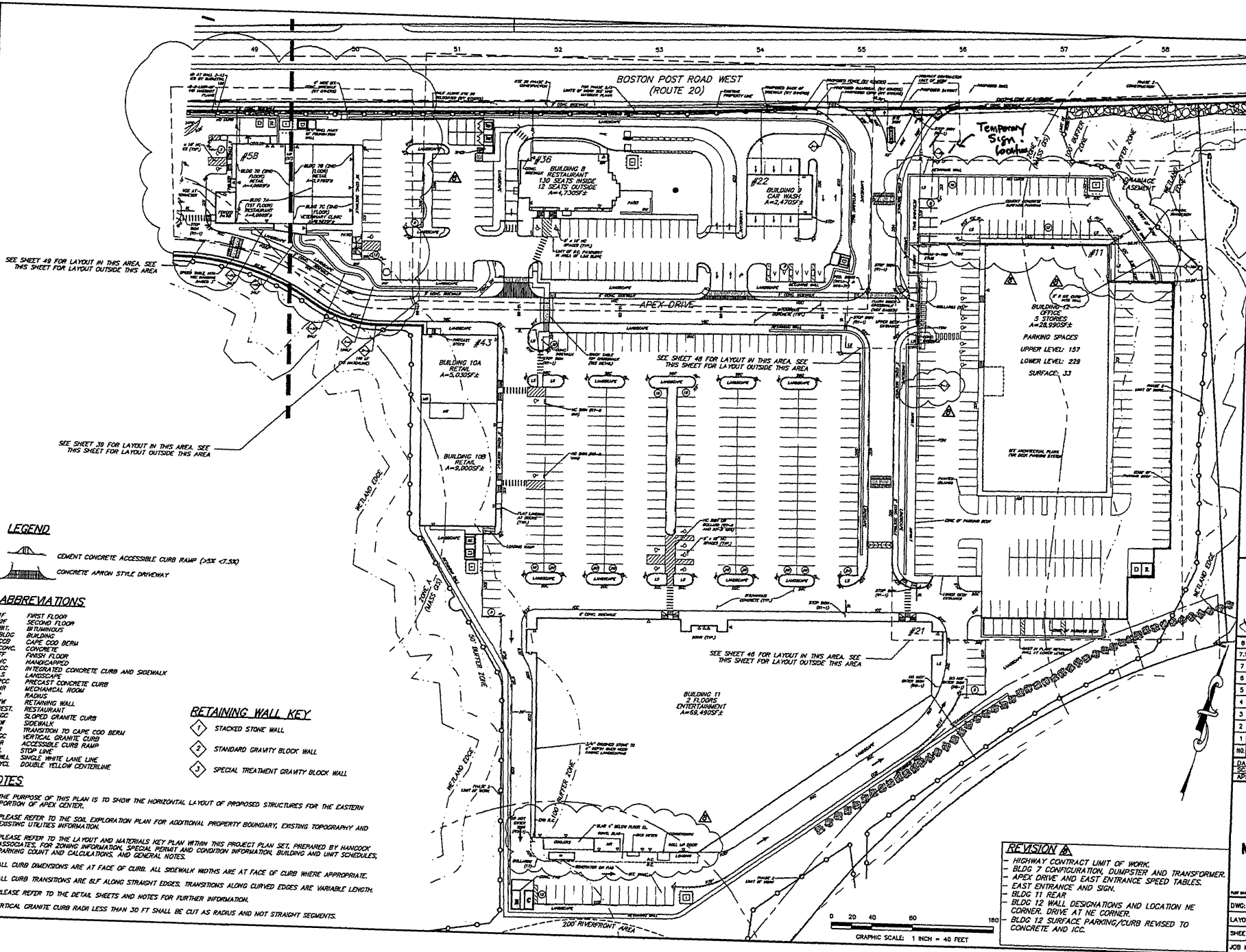
280 WORCESTER RD.

FRAMINGHAM, MA 01702

508.875.7446 P 508.875.7470 F

EXISTING





SEE SHEET 49 FOR LAYOUT IN THIS AREA SEE THIS SHEET FOR LAYOUT OUTSIDE THIS AREA

SEE SHEET 30 FOR LAYOUT IN THIS AREA SEE THIS SHEET FOR LAYOUT OUTSIDE THIS AREA

SEE SHEET 48 FOR LAYOUT IN THIS AREA SEE THIS SHEET FOR LAYOUT OUTSIDE THIS AREA

SEE SHEET 46 FOR LAYOUT IN THIS AREA SEE THIS SHEET FOR LAYOUT OUTSIDE THIS AREA

**LEGEND**

- CEMENT CONCRETE ACCESSIBLE CURB RAMP (5% <math>\nabla</math> 1.5%)
- CONCRETE APRON STYLE DRIVEWAY

**ABBREVIATIONS**

- 1F FIRST FLOOR
- 2F SECOND FLOOR
- BTG BIRMINGHAM
- BLDG BUILDING
- COB CAPE COD BERM
- CCO CAFE COO BERM
- CONC. CONCRETE
- FF FINISH FLOOR
- HC HANDICAPPED
- ICC INTEGRATED CONCRETE CURB AND SIDEWALK
- LS LANDSCAPE
- PCG PRECAST CONCRETE CURB
- MR MECHANICAL ROOM
- R RADIUS
- RW RETAINING WALL
- REST. RESTAURANT
- SGC SLOPED GRANITE CURB
- SW SIDEWALK
- TR TRANSITION TO CAPE COD BERM
- VOC VERTICAL GRANITE CURB
- AR ACCESSIBLE CURB RAMP
- SL STOP LINE
- SHL SINGLE WHITE LANE LINE
- DYCL DOUBLE YELLOW CENTERLINE

**RETAINING WALL KEY**

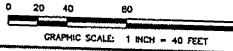
- 1 STACKED STONE WALL
- 2 STANDARD GRAVITY BLOCK WALL
- 3 SPECIAL TREATMENT GRAVITY BLOCK WALL

**NOTES**

1. THE PURPOSE OF THIS PLAN IS TO SHOW THE HORIZONTAL LAYOUT OF PROPOSED STRUCTURES FOR THE EASTERN PORTION OF APEX CENTER.
2. PLEASE REFER TO THE SOIL EXPLORATION PLAN FOR ADDITIONAL PROPERTY BOUNDARY, EXISTING TOPOGRAPHY AND EXISTING UTILITIES INFORMATION.
3. PLEASE REFER TO THE LAYOUT AND MATERIALS KEY PLAN WITHIN THIS PROJECT PLAN SET, PREPARED BY HANCOCK ASSOCIATES, FOR ZONING INFORMATION, SPECIAL PERMIT AND CONDITION INFORMATION, BUILDING AND UNIT SCHEDULES, PARKING COUNT AND CALCULATIONS, AND GENERAL NOTES.
4. ALL CURB DIMENSIONS ARE AT FACE OF CURB. ALL SIDEWALK WIDTHS ARE AT FACE OF CURB WHERE APPROPRIATE.
5. ALL CURB TRANSITIONS ARE BLF ALONG STRAIGHT EDGES. TRANSITIONS ALONG CURVED EDGES ARE VARIABLE LENGTH.
6. PLEASE REFER TO THE DETAIL SHEETS AND NOTES FOR FURTHER INFORMATION.
7. VERTICAL GRANITE CURB RADI LESS THAN 30 FT SHALL BE CUT AS RADIUS AND NOT STRAIGHT SEGMENTS.

**REVISION**

- HIGHWAY CONTRACT LIMIT OF WORK.
- BLDG 7 CONFIGURATION, DUMPSTER AND TRANSFORMER.
- APEX DRIVE AND EAST ENTRANCE SPEED TABLES.
- EAST ENTRANCE AND SIGN.
- BLDG 11 REAR
- BLDG 12 WALL DESIGNATIONS AND LOCATION NE CORNER DRIVE AT NE CORNER.
- BLDG 12 SURFACE PARKING/CURB REVISED TO CONCRETE AND ICC.



**APEX CENTER**

Apex Drive  
Marlborough, Massachusetts 01752

PREPARED FOR

**Walker Realty, LLC**

4 Lan Drive  
Westford, Massachusetts 01886

**HANCOCK ASSOCIATES**

Civil Engineers  
Land Surveyors  
Environmental Consultants

315 Elm Street, Marlborough, MA 01752  
Voice (508) 466-1111, Fax (508) 466-1121  
www.hancockassociates.com



NO.	BY	APP.	DATE	ISSUE/REVISION DESCRIPTION	DATE	SCALE	AS SHOWN	DESIGN BY	RAC	DR	APPROVE BY	JP	CHECK BY	JD
8	RAC	JP	8/14/17	MISCELLANEOUS										
7.1	ETC	RAC	3/9/17	BLDG 12/WALL ELEV.										
7	ETC	RAC	3/9/17	MASS DOT/BLDG 8 COMMENTS										
6	ETC	JP	1/23/17	MISCELLANEOUS										
5	RD	JP	11/29/16	BLDG 1-5 (WEST) REVISIONS										
4	RD	JP	10/24/16	GRADING/BRIDGE REVISIONS										
3	ETC	JP	9/16/16	CONSERVATION REVISIONS										
2	RD	JP	8/28/16	CONSTRUCTION SET										
1	RD	JP	7/27/16	NO SET										

**LAYOUT AND MATERIALS PLAN**

DATE: 08/14/17  
DWG: 195785P REVL: 03  
LAYOUT: LMS  
SHEET: 7 OF 49  
JOB NO.: 19578

**LM-3**



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ NOVEMBER 19, 2018

PAGE 1

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-12, entitled "Nonconforming uses," is hereby amended by deleting the words  
"except that no special permit is needed if the alteration or expansion is to a nonconforming single- or two-family dwelling and said alteration or expansion does not increase the nonconforming nature of the dwelling," and inserting in place thereof the following words: -  
  
except that an alteration, reconstruction, extension or structural change of or to a lawful pre-existing nonconforming single-family dwelling or two-family house shall be governed by Section 650-58B(3).
2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection B thereof, entitled "Powers and duties," after sub-subsection (2), entitled "Variances," the following new sub-subsection (3), entitled "Lawful pre-existing nonconforming single-family dwellings and two-family houses":
- (3) Lawful pre-existing nonconforming single-family dwellings and two-family houses.
  - (a) As of right. Lawful pre-existing nonconforming single-family dwellings and two-family houses may be altered, reconstructed, extended or structurally changed as a matter of right upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or change would not increase or intensify the existing nonconforming nature of the dwelling or house in question. Upon such a determination, an application to the Board of Appeals for a special permit need not be made, and the owner may apply to the Building Commissioner for a building permit.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ NOVEMBER 19, 2018

PAGE 2

ORDERED:

- (b) By special permit. Upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would increase or intensify the existing nonconforming nature thereof, the owner of such dwelling or house shall be required to apply to the Board of Appeals for a special permit to allow such alteration, reconstruction, extension or structural change. The Board may grant a special permit to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board determines, by a finding under M.G.L. c. 40A, § 6, that the proposed alteration, reconstruction, extension or structural change shall not be substantially more detrimental to the neighborhood than the existing nonconforming structure or use; and provided, further, that any such special permit shall comply with the requirements of the Zoning Ordinance of the City of Marlborough, as may be amended from time to time, including but not limited to Section 650-12, entitled "Nonconforming uses," as well as Section 650-59.A(1) pertaining to the powers and duties of special permit granting authorities. Application for a special permit to allow such alteration, reconstruction, extension or structural change shall be made to the Board pursuant to the procedures set forth in Subsection C(5) of this Section 650-58.
- (c) By variance. Upon the determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would create a new nonconformity(ies), the owner of such dwelling or house shall be required to apply to the Board of Appeals for a variance to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board shall decide upon a variance petition pursuant to the Board's powers and duties set forth in Subsection B(2), and pursuant to the procedure set forth in Subsection C(1)-(4), of this Section 650-58.
3. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection C thereof, entitled "Procedure," after sub-subsection (4), the following new sub-subsection (5), entitled "Special permit procedure":



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ NOVEMBER 19, 2018

PAGE 3

ORDERED:

(5) Special permit procedure. Except as set forth below, the provisions set forth in Section 650-59.B and C, pertaining to the procedures and rules applicable to special permit granting authorities, as such provisions may be amended from time to time, shall, so far as apt, be applicable to the Board of Appeals acting upon an application for a special permit proposing an alteration, reconstruction, extension or structural change which, per the determination of the Building Commissioner, would increase or intensify the existing nonconforming nature of a lawful pre-existing nonconforming single-family dwelling or two-family house. In particular, each special permit application to the Board of Appeals filed under this subsection shall contain the information as itemized in Section 650-59.C(4), and shall be accompanied by a preliminary site plan which shall contain the information as itemized in Section 650-59.C(5).

Each application filed under this subsection shall be filed with the Office of the City Clerk in accordance with MGL Chapter 40A, on a form provided by that Office, and shall be accompanied by a filing fee in the amount calculated to be the same as for special permit applications submitted to the City Council under Section 650-59.C(3). The application for the special permit shall be made in writing by the applicant or its duly authorized agent, who shall file the following number of sets of application materials at the Office of the City Clerk, which shall keep the original and forward all copies to the Board of Appeals, which shall distribute those copies as follows:

<b>Number of Sets</b>	<b>Office</b>
8	Board of Appeals
1	Building Department
1	Office of the City Council
1	City Engineer
1	Legal Department
1	Conservation Officer (if wetlands are affected)





## IN CITY COUNCIL

---

Marlborough, Mass., NOVEMBER 19, 2018

PAGE 4

ORDERED:

The Board of Appeals shall hold a public hearing on each special permit application filed under this subsection. The procedures for the public hearing and for the notice thereof to parties in interest shall be in conformance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time; provided, however, that the Board shall hold the public hearing on a special permit application on the same evening as it would be holding the public hearing on any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house.

Within 90 days after the close of the public hearing on the special permit application filed under this subsection, the Board of Appeals shall take final action on a decision to grant or deny the requested special permit; provided, however, that no special permit shall be granted by the Board under this subsection if any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house is denied by the Board.

The Board may adopt rules and regulations for the issuance of special permits under this subsection in accordance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, DECEMBER 17, 2018.**

ADOPTED

ORDER NO. 18-1007460

5



# City of Marlborough Legal Department

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

**RECEIVED**  
**CITY CLERK'S OFFICE**  
**CITY OF MARLBOROUGH**  
DONALD V. RIDER, JR.  
CITY SOLICITOR  
2018 NOV 15 4 11 35  
SYNTILIA M. PANAGORE GRIFFIN  
ASSISTANT CITY SOLICITOR  
ELLEN M. STAVROPOULOS  
PARALEGAL

November 15, 2018

Edward Clancy  
President  
Marlborough City Council

UA  
PB  
ADU  
12/17/18

RE: Proposed Zoning Amendment –  
Lawful Pre-Existing Nonconforming Single and Two-Family Residential Structures

Dear President Clancy and Members:

In his capacity as chairman of the Urban Affairs Committee, Councilor Delano has requested that I place on the agenda a zoning amendment proposing to vest the ZBA with jurisdiction over applications for special permits that seek to increase or intensify the existing nonconforming nature of single or two-family residential structures. Currently, that jurisdiction rests with the City Council.

This proposed amendment is an effort to provide a more streamlined permitting process for homeowners who seek to 'upgrade' their single or two-family homes, as well as for members of the public who stand to be affected by the 'upgrade' project in question. Oftentimes, such homeowners may need to apply to the ZBA for a variance because the Building Commissioner has determined their project involves creating what would be a *new* nonconformity. At the same time, some of these homeowners may potentially be faced with also applying to the Council for a special permit seeking to allow the homeowner to increase or intensify an *existing* nonconformity.

Thus, the potential for inefficiency and inconvenience arises for a given homeowner who may need to obtain 2 separate forms of zoning relief with 2 separate processes involving 2 separate public hearings taking place on 2 different evenings before 2 separate public bodies – the ZBA for variances and the Council for special permits.

By vesting the ZBA with authority to act on special permit applications seeking to increase or intensify the existing nonconforming nature of single or two-family residential structures, the enclosed proposal is offered as a less inefficient and inconvenient, and thus more streamlined, approach to zoning relief for such residential structures.

Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor  
Jeffrey Cooke, Building Commissioner  
Zoning Board of Appeals, c/o Susan Brown, Board Secretary

ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

1. Section 650-12, entitled "Nonconforming uses," is hereby amended by deleting the words "except that no special permit is needed if the alteration or expansion is to a nonconforming single- or two-family dwelling and said alteration or expansion does not increase the nonconforming nature of the dwelling," and inserting in place thereof the following words:-

except that an alteration, reconstruction, extension or structural change of or to a lawful pre-existing nonconforming single-family dwelling or two-family house shall be governed by Section 650-58B(3).

2. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection B thereof, entitled "Powers and duties," after sub-subsection (2), entitled "Variances," the following new sub-subsection (3), entitled "Lawful pre-existing nonconforming single-family dwellings and two-family houses":

- (3) Lawful pre-existing nonconforming single-family dwellings and two-family houses.

- (a) As of right. Lawful pre-existing nonconforming single-family dwellings and two-family houses may be altered, reconstructed, extended or structurally changed as a matter of right upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or change would not increase or intensify the existing nonconforming nature of the dwelling or house in question. Upon such a determination, an application to the Board of Appeals for a special permit need not be made, and the owner may apply to the Building Commissioner for a building permit.
- (b) By special permit. Upon a determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would increase or intensify the existing nonconforming nature thereof, the owner of such dwelling or house shall be required to apply to the Board of Appeals for a special permit to allow such alteration, reconstruction, extension or structural change. The Board may grant a special permit to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board determines, by a finding under M.G.L. c. 40A, § 6, that the proposed alteration, reconstruction, extension or structural change shall not be

substantially more detrimental to the neighborhood than the existing nonconforming structure or use; and provided, further, that any such special permit shall comply with the requirements of the Zoning Ordinance of the City of Marlborough, as may be amended from time to time, including but not limited to Section 650-12, entitled "Nonconforming uses," as well as Section 650-59.A(1) pertaining to the powers and duties of special permit granting authorities. Application for a special permit to allow such alteration, reconstruction, extension or structural change shall be made to the Board pursuant to the procedures set forth in Subsection C(5) of this Section 650-58.

(c) By variance. Upon the determination by the Building Commissioner that a proposed alteration, reconstruction, extension or structural change to a lawful pre-existing nonconforming single-family dwelling or two-family house would create a new nonconformity(ies), the owner of such dwelling or house shall be required to apply to the Board of Appeals for a variance to allow such alteration, reconstruction, extension or structural change; provided, however, that the Board shall decide upon a variance petition pursuant to the Board's powers and duties set forth in Subsection B(2), and pursuant to the procedure set forth in Subsection C(1)-(4), of this Section 650-58.

3. Section 650-58, entitled "Provisions for Board of Appeals," is hereby amended by adding to subsection C thereof, entitled "Procedure," after sub-subsection (4), the following new sub-subsection (5), entitled "Special permit procedure":

(5) Special permit procedure. Except as set forth below, the provisions set forth in Section 650-59.B and C, pertaining to the procedures and rules applicable to special permit granting authorities, as such provisions may be amended from time to time, shall, so far as apt, be applicable to the Board of Appeals acting upon an application for a special permit proposing an alteration, reconstruction, extension or structural change which, per the determination of the Building Commissioner, would increase or intensify the existing nonconforming nature of a lawful pre-existing nonconforming single-family dwelling or two-family house. In particular, each special permit application to the Board of Appeals filed under this subsection shall contain the information as itemized in Section 650-59.C(4), and shall be accompanied by a preliminary site plan which shall contain the information as itemized in Section 650-59.C(5).

Each application filed under this subsection shall be filed with the Office of the City Clerk in accordance with MGL Chapter 40A, on a form provided by that Office, and shall be accompanied by a filing fee in the amount calculated to be the same as for special permit applications submitted to the City Council under Section 650-59.C(3). The application for the special permit shall be made in writing by the applicant or its duly authorized agent, who shall file the following number of sets of application materials at the Office of the City Clerk, which shall keep the original and forward all copies to the Board of Appeals, which shall distribute those copies as follows:

<b>Number of Sets</b>	<b>Office</b>
8	Board of Appeals
1	Building Department
1	Office of the City Council
1	City Engineer
1	Legal Department
1	Conservation Officer (if wetlands are affected)

The Board of Appeals shall hold a public hearing on each special permit application filed under this subsection. The procedures for the public hearing and for the notice thereof to parties in interest shall be in conformance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time; provided, however, that the Board shall hold the public hearing on a special permit application on the same evening as it would be holding the public hearing on any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house.

Within 90 days after the close of the public hearing on the special permit application filed under this subsection, the Board of Appeals shall take final action on a decision to grant or deny the requested special permit; provided, however, that no special permit shall be granted by the Board under this subsection if any variance petition that may be associated with the same proposed work (alteration, reconstruction, extension or structural change) on the same dwelling or house is denied by the Board.

The Board may adopt rules and regulations for the issuance of special permits under this subsection in accordance with M.G.L. c. 40A and the Zoning Ordinance of the City of Marlborough, as either or both may be amended from time to time.

ADOPTED  
 In City Council  
 Order No. 18-  
 Adopted

Approved by Mayor  
 Arthur G. Vigeant  
 Date:

A TRUE COPY  
 ATTEST:

PLANNING BOARD  
BERLIN TOWN HALL  
23 LINDEN STREET  
BERLIN, MA 01503

PLANNING BOARD  
FRAMINGHAM CITY HALL  
150 CONCORD STREET  
FRAMINGHAM, MA 01702

PLANNING BOARD  
HUDSON TOWN HALL  
78 MAIN STREET  
HUDSON, MA 01749

PLANNING BOARD  
SUDBURY TOWN HALL  
278 OLD SUDBURY ROAD  
SUDBURY, MA 01776

PLANNING BOARD  
SOUTHBOROUGH TOWN HALL  
17 COMMON STREET  
SOUTHBOROUGH, MA 01772

PLANNING BOARD  
NORTHBOROUGH TOWN HALL  
63 MAIN STREET  
NORTHBOROUGH, MA 01532

PLANNING BOARD  
WESTBOROUGH TOWN HALL  
45 WEST MAIN ST.  
WESTBOROUGH, MA 01581

MAPC  
MUNICIPAL LEGAL NOTICES  
60 TEMPLE PLACE  
BOSTON, MA 02111

PLANNING BOARD  
DEPARTMENT OF PUBLIC WORKS  
135 NEIL STREET  
MARLBOROUGH, MA 01752

BUILDING COMMISSIONER  
CITY HALL  
140 MAIN STREET  
MARLBOROUGH, MA 01752

CITY ENGINEER  
DEPARTMENT OF PUBLIC WORKS  
135 NEIL STREET  
MARLBOROUGH, MA 01752

GIS ADMINISTRATOR  
DEPARTMENT OF PUBLIC WORKS  
135 NEIL STREET  
MARLBOROUGH, MA 01752

*Notices  
mailed  
11-27-18  
[Signature]*



# IN CITY COUNCIL

Marlborough, Mass., JANUARY 28, 2019

## ORDERED:

That the Communication from the Planning Board, re: Favorable recommendation of Proposed Zoning Amendment, Chapter 650 §12 & §58 relative to Lawful Pre-Existing Nonconforming Single and Two-Family Residential Structures, be and is herewith refer to **URBAN AFFAIRS COMMITTEE.**

ADOPTED

ORDER NO. 18/19-1007460B



# City of Marlborough Planning Board

Administrative Offices  
135 Neil St.  
Marlborough, MA 01752

PLANNING BOARD 14

Barbara L. Fenby, Chair  
Philip Hodge  
Sean N. Fay  
George LaVenture  
Christopher Russ  
Matthew Elder  
Krista Holmi, Administrator  
(508) 624-6910 x33200  
[kholmi@marlborough-ma.gov](mailto:kholmi@marlborough-ma.gov)

January 14, 2019

Edward Clancy  
Marlborough City Council  
140 Main St.  
Marlborough, MA 01752

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH  
2019 JAN 14 P 1:43

RE: Council Order 18-1007460, Proposed Zoning Amendment: Lawful Pre-Existing  
Nonconforming Single and Two-Family Residential Structures

Honorable President Clancy and Councilors:

At its regularly scheduled Planning Board meeting on January 7, 2019, the Board took the following action regarding the above referenced Council order:

On a motion by Mr. Hodge and seconded by Mr. LaVenture, the Board voted to make a favorable recommendation to the City Council on the proposed zoning amendment. Motion carried.

Sincerely,

Barbara L. Fenby  
Chairperson

cc: City Clerk  
File





# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

PAGE 1

## ORDERED:

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 650-5, entitled "Definitions; word usage," is hereby amended, as follows:
  - a. By amending the definition in subsection B of "HOME OCCUPATION," by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of "OUTDOOR STORAGE," by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor's storage yard or a landscape contractor's storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions: -

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR'S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor's storage yard. A contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ DECEMBER 17, 2018

PAGE 2

**ORDERED:**

LANDSCAPE CONTRACTOR’S STORAGE YARD – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

II. Section 650-17, entitled “Table of Uses,” is hereby amended by adding the following new uses:-

	<b>RR</b>	<b>A1</b>	<b>A2</b>	<b>A3</b>	<b>RB</b>	<b>RC</b>	<b>RCR</b>	<b>B</b>	<b>CA</b>	<b>LI</b>	<b>I</b>	<b>MV</b>	<b>NB</b>
Contractor’s Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Home Office (47)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Landscape Contractor’s Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N

III. Section 650-18, entitled “Conditions for uses,” is hereby amended as follows:

a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:-

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- (a) The home office use must be secondary to the principal use of the property as a residence.
- (b) The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.



# IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

PAGE 3

ORDERED:

- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Industrial or Limited Industrial zoning districts.
- (d) No more than 25% of the floor area of the residence is to be used for the purpose of the home office.
- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance and character of the residence or that of the accessory building if used for the home office.
- (f) Not more than two (2) commercial vehicles, including trailers, shall be permitted in connection with the home office, whether those vehicles are used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles, including trailers, may be permitted when the home office is on a property located in the Industrial or Limited Industrial zoning districts. No such vehicle shall exceed a gross vehicle weight rating (GVWR) of 14,000 pounds. No such vehicle, nor any vehicle owned or operated by any employee of the business associated with the home office, shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ DECEMBER 17, 2018

PAGE 4

ORDERED:

(g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office be used for a contractor's storage yard or a landscape contractor's storage yard, except when such a yard is permitted by special permit in the Industrial or Limited Industrial zoning districts. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Saturday except from 7:00 a.m. until 7:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that all such activity, when permitted during these hours, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."

b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards: -

(48) Contractor's storage yards and landscape contractor's storage yards. Contractor's storage yards and landscape contractor's storage yards are allowed in certain zoning districts by special permit only. Applications for such a special permit shall comply with City Code Section 650-59, as well as with the following additional requirements and design standards.

(a) Applications.

(1) A scaled site plan shall show the following information:

- i. Outdoor storage areas for materials and equipment.
- ii. Parking and maintenance areas for commercial vehicles.
- iii. Location of all buildings and structures on the site.
- iv. Vehicular and pedestrian circulation on the site, including points of access to the site from a public road, loading and unloading areas, and areas for employee and customer parking.
- v. Required or proposed landscaping and buffer areas.



# IN CITY COUNCIL

Marlborough, Mass., \_\_\_\_\_ DECEMBER 17, 2018

PAGE 5

ORDERED:

- vi. Required or proposed screening and fencing of storage yards.
  - vii. Proposed lighting plan, including location and specifications of light standards, lighting fixtures and lighting directions.
  - viii. All residential abutters within 200 feet of the proposed site.
  - ix. Any other information as might reasonably be required by the City Council for use in making a thorough evaluation of the proposal.
- (2) A description of all vehicles, trailers, and equipment stored, maintained or used on site by the business.
  - (3) A description of all fuel, chemicals or commodities and the amount of each that will be stored on site by the business.
  - (4) The range of number of employees throughout the year and the average number of employees at any time.
  - (5) A noise mitigation plan.
- (b) Design Standards.
- (1) Proximity to existing residential zoning districts. The proposed storage yard shall be not less than two hundred (200) feet from a residential zoning district.
  - (2) Screening. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the equipment and/or materials stored therein.
  - (3) Minimum parcel size. The minimum area of the parcel shall be 22,500 square feet.
  - (4) Maximum size of storage area. The maximum size of the contractor's storage yard or landscape contractor's storage yard, when combined with all structures, parking and driveways on the lot being proposed for the storage yard, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the parcel is located.



## IN CITY COUNCIL

Marlborough, Mass., DECEMBER 17, 2018

PAGE 6

### ORDERED:

- IV. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in existence in the City of Marlborough on the effective date of the above amendments to the Zoning Ordinance of the City of Marlborough, shall submit to the City Council a special permit application, conforming with the provisions of Section 650-18(48), within six (6) months of said effective date.

Be and is herewith refer to **URBAN AFFAIRS COMMITTEE, PLANNING BOARD, AND ADVERTISE PUBLIC HEARING FOR MONDAY, FEBRUARY 11, 2019.**

ADOPTED

ORDER NO. 18-1007500

7



# City of Marlborough Legal Department

140 MAIN STREET  
MARLBOROUGH, MASSACHUSETTS 01752  
TEL. (508) 460-3771 FACSIMILE (508) 460-3698 TDD (508) 460-3610  
[LEGAL@MARLBOROUGH-MA.GOV](mailto:LEGAL@MARLBOROUGH-MA.GOV)

RECEIVED  
CITY CLERK'S OFFICE  
CITY OF MARLBOROUGH, JR.  
CITY SOLICITOR  
2018 DEC 13 AM 11:56  
CYNTHIA M. PANAGIOTE GRIFFIN  
ASSISTANT CITY SOLICITOR

ELLEN M. STAVROPOULOS  
PARALEGAL

December 13, 2018

Edward Clancy  
President  
Marlborough City Council

RE: Proposed Zoning Amendment –  
Home Offices and Contractor Yards

URBAN Affairs  
Planning Board  
ADVENTURE  
P/lt 2/11/19

Dear President Clancy and Members:

Councilor Delano, in his capacity as Chairman of the Urban Affairs Committee, recently requested that a zoning amendment be proposed that would aim at regulating the presence of contractor yards in the various residential zoning districts, where a contractor's equipment and/or machinery can often be stored outdoors and thus detract from the way we want our residential neighborhoods to look. At the same time, there is a recognition that residents, including but not limited to contractors, often use a portion of their homes as an office for a business they run.

Accordingly, enclosed is the proposed zoning amendment. It tries to preserve the ability of residents to use a portion of their homes, or even an accessory building on their property like a garage, as a home office, while at the same time preserving the residential look and feel of residentially-zoned neighborhoods by having outdoor storage yards of contractors, including those of landscapers, be located in the Industrial and Limited Industrial areas of Marlborough when authorized by a City Council special permit.

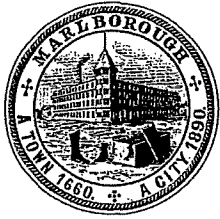
Thank you for your attention to this matter.

Very truly yours,

Donald V. Rider, Jr.  
City Solicitor

Enclosure

cc: Arthur Vigeant, Mayor  
Jeffrey Cooke, Building Commissioner



*City of Marlborough*  
*Office of the Mayor*

140 Main Street  
Marlborough, Massachusetts 01752  
Tel. (508) 460-3770 Facsimile (508) 460-3698 TDD (508) 460-3610  
[www.marlborough-ma.gov](http://www.marlborough-ma.gov)

*Arthur G. Vigeant*  
MAYOR

*Nicholas J. Milano*  
EXECUTIVE AIDE

*Patricia Bernard*  
EXECUTIVE SECRETARY

December 13, 2018

City Council President Edward J. Clancy  
Marlborough City Council  
140 Main Street  
Marlborough, MA 01752

**Re: Contractor Yards Zoning Amendment**

Honorable President Clancy and Councilors:

I am writing in support of the enclosed zoning amendment for contractor yards and home offices. My office worked in partnership with the Building Commissioner, City Solicitor, and Councilor Delano to develop the proposed zoning amendment.

I look forward to speaking in support of this proposal and answering any questions Councilors may have. If you have questions in the meantime, or require any additional information, please do not hesitate to contact me.

Sincerely,

**Arthur G. Vigeant**  
Mayor



**ORDERED:**

THAT, PURSUANT TO § 5 OF CHAPTER 40A OF THE GENERAL LAWS, THE CITY COUNCIL OF THE CITY OF MARLBOROUGH, HAVING SUBMITTED FOR ITS OWN CONSIDERATION CHANGES IN THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, TO FURTHER AMEND CHAPTER 650, NOW ORDAINS THAT THE ZONING ORDINANCE OF THE CITY OF MARLBOROUGH, AS AMENDED, BE FURTHER AMENDED AS FOLLOWS:

- I. Section 650-5, entitled “Definitions; word usage,” is hereby amended, as follows:
- a. By amending the definition in subsection B of “HOME OCCUPATION,” by inserting at the end thereof the following sentence:

A home occupation shall not include a home office, as defined in Section 650-5.

- b. By amending the definition in subsection B of “OUTDOOR STORAGE,” by inserting at the end thereof the following sentence:

Outdoor storage shall not include either a contractor’s storage yard or a landscape contractor’s storage yard, as defined in Section 650-5.

- c. By inserting the following new definitions:-

CONTRACTOR - Any person or firm engaged in construction, building trades, landscaping services or maintenance, on a contract basis, either licensed or unlicensed.

CONTRACTOR’S STORAGE YARD - An outdoor area used for the storage of equipment and/or materials used for providing contracting services, including but not limited to building construction, heating, plumbing, roofing, and excavation; but not including a landscape contractor’s storage yard. A contractor’s storage yard shall not include outdoor storage, as defined in Section 650-5.

HOME OFFICE - An activity customarily conducted by the residents of a dwelling unit, inside the dwelling unit or an accessory building. Home offices are permitted if they conform to each of the conditions set forth in Section 650-18(47).

LANDSCAPE CONTRACTOR’S STORAGE YARD – An outdoor area used for the storage of equipment and/or materials used by a business principally engaged in the decorative and functional alteration, planting, and maintenance of grounds, including the installation of hardscape such as stonework, patios, decks, arbors, and other decorative elements of the landscape. Such a business may engage in the installation and construction of underground improvements, but only to the extent that such improvements (e.g., irrigation or drainage facilities) are accessory to the principal business and are necessary

to support or sustain the landscaped surface of the grounds being otherwise landscaped. A landscape contractor's storage yard shall not include outdoor storage, as defined in Section 650-5.

II. Section 650-17, entitled "Table of Uses," is hereby amended by adding the following new uses:-

	RR	A1	A2	A3	RB	RC	RCR	B	CA	LI	I	MV	NB
Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N
Home Office (47)	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	Y	N	Y
Landscape Contractor's Storage Yard (48)	N	N	N	N	N	N	N	N	N	SP	SP	N	N

III. Section 650-18, entitled "Conditions for uses," is hereby amended as follows:

a. By inserting in subsection A thereof a new paragraph (47), pertaining to home offices:-

(47) Home offices.

Home offices are permitted if they conform to each of the following conditions:

- (a) The home office use must be secondary to the principal use of the property as a residence.
- (b) The proprietor of the home office, whether a contractor or otherwise, must reside in the dwelling unit comprising the principal building.
- (c) Anyone associated with the home office must reside in the dwelling unit comprising the principal building, except that not more than two (2) non-residents may be permitted when the home office is on a property principally used as a residence by the proprietor, whether a contractor or otherwise, unless it is located in the Industrial or Limited Industrial zoning districts.
- (d) No more than 25% of the floor area of the residence is to be used for the purpose of the home office.
- (e) There shall be no external evidence of the home office except for a sign that conforms to the requirements for a home occupation sign set forth in City Code Section 526-8.A(2), and no major structural change shall be made to the exterior so as to alter the appearance

and character of the residence or that of the accessory building if used for the home office.

(f) Not more than two (2) commercial vehicles, including trailers, shall be permitted in connection with the home office, whether those vehicles are used by the proprietor of the home office and/or by anyone associated with the home office, except that not more than three (3) commercial vehicles, including trailers, may be permitted when the home office is on a property located in the Industrial or Limited Industrial zoning districts. No such vehicle shall exceed a gross vehicle weight rating (GVWR) of 14,000 pounds. No such vehicle, nor any vehicle owned or operated by any employee of the business associated with the home office, shall be parked on the street(s) fronting the premises where the home office is located, but instead shall be parked on the premises.

(g) A home office shall be permitted to store equipment and/or materials, but only indoors in the principal building or accessory building. In no event shall a home office be used for a contractor's storage yard or a landscape contractor's storage yard, except when such a yard is permitted by special permit in the Industrial or Limited Industrial zoning districts. No activity in conjunction with the business associated with the home office, including but not limited to loading and unloading of equipment and/or materials, is permitted Monday through Saturday except from 7:00 a.m. until 7:00 p.m., and no such activity is permitted on Sunday at any hour; provided, however, that all such activity, when permitted during these hours, shall otherwise comply with Chapter 431 of the City Code, entitled "Noise."

b. By inserting in subsection A thereof a new paragraph (48), pertaining to contractor's storage yards and landscape contractor's storage yards:-

(48) Contractor's storage yards and landscape contractor's storage yards.

Contractor's storage yards and landscape contractor's storage yards are allowed in certain zoning districts by special permit only. Applications for such a special permit shall comply with City Code Section 650-59, as well as with the following additional requirements and design standards.

(a) Applications.

(1) A scaled site plan shall show the following information:

- i. Outdoor storage areas for materials and equipment.
- ii. Parking and maintenance areas for commercial vehicles.
- iii. Location of all buildings and structures on the site.

- iv. Vehicular and pedestrian circulation on the site, including points of access to the site from a public road, loading and unloading areas, and areas for employee and customer parking.
- v. Required or proposed landscaping and buffer areas.
- vi. Required or proposed screening and fencing of storage yards.
- vii. Proposed lighting plan, including location and specifications of light standards, lighting fixtures and lighting directions.
- viii. All residential abutters within 200 feet of the proposed site.
- ix. Any other information as might reasonably be required by the City Council for use in making a thorough evaluation of the proposal.

- (2) A description of all vehicles, trailers, and equipment stored, maintained or used on site by the business.
- (3) A description of all fuel, chemicals or commodities and the amount of each that will be stored on site by the business.
- (4) The range of number of employees throughout the year and the average number of employees at any time.
- (5) A noise mitigation plan.

(b) Design Standards.

- (1) Proximity to existing residential zoning districts. The proposed storage yard shall be not less than two hundred (200) feet from a residential zoning district.
- (2) Screening. The proposed storage yard shall be adequately screened from the street and adjacent properties to obscure the equipment and/or materials stored therein.
- (3) Minimum parcel size. The minimum area of the parcel shall be 22,500 square feet.
- (4) Maximum size of storage area. The maximum size of the contractor's storage yard or landscape contractor's storage yard, when combined with all structures, parking and driveways on the lot being proposed for the storage yard, shall not exceed the percentage of maximum lot coverage permitted under Section 650-41 for the zoning district in which the parcel is located.

IV. All contractor storage yards and all landscape contractor storage yards, as defined in Section 650-5, that are in existence in the City of Marlborough on the effective date of the

above amendments to the Zoning Ordinance of the City of Marlborough, shall submit to the City Council a special permit application, conforming with the provisions of Section 650-18(48), within six (6) months of said effective date.

ADOPTED  
In City Council  
Order No. 18-  
Adopted

Approved by Mayor  
Arthur G. Vigeant  
Date:

A TRUE COPY  
ATTEST: