

# **LYNNFIELD PLANNING BOARD MEETING July 29, 2020**

## **1. Call to Order**

The regular monthly meeting of the Planning Board (PB) was held on Wednesday, July 29, 2020; the meeting was held virtually via the Zoom platform. Chairman Charville said all PB members were in attendance, including Chairman Brian Charville, Vice Chairman Michael Sheehan, Clerk Kate Flaws, Tom Wallace, and Ed Champy, and that the meeting was being recorded.

## **2. 420 Chestnut Street – Scenic Road Bylaw**

Landscaper Bruce Comak presented the plan to install a circular driveway and said the plan had been reviewed by Planning and Conservation Director Emilie Cademartori. Mr. Comak said that Town Engineer (TE) Charlie Richter had visited the site to review the plan. Chairman Charville shared the TE's memo stating that there are no problems with the plan, and added that the Scenic Road Bylaw (SRB) was created to protect street trees and stone walls. Mr. Comak said none would be disturbed by this proposed work. Mr. Wallace expressed appreciation that the applicant was replacing private trees. Ms. Cademartori requested review of the location of a granite post at the edge of the driveway to ensure that it was not on town property; Mr. Comak agreed to do this and move it 18" if need be, to keep it on private property. Chairman Charville requested a motion to accept the TE's memo and approve the plan subject to verification of the location of the post; Mr. Wallace made the motion and Mr. Champy seconded it. The vote was taken via roll call: Charville-Aye, Wallace-Aye, Flaws-Aye, Champy-Aye, and Sheehan-Aye.

## **3. 1 Walsh Road – ZBA Case # 20-05**

Chairman Charville informed that Atty. Tim Doyle had requested a continuance of 1 month and would plan to attend the August 26<sup>th</sup> PB meeting. Mr. Champy asked if the applicant or the plan had changed; Ms. Cademartori said the house had been razed and new plans would be forthcoming, and the applicant also needed to meet with the Historical Commission. Chairman Charville said this would be on the agenda for the August 26<sup>th</sup> PB meeting.

## **4. 15 Hutchins Circle – ZBA Case #20-06**

Chairman Charville said this application for a Special Permit under §§ 5.3 and 5.5 to reconstruct, extend, alter and change an existing non-conforming structure was a new case number for this address as the plans had changed and different bylaws were being cited. The PB had previously reviewed this site as part of ZBA case # 20-03. Engineer Giovanni Fodera reviewed the new plan and said the most notable changes were:

- The setback was now 10' vs. the original 8'.

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- Pervious pavers were specified instead of solid asphalt, to eliminate the need for a roof water recharge system.
- The septic system has been relocated.

Homeowner Vera Rodrigues said the architect has confirmed that the new structure is 1700 sq. ft. Chairman Charville asked how the gross floor area was calculated; Mr. Fodera said the architect's gross numbers had been used, as required by the bylaw. Chairman Charville asked what the outcome of the previously submitted application was; Atty. Greg Richard said the ZBA had asked for a revised application to be submitted under §§ 5.3 and 5.5. Chairman Charville asked if the new structure would not be substantially more detrimental to the neighborhood than the existing non-conforming structure as per § 5.3; Mr. Fodera said yes. Mr. Fodera said the ZBA had requested screening trees to replace tall trees that would need to be removed and the applicant agreed. Ms. Rodrigues said that all 3 abutters had been contacted and were in agreement with the plan. Mr. Fodera said the addition of the pervious driveway surface resolved the need for a groundwater infiltration system as required in the Groundwater Protection District (GWPD). Chairman Charville asked if the pervious brick was traffic rated; Mr. Fodera answered yes. Mr. Champy asked if the landscape plan was aligned to the architectural sketch; Ms. Rodrigues answered yes. Chairman Charville requested a motion that the PB inform the ZBA that the PB does not oppose the requested Special Permit. Ms. Flaws made the motion and Mr. Wallace seconded it. The vote was taken via roll call: Charville-Aye, Champy-Aye, Flaws-Aye, Wallace-Aye, and Sheehan-Aye.

### **5. Tuttle Lane – Bond Determination**

Atty. Ted Regnante informed that TE Richter had determined the amount to complete all infrastructure as well as the LCWD requirements as \$468,353. He added that a Letter of Credit (LC) had been posted at Northmark Bank and the original document was delivered to Town Hall today. Atty. Regnante stated that a LC was the preferred surety for infrastructure because it has an expiration date, and is irrevocable and unconditional; he added that most PBs prefer it to a Tripartite Agreement (which is not unconditional). Atty. Regnante emphasized that a LC was the “best form of security” for the town. Chairman Charville requested a motion to set the gross bond amount at \$468,353 as determined by TE Richter. Mr. Wallace made the motion and Mr. Champy seconded it. The vote was taken via roll call: Charville-Aye, Champy-Aye, Wallace-Aye, Flaws-Aye, and Sheehan-Aye.

Chairman Charville asked Atty. Regnante about the expiration date of the LC, and what recourse the PB would have after that date. Atty. Regnante said funds would have to be requested before the expiration date, and that a 1-year expiration is standard. Chairman

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Charville noted that a LC is not included in the Subdivision Rules and Regulations and asked if it was allowable; Atty. Regnante said a LC is the strongest form of a surety. Chairman Charville agreed to keep the LC and requested that the developer also sign an F-1 Form as a contractual overlay that refers to the LC; this was agreed to. Mr. Champy said the strongest form of surety was cash and that the time constraints of a LC can be difficult; he suggested having Town Counsel (TC) review it and having a completion date of 24 months. Atty. Regnante asked if an approval vote “subject to” TC review and the revised date could be taken; Chairman Charville agreed and requested a motion that the developer of Tuttle Lane be allowed to post as security a signed F-1 Form and a LC for a term of 24 months, or 12 months with an automatic renewal of a further 12 months. Mr. Champy made the motion and Ms. Flaws seconded it; the vote was taken via roll call: Charville-Aye, Wallace-Aye, Flaws-Aye, Champy-Aye, and Sheehan-Aye.

Atty. Regnante requested that the Chairman sign the Release of Form G when he is satisfied with the bonding. Developer Brian Hannon updated the Board on progress and explained that National Grid gas installation was still pending, and utility pole #34 needed to be moved which first required BOS approval. Mr. Hannon expected to put binder on the road in mid to late August and said he would be requesting the first Building Permit for Lot #8. Chairman Charville asked if Lot #8 would be a pre-construction build; Mr. Hannon said yes. Ms. Cademartori reminded that a Public Hearing (PH) for the Scenic Road Bylaw (SRB) still needed to be scheduled. Atty. Regnante preferred an in-person PH but agreed to a virtual one if not possible by Labor Day.

### **6. 109 Lowell Street – ANR**

Atty. Jay Kimball said he had filed the necessary documents and the proposed ANR creates 2 lots: one containing the existing home, and another for the balance of the vacant land subject to further rezoning. Atty. Kimball said the parcel includes both Zones RC and RD. Atty. Kimball said that Lot A requires 180’ of frontage and actually has 207’; Lot B has no frontage, but it is not considered a building lot. Atty. Kimball added that the applicant plans to submit a Subdivision Plan for Lot B. Chairman Charville asked if this was a 1-lot or 2-lot plan; Atty. Kimball answered 1-lot (because the second lot shown was expressly identified as not buildable). Chairman Charville noted that Lot B had a 55’ frontage deficiency; Atty. Kimball said the notation on the plan stating Lot B was “not a building lot” enabled this. Ms. Flaws opined we should not be creating non-conforming lots; Chairman Charville agreed. It was decided to use a portion of the allotted 21-day review period to have TC review the Bloom case to determine the correct course. Mr. Champy asked what the concern for Lot B was; Chairman Charville said since the lot is short on frontage, it is potentially problematic and should be reviewed by TC. Atty. Kimball stated that the Bloom case allows this if a plan denotes that the

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nonconforming lot is not buildable. Chairman Charville asked Mr. Champy if he thought it was wrong to question the plan; Mr. Champy answered yes. Mr. Sheehan said since time for review was allowed, there was no harm in reviewing the case law. Ms. Cademartori suggested voting on endorsing the ANR if TC approves it; Chairman Charville said the Board could reconvene for a vote at a special meeting after hearing from counsel.

### **7. Open Space and Recreation Plan**

Mr. Sheehan said the updated plan looked fine and accurate. Ms. Cademartori said text to review the new Zoning Map was forthcoming and asked if the plan referenced the possible OSRD bylaw. Conservation staff member Jennifer Welter said that the Goals and Objectives reflect a desire for OSRD, and that the proposed tree bylaw as well as the OSRD bylaw would be added in. Ms. Flaws suggested revising the consideration to “update the Master Plan”, it was decided to substitute the “PB is considering portions of the Master Plan to update.”

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Chairman Charville stated that the Preliminary Subdivision application for Hannah’s View Estates would be on the meeting agenda for August 26<sup>th</sup> and noted that resident Ken Peterson had commented to the Board.

### **8. Proposed Tree Bylaw and Regulations – Update**

Ms. Cademartori said the bylaw had been streamlined by moving the application process to the Regulations; she added that this had the benefit of allowing easier changes when they are needed. Ms. Cademartori said that MAPC consultant Ella Wise had some additional recommendations; including exempting small lots as their tree yard could take up too much of the lot; Chairman Charville and Mr. Sheehan agreed with this. Ms. Wise had also shared that if cluster zoning was adopted, the tree bylaw would not need to be as strict. Mr. Champy asked what the cost of mitigation would be; Ms. Cademartori said the Tree Warden would supply current replacement costs. Ms. Cademartori added that some felt the stated 1” for 1” mitigation was too burdensome. Mr. Champy agreed that smaller lots should be allowed some leeway and not be penalized. Ms. Cademartori asked if mitigation fees should be capped; Mr. Champy said no. Mr. Wallace said the Tree Committee had discussed the bylaw and was in agreement with exempting small lots. Chairman Charville asked if 7500 sq. ft. or less would be exempt; Ms. Cademartori asked if it should be higher and what constituted a “small lot”. Ms. Cademartori suggested having the GIS analyst create 2-3 maps showing the number of 7500, 10,000, and 15,000 sq. ft. lots in town; Chairman Charville asked to include the raw number of lots by size. Ms. Cademartori said the definition of “Certificate of Exemption” needed to be added. Chairman Charville said the current draft of the bylaw was sufficient and remaining details

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could be in the Regulations. Ms. Cademartori noted that the draft exempts hazardous trees from mitigation, and Ms. Wise said this is often abused, therefore an arborist would need to determine if a tree is actually hazardous. Mr. Wallace said it is important to get some type of tree bylaw passed, and retaining the hazardous-tree exemption would help this. Ms. Cademartori said that in order to help with passage, the higher mitigation for larger trees had been reduced to 1" for 1". Additionally, it was decided to not include a cap on mitigation and to remove the annual 1 tree exemption. Ms. Cademartori said that administering this bylaw will be a large job to undertake, and that she would share TC's feedback when it is received.

### **9. Approval of Minutes – June 24, 2020**

Chairman Charville requested a motion to approve the June 24, 2020 meeting minutes as presented; Mr. Sheehan made the motion and Mr. Wallace seconded it. The vote was taken via roll call: Charville-Aye, Champy-Aye, Flaws-Aye, Wallace-Aye, and Sheehan-Aye.

### **10. Administrative Matters/Topics for Next Meeting**

- ZBA Cases
- Hannah's View Estates - Preliminary Plan continuation
- Tree Bylaw
- Possible OSRD Bylaw and warrant timing
- Violet Circle update

Mr. Sheehan asked for an update on the ROFR for the Richardson property. Ms. Cademartori said we are awaiting an amended Purchase and Sale Agreement that removes the permitting contingency and that she had walked the site with representatives from Essex County Greenbelt Association who were impressed with the parcel. Ms. Flaws said she continued to work on funding and grants and asked about ConCom funding. Chairman Charville will reach out to the ConCom chairman to schedule a joint meeting. Ms. Flaws added that the 120-day decision period would not begin until the current State of Emergency has ended. Ms. Flaws said that she has also spoken to the Audubon Society about possible cluster zoning for north Main St.; Ms. Cademartori said a decision about pursuing cluster zoning this fall would need to be made soon.

Mr. Sheehan motioned to adjourn the meeting at 9:43 PM; Mr. Wallace seconded the motion. The vote was taken via roll call: Charville-Aye, Champy-Aye, Wallace-Aye, Flaws-Aye, and Sheehan-Aye.

Respectfully submitted,

Susan Lambe, Planning Office