

LYNNFIELD PLANNING BOARD MEETING August 28, 2019

1. Call to Order

The monthly meeting of the Planning Board (PB) was held on Wednesday, August 28, 2019 in the Maney Meeting Room at Town Hall. Chairman Charville called the meeting to order at 7:00 PM, and noted that all Planning Board (PB) members were present, including: Chairman Brian Charville, Vice-chairman Michael Sheehan, Charlie Wills, Katherine Flaws, and Thomas Wallace. Chairman Charville added the meeting was being recorded by audio.

2. 7:00 – Continued Public Hearing #914 Salem Street/6 Witham Street – Request for Modification of Approved Definitive Plan

Chairman Charville noted that Agenda item #3 would not be heard and requested a motion to reopen the Public Hearing (PH) for #914 Salem Street; Mr. Sheehan made the motion, and Mr. Wills seconded; the motion carried 5 – 0.

Atty. Tim Doyle said work was being done to resolve all issues raised by Town Engineer (TE) Charlie Richter, and the applicant was in agreement with all of them. Chairman Charville said the approved Lotting Plan was now superseded by the new plan so all title block dates would be identical. Chairman Charville asked if the closings on Witham Street and Fairview Avenue had resulted in any changes to the plan; Atty. Doyle said no. Chairman Charville asked Director of Planning and Conservation Emilie Cademartori if she agreed with approving the Modified Subdivision Plan subject to adding the changes on Mr. Richter's memo; she said yes. Ms. Cademartori said that while 3 street trees per lot are usually required, the narrow size of these lots would make 2 trees per lot sufficient. Chairman Charville requested a motion to approve the specific waivers recommended by the TE. Mr. Wills made the motion, and Mr. Sheehan seconded; the motion carried 5 – 0. Ms. Flaws then motioned the PB approve the modification to the planned subdivision inclusive of the recommendations from the TE; Mr. Wills seconded; the motion carried 5 – 0.

Atty. Doyle said he would include the TE specifications in the decision draft. Applicant Marco Tamaro asked when he could apply for permits; Ms. Cademartori said 20 days after the decision is filed with the Town Clerk. Mr. Tamaro then asked if work from the prior approved plan could begin; Ms. Cademartori said yes. Mr. Sheehan then motioned to close the PH and Ms. Flaws seconded it; the motion carried 5 – 0.

(Note: Agenda items taken out of order to accommodate Public Hearings)

5. 60 Chestnut Street – proposed ANR

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Atty. Jay Kimball displayed the plan for the proposed new lot on Chestnut Street. Chairman Charville said he had received the opinion of Town Counsel (TC) regarding the historical plan of the ROW, and he is in agreement with the plan showing sufficient frontage but suggested inspecting the current condition of the ROW. Atty. Kimball said the ROW was shown on plans from 1915 (prior to zoning and subdivision laws) and was deemed to provide adequate frontage based on a previously approved 1981 ANR. Engineer Peter Ogren said the 1981 ANR required a hydrant within the turning circle and connection to a water line, and that both conditions had been met. Mr. Wills asked where the septic for the existing home was; Mr. Ogren said a new one will be installed and successful testing has been completed. Chairman Charville asked about lines shown on the plan; applicant Charles DeSalvo said they were remnants of a walkway. Lt Rich Ripley of the Fire Department (FD) said he had looked at the ROW, and although he is not opposed to the ANR, he requests the following on the ROW:

1. Appropriate width and height clearance for FD access
2. Sufficient visibility of each home; per MA G.L. this includes: approval of access roads and visible signage identifying the property.

Chairman Charville asked about the use of signs displaying multiple addresses; Lt Ripley said since the mailboxes are not clearly visible, this type of sign makes it difficult to locate properties. Ms. Cademartori said vegetation is encroaching on the ROW which makes access more difficult. Ms. Flaws asked if the width of the ROW was a concern; Lt Ripley said it limits the ability to turn around and equipment must be backed out. Ms. Flaws asked if cars could travel in both directions; Lt. Ripley and Mr. Wallace said no. Chairman Charville asked if the half-circle shown was off of Chestnut Street; Lt Ripley said yes, but 3 additional homes were located beyond it. Mr. Ogren said the new home will have access from Chestnut Street and would not alter existing ROW conditions. Chairman Charville said the ANR still creates a rear lot that is served by the ROW; Atty. Kimball said that home has always been there and that signage would be added for the new home. Chairman Charville asked if a standard firetruck could proceed straight down the ROW; Lt. Ripley said yes, and a hydrant was in place. Ms. Cademartori and Mr. Wills asked about plowing the ROW; Atty. Kimball said the DeSalvos plow to access their land, and that others likely have an agreement. Ms. Cademartori said she had researched this and the approved ANR does condition maintenance and plowing to be handled privately, and an easement was recorded; however, the homes at #42 and #60 Chestnut St. are not part of the agreement. Mr. Sheehan said that the FD being able to access the ROW but unable to turnaround was not ideal. Ms. Flaws acknowledged the ROW exists, but questioned if it provides adequate frontage. Ms. Cademartori said a factual endorsement of the

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quality of the ROW should be made per TC. Ms. Flaws and Mr. Wallace noted the narrowness of the ROW was an issue; Mr. Wallace asked if other such ROWs existed and what legal precedent that could set. Mr. Wills said since the new lot has frontage on Chestnut Street, things are unchanged on the ROW; Chairman Charville agreed that the ROW would remain “status quo”. Chairman Charville asked if the PB would like more information; he then requested a motion that the PB find that with respect to the proposed ANR at 60 Chestnut Street, there is “sufficient width, suitable grade, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land”. Mr. Wills made the motion, and Mr. Wallace seconded it. Chairman Charville requested discussion on the motion regarding this potential “finding of fact”; Ms. Flaws said the text refers to “in relation to the proposed use of the land”. Chairman Charville said it has proved adequate for #60 (the use of which is not changing). Chairman Charville requested a vote on the motion; all 5 PB members voted in favor. Ms. Flaws suggested it be noted for the record that the lot being created is using Chestnut Street for access. Chairman Charville asked Atty. Kimball if once the ANR is endorsed, the new lot could then have a driveway on the ROW; Atty. Kimball said that would be a better and safer location, but it could be “over burdening” the ROW. Atty. Kimball added that the entrance to the ROW was wider, but that if the PB wanted to restrict access to Chestnut Street, they would comply. Ms. Cademartori mentioned that ROW access would eliminate the need for a Scenic Road Bylaw Special Permit to disrupt the stone wall. Ms. Flaws asked if any abutters had commented; Atty. Kimball said no. Mr. Wills motioned that the PB endorse this ANR; Mr. Wallace seconded it. Ms. Cademartori said the applicant has volunteered signage for #60 and the new lot, possibly #62. Mr. Wills suggested others using the ROW add signage; Lt Ripley said this can only be enforced when property is transferred. Chairman Charville requested a motion to amend the motion requesting compliant signage on both ANR lots. Ms. Flaws made the motion, and Mr. Wallace seconded it; the motion carried 5 – 0. The earlier motion to endorse the ANR, now amended, was voted on and carried 5 – 0.

3. 7:30 Continued Public Hearing – Sagamore Place (formerly Janet Way) - Proposed Definitive Plan Modifications

Chairman Charville requested a motion to reopen the PH at 7:51 PM. Ms. Flaws made the motion, and Mr. Wallace seconded it; the motion carried 5 – 0. An email from the applicant requesting to withdraw the proposed modifications was read. Mr. Wills motioned to close the PH, and Ms. Flaws seconded it; the motion carried 5 – 0.

4. 7:30 Continued Public Hearing – Tuttle Lane/”Road A”, 333, 339, & 349 Summer Street - Proposed Definitive Plan of Subdivision

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Mr. Sheehan motioned to reopen the continued PH for Tuttle Lane at 7:53 PM. Ms. Flaws seconded the motion, which carried 5 – 0. Atty. Regnante, counsel for the applicant, said 2 items remained to be discussed:

1. Review of the decision draft circulated by Ms. Cademartori
2. Action to be taken on the sheet waivers

Atty. Regnante said he had reviewed and edited the decision draft and was in agreement with it, and that the requested sheet waivers had all been reviewed and approved by the PB's Peer Review Engineer Bill Jones. Engineer Chris Sparages, for the applicant, said an agreement had been reached with Cranberry Lane homeowner Tim Allen regarding the LCWD water line installation on his property. Atty. Regnante said they have agreed to pay for additional screening trees at that property and that the LCWD is in agreement. Chairman Charville asked if the LCWD had reviewed the proposed layout for rerouting the water supply; Mr. Sparages said yes. Mr. Sparages added that the LCWD required proper conveyance of the easement and that he was in agreement with this. Chairman Charville asked about the date of this and Mr. Sparages said all the sheets were dated 8/28/2019. Ms. Cademartori asked if these plans show the LCWD easement; Mr. Sparages said yes.

Resident Page Wilkins of Cranberry Lane said all neighbors were very appreciative of the Allens and asked how the old easement would be dissolved so that the water lines would not be relocated there after the building lots sell. Chairman Charville said the Board of Selectmen should be consulted to relinquish the easement. Ms. Wilkins asked if new owners could make a change; Atty. Regnante said anything on the Subdivision Plan could not be changed without a modification; he added that the town and the LCWD could abandon the existing easement. Chairman Charville and Ms. Cademartori would research this and Atty. Regnante said execution of the new easement would require 2 weeks' time.

Chairman Charville said the matters to be addressed were the sheet waivers, the decision draft, the HOA, and the tripartite agreement. Atty. Regnante said the tripartite agreement or bond would not be established until the appeal period ends and Form G is recorded. Ms. Cademartori said the HOA approval is often done at a date after final plan approval; she added that the ConCom concerns include the invasive species issue and the responsibility for the Lot 5 maintenance program. Atty. Regnante proposed the Lot 5 owner be responsible. Chairman Charville asked if both the TE and the Peer Review Engineer were satisfied; Ms. Cademartori said yes. Mr. Wills noted the engineers mistakenly referred to the "LWD", not the LCWD in their remarks. Chairman Charville requested a motion to approve the requested sheet waivers

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for the Proposed Definitive Subdivision Plan at 333, 339, and 349 Summer Street; Mr. Wills made the motion, and Mr. Wallace seconded it; the motion carried 5 – 0. Mr. Wills then motioned to approve the decision as drafted; the motion carried 4-1 with Ms. Flaws opposed. Ms. Flaws said her vote was based on disagreeing with the approved length-of-roadway waiver. Chairman Charville requested a motion to approve the HOA as drafted; Ms. Flaws suggested waiting until ConCom had also reviewed it. Atty. Regnante said the HOA could be approved after the close of the PH, at a future meeting of the PB. Mr. Wallace motioned to close the PH regarding Tuttle Lane, and Mr. Wills seconded it; the motion carried 5-0.

6. 4 Meadow Lane – BOA Case #19-12

Homeowners Michael and Jaclyn Prizio said they planned to add a 2 car garage on the side of their corner lot and were seeking a 10' Variance. Chairman Charville asked if the home currently has a garage; Mrs. Prizio said since it was underground, it did not accommodate their SUVs and was used for storage. Chairman Charville asked if LJR Engineering had calculated the proposed impervious area. Mrs. Prizio said based on their calculation, the proposal was 100 sq. ft. over allowed impervious area. Chairman Charville said this calculation is usually certified by an engineer and shown on the plan. Ms. Cademartori said this proposal by the Prizios would require a Special Permit from the ZBA, and therefore, calculations by an engineer. She added the ZBA could act on a Variance for setback, but not the Special Permit without the calculations. Ms. Cademartori asked if the plan included a change in the number of bedrooms; the answer was no. Chairman Charville said they could consider asking the ZBA to defer action for a month, and ask LJR to add the impervious calculation; he added that the PB makes only recommendations to the ZBA. Mrs. Prizio said they wished to proceed with the Variance petition; Chairman Charville was unsure if the PB could act on the Variance and not address the need for the Special Permit. Mr. Sheehan said both issues should be dealt with at the same time. Ms. Cademartori asked if the pool deck was concrete; the answer was yes and Ms. Cademartori thought that would likely make the impervious area more than 100 sq. ft. over what is allowed. Chairman Charville suggested that the Prizios could request a continuance from the ZBA, and Mrs. Prizio agreed. Chairman Charville said the PB would take no action at this time based on the lack of information and would await the calculations from LJR that the homeowners agreed to obtain.

7. 325 Broadway - BOA Case #19-13

Atty. Marc Kornitsky, representing the applicant, Kell – Route One LLC (Kelly Jeep), introduced Brian Kelly and Peter Almeida. Atty. Kornitsky said a new building was currently

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under construction, and having received prior site plan approval, a Variance and Special Permits were now being sought for signage. Atty. Kornitsky detailed the requests and informed that the flat sign would be 62 sq. ft. vs. the allowed 100, the pylon sign would be 91.78 sq. ft. vs. the allowed 150, and the pre-existing, non-conforming use sign on the Big Dog site would be a smaller digital display of 96 sq. ft. vs. the current 139. Atty. Kornitsky said the pylon sign required a Variance for a setback of less than 40' from Rte. 1.

Atty. Kornitsky then presented another request for a proposed flagpole with a height of 100' vs. the allowed 50'. Chairman Charville asked what the height of the flagpole at the nearby Flagship Motorcars was; Atty. Kornitsky said 80', and added that the applicant would commit to flying only a U.S. flag. Atty. Kornitsky said the applicant was also adding granite post signage at the Conservation area located at the back of the site. Mr. Sheehan asked how tall the existing light poles were; Mr. Almeida said 24'. Chairman Charville asked what the height of the new building was; the answer was 28'. Mr. Sheehan asked if the digital sign had been the result of a prior ZBA ruling; Atty. Kornitsky said when the Big Dog site was purchased, the building was razed but the existing sign was modified to say 'Kelly'. Mr. Sheehan asked if the sign was being made smaller; Atty. Kornitsky said yes. Chairman Charville commented that 100' was extremely tall; Mr. Kelly said that was the height used at his dealership on Rte. 114. Mr. Wills asked why the flagpole needed to be 100'; Mr. Kelly answered that he was from a military family and felt patriotic, and added that the flag on Rte. 114 has been praised. Ms. Cademartori noted that many towns exempt flagpoles from dimensional requirements.

Chairman Charville requested a motion that the PB not oppose the requested relief, but recommends that the height of the flagpole not exceed 80' to ensure consistency with similar flagpoles along Broadway. Ms. Flaws made the motion and Mr. Sheehan seconded it; the motion carried 5 – 0.

8. 325 Broadway - BOA Case #19-14

Ms. Cademartori said she had spoken to the applicant's (T-Mobile Northeast LLC) representative regarding the proposed Wireless Eligible Facilities Request and all was in order. Mr. Wills motioned the PB not oppose the petition, and Chairman Charville seconded it; the motion carried 5-0.

9. 30 Stillman Road - BOA Case #19-15

Atty. Joseph Brodigan said this property contains an uninhabited, "tear down" and relief is needed as the lot size is nonconforming, i.e. 27,000 sq. ft. vs. the required 30,000. The

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applicant, Michael Touchette, is proposing a 2160 sq. ft. home that will comply with all setbacks; the only non-conformity is the lot size. Atty. Brodigan said the existing home is 1900 sq. ft., therefore only a slight increase is proposed. Ms. Cademartori said the existing structure is shown as 800 sq. ft. on the assessor's map; Mr. Touchette said that 1900 includes the separate, existing garage. Atty. Brodigan displayed an image of the proposed home; Ms. Flaws asked if he was also building a similar home on Chestnut Street. The answer was yes and Ms. Flaws commented that it was very tall. Mr. Sheehan asked to see neighboring homes on Stillman Road; Ms. Cademartori displayed them and Ms. Flaws said the proposed home will "loom" over the neighborhood. Chairman Charville asked what the setback of the home on Chestnut Street was; Mr. Touchette said 40', and the proposed home would be set back 45'. Ms. Flaws asked if the trees would be cleared; Mr. Touchette said only 3 trees which were in the way would be removed. Chairman Charville asked about the septic capacity; Mr. Touchette said it was currently a 2 Bedroom which would be expanded, and that successful testing has been completed.

Chairman Charville requested a motion that the PB not oppose ZBA Case #19-15. Mr. Sheehan made the motion and Mr. Wills seconded it; the motion carried 5 – 0.

10. Ipswich River Watershed – Continued Discussion

Ms. Cademartori said she had invited the Ipswich River Watershed Association's Executive Director to attend a future meeting and asked if the September 25th date was acceptable; Chairman Charville said yes. Ms. Cademartori said the opposition group to the 40B project on Elm St. in North Reading had hired an attorney, which resulted in the town successfully invoking the Safe Harbor provision in an effort to halt the project. Mr. Wallace added that fundraising for this effort was ongoing.

11. Zoning Map Review

Ms. Cademartori said this extensive review was close to completion, and 30+ areas on the map had been identified as needing correction. Ms. Cademartori said this will appear as a Warrant Article at the October Town Meeting (TM) in the guise of changing 1 paragraph of the Zoning Bylaws to which the Zoning Map is an attachment.

Ms. Cademartori said the PB will have 2 additional Warrant Articles, including:

- Corrections to the Recodified Zoning Bylaw which was postponed from the Spring TM
- Street Acceptance for Parsons Avenue Ext. and Pagos Way pending receipt of As-Built Plans from the developers

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12. Tree Protection Bylaw update

Ms. Cademartori said that staff is compiling information from other towns regarding their policies in general and with regards to wetland areas; she added that we are still awaiting an update about the pending grant.

13. Approval of Minutes – July 31, 2019, September 28, 2016, October 26, 2016

Mr. Sheehan motioned to approve the minutes as circulated; Ms. Flaws seconded, and the motion carried 5 – 0.

14. Administrative Matters/Topics for Next Meeting

- Continued Ipswich River Watershed discussion and speaker
- Market Street signing and lighting review update; Leasing Office has done reviews regularly and services of Walter Blair Adams could be used for special cases as needed.
- Friends of the Rail Trail presentation prior to Special Town Meeting
- Approval of Minutes – August 28, 2019

Note: Warrant Articles for October Town Meeting, including Zoning Map and Zoning Bylaw revisions, will be heard at a separate meeting.

Ms. Flaws motioned to adjourn the meeting at 9:42 PM; Mr. Sheehan seconded, and the motion carried 5 – 0.

Respectfully submitted,

Susan Lambe, Planning Office