

MINUTES
MARLBOROUGH PLANNING BOARD
MARLBOROUGH, MA 01752

1A

Call to Order

March 11, 2024

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: Sean Fay, James Fortin, Patrick Hughes, Dillon LaForce, George LaVenture, and Chris Russ. Meeting support provided by City Engineer, Thomas DiPersio. Member Absent: Barbara Fenby.

1. Draft Meeting Minutes

A. February 26, 2024

On a motion by Mr. LaVenture, seconded by Mr. Russ, the Board voted to accept and file the February 26, 2024, meeting minutes with a minor change. Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

2. Chair's Business

A. Legal Referrals

Mr. Fay notified the Board that the referral that was sent to the Legal Department regarding the limited subdivision on Brigham Street at the February 26, 2024, meeting had been withdrawn because the homeowner is going to seek the Zoning Board of Appeals for approval.

Mr. Fay discussed the general policies on legal referrals and how in the past the Board was very good at pushing the said question back to the proponent and requesting them to provide the Board with an opinion letter from their legal counsel providing support on said topic/question and then referring that to the Legal Department for review.

The Board agreed they should revert back to the practice of having the proponent's legal counsel provide the necessary support to the question at hand. Mr. Fay did make note, that the only the time the Board could not follow this procedure is during an ANR application because of the clock. He asked the Board members to make sure to have the proponent's opinion prior to making a referral to the Legal Department.

3. Approval Not Required (None)

4. Public Hearings (None)

5. Subdivision Progress Reports

A. 689 Pleasant Street (Jewel Road)

Mr. DiPersio summarized the February 29, 2024, update and explained they are under construction but haven't made much progress because of how wet the site is. The Engineering Division has started to receive the required wetland scientist updates and he explained that they are waiting on tree removal before getting the heavy construction going.

On a motion by Mr. Russ, seconded by Mr. LaVenture, the Board voted to accept and file the February 29, 2024, correspondence. Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

B. Farooq Ansari – Water's Edge & Sterling Woods

i. Correspondence from City Engineer, Thomas DiPersio

Mr. LaVenture read the March 7, 2024, correspondence into the record.

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

Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

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Mr. DiPersio disclosed to the Board that he worked on the Water's Edge Subdivision 20-30 years ago during the design, approval and construction of the subdivision. He explained he hasn't had any involvement with Mr. Ansari since that time and that it doesn't affect his opinion or judgment on the matter.

Mr. Fay acknowledged his disclosure and suggested putting it in writing and running it by the Legal Department. Mr. DiPersio agreed.

Mr. Russ asked if Mr. Ansari started the acceptance process for both subdivisions in the past as indicated in his correspondence. Mr. DiPersio explained he believes this is the case for both the subdivisions, the acceptance process was started several years back, the acceptance plans were drawn up and submitted to the City. He explained he was able to confirm that draft deeds for the open space parcels were given to the City for Water's Edge (no open space parcels on this one) and that deeds for all the roadways within both subdivisions may not have been given to the City.

The Board discussed the required easements and Mr. DiPersio explained specifically on the Water's Edge Subdivision there are several drainage easements and a couple of sewer easements that run across private property. The City would need the rights to go onto the private properties to maintain the pipes. He went over the procedure and explained when the developer sells a lot in a subdivision that has an easement on it, the developer needs to retain those rights while he still owns the subdivision. So that needs to be explicit in the deed that the developer is selling it on, retaining those rights, and then when the City accepts the road, that is when the developer would then convey those rights to the City. He explained based on previous correspondence from previous City Engineer's, this doesn't appear to have been done properly. He couldn't confirm if this was ever rectified.

Mr. Fay asked if the reservation on the deed that says "subject to easements and restriction of record" would be a catch all if that note was on the plan? Mr. DiPersio said, this would be a question for the Solicitor.

The Board discussed the bond and its status, and asked where the bonds are being held. Mr. DiPersio explained this was unclear. The Board discussed the 2006 punch list for Sterling Woods. Mr. DiPersio explained the detention basins are overgrown and need to be cleared out. Mr. LaVenture asked who would be responsible for the clearing if these were public ways? Mr. DiPersio said, the City.

The Board agreed the Developer needs to provide the proper supporting documents for the acceptance process to continue to move forward.

The Board discussed the current condition of the roadways and the potential option of using the bond money to complete the necessary maintenance and punch list items. Mr. DiPersio and Mr. Fay discussed if the two bond amounts would cover the fees associated with each subdivision. They agreed the \$20,000 would cover the required detention basin maintenance for Water's Edge, but the \$97,000 would not cover the fees to repair the roadways for Sterling Woods. Mr. DiPersio noted that in his review, it didn't appear any of the roadway deterioration was due to poor construction. Mr. LaVenture argued these roadways are 20-30 years old and questioned if it would be legitimate for the City to use the bond money to repairs the roads.

On a motion by Mr. LaVenture, second by Mr. Russ, the Board voted to send Farooq Ansari a copy of the City Engineer's March 7, 2023, correspondence and to request that he provide the following information for each subdivision:

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- Proof that the rights for all required easements have been retained and can be transferred to the City;
- Copies of all the proposed deeds;
- Proof that taxes are paid for land in question;
- Copy of the Sterling Woods Acceptance Plans;
- Documentation that the detention basins have been cleared and can be inspected;
- Proof that the Sterling Woods punch list items from the November 1, 2006, correspondence have been completed.

Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 6-0.

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

7. Definitive Subdivision (None)

8. Signs (None)

9. Correspondence (None)

10. Unfinished Business

A. Working Group

Mr. LaVenture updated the Board and explained the working group met on February 28th.

i. Porous Pavement

Mr. LaVenture summarized the language below and reviewed the Porous Product vs Desired Application spreadsheet. – See attachment A

“Our goal was to develop a matrix showing the different manufacturers/types of porous material and identify the best specific use for them in the categories of tree surrounds, sidewalks, walkways, cul-de-sacs, median strips, driveways, parking lots, and roadways. Realizing the extra cost needs to be offset by significant benefit/impact, we thought driveways, parking lots, and roadways would be the best place to focus. We believe a test pilot implementation driveway or parking lot [strategically placed partial usage] might be a good way to start. We then looked to develop design and success criteria for the test pilot.

Important points included:

- how the material holds up over a winter, and
- how infiltration both through the material and the underlying base holds up

We thought it would be beneficial to know:

- how the material has held up by one year after completion of housing construction
- how infiltration holds up by 5 years after housing construction - preferably with a perk rate loss of less than 5-10%
- what maintenance is/has been required
- how the base has held up

With this said, we thought a parking lot partially porously paved would give us a better understanding of the implementation and allow us to develop our success criteria. Additionally, having a developer install a length

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of roadway (area and length TBD depending on the site/soil conditions) would be beneficial and put the onus on the developer's engineering design team to help develop a potential spec."

Mr. LaVenture explained he has been in contact with the Stormwater Engineer for Burlington, VT. He is out on family leave until April 22, 2024, but is very willing to join a future Planning Board meeting via Teams hopefully during of the Board's

ii. Valuation of future lots

Mr. LaVenture summarized the language in attachment B reviewing the four methods of real estate appraisal listed below. – See Attachment B

The top 4 methods of real estate appraisal are:

- sales comparison approach
- cost approach
- income approach
- price per square foot approach

Mr. LaVenture explained since three of the four approaches deal with developed property, a sales comparison approach seems to be the best option. Having a separate realtor associated with the Board provide a value estimation to compare with the proponent's value estimate might be beneficial. Using the land's assessed value as suggested by Chair Fay might prove useful as well. We spoke with Principal Assessor John Valade, who agreed to review the proponent's submission.

Mr. LaVenture explained one additional item the Working Group discussed was the use of a bond to secure street acceptance and construction completion. The working group would like a better understanding of the bonding process and whether a completion secured solely by bond provides the surety the Board requires. For example, could a developer's bond vanish if not paid on? We have reached out to the Comptroller/Treasurer to set up a meeting to discuss in depth how this is handled behind the scenes. Addressing concerns on, what happens if the bond does lapse and the Board has 100% of surety in a bond, the Board no longer has any leverage. Furthermore to relay the importance of the Comptroller/Treasurer notifying the Board when bonds lapse and to determine what the lead time is on the notification.

The Board and Mr. DiPersio discussed old bonds for all the unaccepted roadways in the City and wondered how many of these have lapsed. Mr. DiPersio explained in the past when he was working with the previous City Solicitor Don Rider, there was an attempt made with the Treasurer at the time, to find out how many bonds are there, and there wasn't a good clear answer. He explained their office didn't seem to be aware of any. The Board discussed a previously seen spreadsheet that had information pertaining to each subdivision's bond.

Mr. LaVenture reviewed and discussed a development sign for Nottingham Woods. – See attachment C.

Mr. LaVenture explained a number of these developments have these signs and several of them are in rough shape and need replacement or removal and asked who is responsible for these signs and does this indicate that the roadway is not accepted? Mr. DiPersio said no, I don't think so, but that going forward if there is a sign like that, maybe we request that it been taken down before the City accepts the roadway because we don't want to maintain these signs. The Board discussed other locations throughout the City where the signs are located.

11. Calendar Updates (None)

12. Public Notices of other Cities & Towns (None)

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On a motion by Mr. Hughes, seconded by Mr. LaForce, the Board voted to adjourn the meeting. Yea: Fay, Fortin, Hughes, LaForce, LaVenture, and Russ. Nay: 0. Motion carried. 7-0.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'G. LaVenture', written over a faint horizontal line.

George LaVenture/Clerk

/kmm