

LYNNFIELD SPECIAL PLANNING BOARD MEETING January 15, 2020

1. Call to Order

A special meeting of the Planning Board (PB) was held on Wednesday, January 15, 2020 in the Maney Meeting Room at Town Hall. Chairman Charville called the meeting to order at 7:08pm, and noted that PB members Thomas Wallace, Charles Wills, and Brian Charville were present, and that Katherine Flaws and Michael Sheehan were absent.

2. Proposed OSRD and Tree Bylaws – Discussion of Revisions

Director of Planning and Conservation Emilie Cademartori noted that MAPC had provided a proposed direction based on discussions from the December Planning Board meeting presentation from Ella Wise, Senior Planner with MAPC. Emilie and Susan Lambe reviewed this feedback and participated in a conference call. Ella Wise then prepared a memo including several remaining issues identified for board discussion at this January 15, 2020 Special Meeting.

Members of the Tree Committee were present at this meeting. The Tree Bylaw discussion was taken up first.

Cademartori noted that a primary discussion point was the size of the tree that would trigger the bylaw, and if the size should be consistent with State law, which currently stipulates 1-1/2" dbh. The Tree Committee is considering 4". Many other municipalities have chosen 6-10". Chairman Charville asked Tree Committee member Jane Bandini to elaborate on the rationale from moving to 4" from 1-1/2" as the trigger for when the state-level public shade tree-protection law applies. Bandini noted the age of the law, and perhaps the emphasis placed on public shade trees when the law was first prepared. The 4" size is being considered by the Tree Wardens Association.

Cademartori noted that she has not found an example of a tree-size protection threshold smaller than 6". Chairman Charville asked Mr. Wallace for his feedback from the recent conference he had attended, to which Mr. Wallace noted that most municipalities have chosen 6-10" as their trigger for tree protection.

Chairman Charville asked for any recommendation from the Tree Committee. Bandini noted that even though a large tree is currently more important for the environment, smaller trees represent the future generation of trees, and are just as important.

Tree Committee member Patty Fabbri said that residents would be more likely to target large, rather than small trees for clearing. Chairman Charville asked about the changes the PB made to the Subdivision Rules and Regulations during the summer. Bandini confirmed that to show

on the plan, the dbh was 12", and that wooded areas would also be noted on the plan – which would include all sizes of trees.

Mr. Wills expressed concern about property owner pushback if the dbh was too small and suggested 6" as the threshold for the tree-protection bylaw. Members were amenable to 6".

Regarding mitigation, the proposed mitigation table is a simplification of the original. So, the question now is: should mitigation be a 1 for 1 replacement regardless of the size, or should it follow a tiered approach based on the size of the tree or its significance. Ella Wise recommends the latter. However, in practicality, this could be onerous.

For example, mitigating a total of 96" dbh of trees could result in purchase of forty (40) 2-1/2" dbh trees, depending on the replication methodology chosen. Also, many lots do not have the room to plant 40 trees. So, the "out" could be a donation to a "tree bank" replication fund.

Tree Committee member Beth Aaronson noted that in New Jersey, a strict 1 for 1 replacement is required, to which Cademartori said that nursery stock can be too limited for larger trees. The effort in terms of expense and planting labor could also be too onerous.

Chairman Charville said that MAPC should have an idea of how the tree banks are used, to which Cademartori said that investigation could be made into the methods of other towns.

Fabbri also added that species are important. For example, not desirable would be replacement of large pines with lots of fruit trees.

Cademartori added that a homeowner can't be penalized for a hazardous tree that needs to be removed. Chairman Charville said that if a tree falls in a storm, it shouldn't require mitigation or a payment into the tree bank by the homeowner.

Chairman Charville also inquired about providing a different tiered approach depending on like species replacement, as well as bank contribution rates depending on species. Members were generally amenable to a tiered approach for tree replacement, as well as a tiered approach for payments made to the mitigation bank.

Fabbri expressed a desire for a way to determine the monetary value of a tree. Tree Committee member Kendall Inglese expressed a desire for the Town to offer more preventative means of stopping tree clearing.

Mr. Wallace said that having a database for significant trees in Lynnfield would be a good starting point.

Cademartori summarized that the PB members preferred the tiered approach. Bandini suggested a combination of both tree replacement and a payment into the tree bank.

Cademartori then asked when the bylaw would be triggered. Will it apply across the board, and what would be the review mechanism?

For example, in coming before the Zoning Board, a homeowner wanting to install a pool would be required to show all 6" trees on a plan, in the tree yard. Cademartori further suggested that it may be time for the Zoning Board and the Building Inspector to be brought into this discussion. In this example, rather than having a separate permit for tree removal, meeting all of the code should be part of the review process for the pool.

Cademartori also noted that a significant amount of public education will need to be done, as well as educating the arborists on the new bylaw. Chairman Charville asked who the enforcing body would be, to which Cademartori said that there would be no body unless there was an appeal. The bylaw may allow the Town to designate who the body would be for appeals, and, Town Counsel Tom Mullen should be asked for his legal advice.

Cademartori said that an additional discussion point needs to be the penalties for enforcement. For example, how would it be handled if when wanting sign-off of their building permit, it is discovered that trees were not planted as intended. Mr. Wills suggested the as-built.

Chairman Charville suggested that upfront, a certified arborist from a Town-approved list could be engaged. Discussion ensued as to how to best handle the details of the follow-up, including how to monitor replacement tree survival.

Bandini asked if fines would kick in as repercussions for trees not properly planted/maintained. Chairman Charville suggested fines rather than a bond which would "feel too heavy".

Cademartori asked Bandini what was fair in terms of showing survivability for a newly planted tree, to which Bandini replied 1 year for every 1" of tree dbh. She generally suggested 2 years to check survival. Cademartori further suggested 2 growing seasons, rather than years. Fabbri suggested random audits to monitor survivability. Bandini suggested that payments made to the tree bank could be an alternative if the homeowner doesn't want to plant trees. Chairman Charville opined that the PB would ultimately have a tree replacement table and a replication bank table that would both be equitable for homeowners.

Mr. Wallace asked if a homeowner should notify abutters if he/she wishes to remove a border tree, citing other towns that have made such provisions. Cademartori noted that if it is simply subject to administrative review, and not in a public forum, then there is no opportunity for an abutter to weigh in. Mr. Wallace further suggested that MAPC may have some additional recommendations to help abutters negatively impacted by homeowners' decisions to remove border trees. Chairman Charville said that if the language is well-written and clear, it should be user-friendly, with the applicant provided with a clear replacement or replication path, and the abutters would not need to be notified. Cademartori noted that this would not necessarily appease the neighbors. Fabbri added that trees are a resource for everyone and removing them impacts all.

Aaronson related the history of the Tree Committee. The group was formed in January 2007 as a Tree Bylaw Subcommittee of the ConCom, in response to some drastic clear-cutting taking place in the town at that time. The group worked for 20 months, studied the bylaws of other

towns, held public forums and conducted a public survey. Unfortunately, the Tree Warden did not support this effort. At October 2009 Town Meeting, Don Harriss called for a quorum. There was no quorum, so the article was not voted upon, and the effort ended. The group went on to develop and pass the Scenic Road Bylaw.

Cademartori noted that a tree bylaw should be ready for Fall Town Meeting, with the understanding that a great deal of public education would be necessary in the meantime.

Chairman Charville then turned the board's attention to the OSRD/Cluster bylaw discussion.

Cademartori noted that OSRD may not be applicable to Zone A. The goal would be to look first at any parcels left in Zone A that could be combined for a cluster. At this point Ms. Wise is not including Zone A. Cademartori then noted that the trigger would be how many units.

Chairman Charville asked if any members had concerns with the 50% open space ratio. Cademartori noted that 50% is the State standard in the recommended bylaw. Mr. Wills asked what the Lynnfield existing Greenbelt ratio was, to which Cademartori reported that a 20% minimum was required.

Cademartori said that she doesn't feel strongly about minimum lot sizes or minimum frontages. Her concern was more about setbacks. Layout of the lots is more important. Also, setbacks inside the cluster can be different from the setbacks to the adjacent non-cluster properties.

As an aside, Chairman Charville asked if the Planning Office had seen any final revised plans for Perley Burrill, to which Cademartori said yes, the final plans were being worked on at present.

Chairman Charville then asked if less than 3 units, would OSRD be considered "by-right" and traditional subdivisions only by special permit. If it wasn't single family, but designed for condos, then it wouldn't be a subdivision at all, rather a site plan. Cademartori added that a condo zone needs to be part of this discussion. Mr. Wills noted that there has been much opposition to condos in Lynnfield in the past, citing the Pocahontas Way/Smith Farm Trail proposal for condos that was turned down 10:1 at Town Meeting, and he doesn't know if this has changed. Chairman Charville agreed that there would be opposition at Town Meeting if this was being used as a true tool to bring in condo development. Cademartori asked where the line would be drawn between condos and townhouses. She added that these units could be attached, as well as detached.

Mr. Wills brought up the history of Andrews Farm in Boxford, as an example of a small cluster in a typically large-parcel zoned community, built about 30 years ago. This was a 40B project, with all units for ownership, not rental.

Cademartori asked about by right vs. special permit, and whether the board would be able to handle a condo project by site plan review. So, a cluster subdivision of single-family standalone homes would come before the PB as a subdivision under the cluster bylaw. But, if kept as a condo, and not breaking up the parcel, then if by right, only a site plan review would be

required. Mr. Wills remarked about a previous experience with a special permit project in Newbury which was difficult to work under.

Chairman Charville asked if the PB was amenable to OSRD by right. Cademartori, answered that to encourage OSRD, if it was mandatory for more than 3 houses, there would be no question of site plan or special permit. If over 3 units, and the PB does not want to encourage OSRD then it would be by special permit. The other option, if the PB wanted to encourage OSRD would be to incentivize it. "You have to make the developer want it".

Chairman Charville asked again about attachment units, so as not to have a multi-family back door to the condo possibility that could be easily rejected at Town Meeting.

Cademartori asked if the PB wanted to encourage OSRD, how would it wish to proceed?

Chairman Charville asked if much extra work was required from the applicant for a special permit. Cademartori responded that under state law, a special permit provides the board with more "teeth" to shape how a project looks, rather than subdivision control which is more about laying out the roadway and the lots.

Cademartori invited PB members to view a special draft zoning map showing all parcels in Lynnfield. Much discussion ensued. Cademartori noted that most of the existing oversized parcels are within the Groundwater Protection District, which will automatically limit the number of units from consideration. There are not a lot of opportunities outside the Groundwater Protection District. Also, wetlands are quite prevalent, which will further discourage development. Cademartori noted that if more than 3 houses would be considered cluster, then there are very limited opportunities that currently exist.

Cademartori asked members if they would feel comfortable picking a unit count and making OSRD mandatory, which would allow elimination of a special permit. Chairman Charville proposed that for more than 3 units, cluster would be mandatory.

Mr. Wills asked if 50% open space was desirable. Mr. Wallace indicated that he personally would like to preserve as much open space as possible. Using the Tuttle Lane subdivision process, as an example, Chairman Charville noted that under OSRD the 9 lots would have been sited on 4 of the 8 acres, rather than 9 houses on 8 acres, with 50% remaining open space.

Cademartori suggested that when building a project based on bedroom count, MAPC and the State would encourage the diversity of stock other than stand-alone single-family homes. She questioned if the PB would support this, as well, as does the master plan, MAPC and the State. She added that if the PB wants to control the concept of a multi-family large building it could limit the number of attached units, which would prevent a "Bali Hai" type of building.

Cademartori said that she thought the only way to promote the affordability aspect is through bedroom count limits. However, this may favor condos. Chairman Charville added that stipulating the number of attached units may then be helpful here.

Mr. Wills asked about the effect of OSRD for the golf course, Sagamore Spring. Cademartori suggested that if developed conventionally, then most/all of the open space will be lost. With OSRD, at least 50% open space will be preserved. Cademartori further suggested, that with some creativity and density bonuses, and the inclusion of condos, perhaps using 2-bedroom senior units could be proposed which would not negatively impact the schools.

Cademartori noted that the golf course couldn't support 80 units with individual septic systems. Use of a common septic system could be used with single-family homes or condos.

Mr. Wills asked for an update on the "water problem" on upper Main Street and Cademartori provided an update on Lynnfield Center Water District's efforts. Cademartori noted that Ella Wise also believes that the OSRD bylaw could be easier to wrap up than the Tree bylaw. Cademartori asked the board if the OSRD bylaw would be more time-sensitive than the tree bylaw as a priority for Spring Town Meeting, leaving the tree bylaw for October Town Meeting. Board members generally agreed.

Cademartori also asked if, in the cluster bylaw, the PB wanted to insert provisions for projects in Upper Main where there is no public water, a requirement should be included for a community well that would be monitored vs. individual private wells. LCWD Superintendent John Scenna is strongly in favor of this. Chairman Charville said that this would be a good idea.

3. Approval of Minutes – December 18, 2019

The December 18, 2019 minutes will be reviewed for approval at the January 29, 2020 meeting.

4. Administrative Matters/Discussion of Topics for next meeting

Cademartori updated the board on the Tuttle Lane construction kick-off meeting earlier in the day. The site will now be flagged with the limit of work. A new development is a reconfiguration of the lots with the objective of trying to save the significant trees in the side yards. The trees will be marked, and during the grading, a second determination will then be made if they can be saved, and if so, if they can be welled. Now, Planning & Conservation will be able to identify trees that may be saved in each side yard in every lot. Cademartori indicated that she expected the project to be well run going forward.

Mr. Wills motioned to adjourn the meeting at 9:20pm; Mr. Wallace seconded, and the motion carried 3 – 0.

Respectfully submitted.

Jennifer Welter, Planning & Conservation