

# **LYNNFIELD PLANNING BOARD MEETING December 15, 2021**

## **1. Call to Order**

Chair Brian Charville called the regular, monthly meeting to order at 7:03 and said the complete Planning Board (PB) was in attendance, including himself, Vice Chair Kate Flaws, Clerk Ed Champy, and members Amy MacNulty and Page Wilkins; he added that Planning and Conservation Director Emilie Cademartori and Planning Assistant Sue Lambe were present and that the meeting was being recorded.

## **2. Cont'd. Public Hearing, 109 Lowell St. – Vallis Way, Definitive Subdivision Plan**

Mr. Champy motioned to reopen the Public Hearing (PH) and Ms. MacNulty seconded the motion, which carried 5 – 0. Atty. Jay Kimball introduced Atty. Jason Kimball, developer Paul Caggiano, engineer Peter Ogren, and Atty. Tim Doyle representing property owner Linda Vallis. Atty. Kimball reviewed updates from peer-review engineer Bill Jones's memo of December 9, including:

- legalities of the surface water drainage and the waterline easement owned by the Lynnfield Center Water District (LCWD), both of which had been sent to Town Counsel (TC), Tom Mullen, for review. TC had opined that this easement (a Form H-1 covenant from 1973), which had never been recorded, could still be recorded. This would necessitate a waiver allowing the conveyance of Lot 6 (on a Form G covenant) prior to subdivision construction.
- the remaining land of Mrs. Vallis, now Lot 6 of the subdivision, remain part of the HOA
- the Homeowners Agreement (HOA) which now includes all the lots on the plan
- the requested street length waiver

Chair Charville asked if following these steps would allow Mrs. Vallis to sell only Lots 1 – 5; Atty. Kimball said yes. Mr. Ogren said he had addressed all engineering issues raised by Mr. Jones, and that most of the items had been resolved and a few were pending. Mr. Ogren suggested a working session between he and Mr. Jones; Chair Charville agreed and asked what the remaining open items were. Mr. Jones said the biggest remaining issues were: the length of the roadway, the possible waterline looping, and the easement on the abutting land not being recorded. Mr. Jones requested a geohydrologic study to determine if the water going towards abutters' lands would have an impact. Chair Charville asked if this was in the area of the detention basin; Mr. Jones said yes and added the test involves a simple groundwater model. Chair Charville asked Mr. Ogren if he had hired a geohydrologic consultant; Mr. Ogren said roadway infiltration had been added and he could also do this if the plan goes forward. Mr. Ogren added that they would be able to do the proposed waterline looping as TC had already opined on this. Atty. Kimball said the easement had been properly created but never recorded

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and deeded to LCWD. Ms. Wilkins said the easement may still be owned by original developer Mr. Kaneb; she added that only Smith Farm Trail and Green Tee Way were listed on the easement (not the 15' portion shown on the plan), and that the current 2020 deed shows no reference to the easement; Atty. Kimball said the easement is only voided if it is surrendered.

Director Cademartori asked if the easement was preserved on the plan; Atty. Kimball said the 15' water easement was preserved and that the only issue is that it had not been recorded; he added that the registry had told him it could be accepted for recording now. Chair Charville said the original Form H-1 should now be recorded and Atty. Kimball should confirm that the LCWD would accept it. Further discussion on the waterline easement and drainage included possible infiltration under the roadway and adding roof infiltration to the homes. Director Cademartori read a statement from new Town Engineer (TE) Pat McAlpine stating that infiltration under the road would not be permitted; Mr. Jones suggested it could possibly be done under the sidewalk. Mr. Jones requested a final Board of Health letter regarding the existing septic system investigation on Lot 6; Atty. Doyle said the testing had been completed successfully and results would be forwarded to the BOH. Mr. Jones also asked if the new stormwater regulations and Tree Preservation Bylaw (TPB) would apply. Mr. Ogren said the TPB would have a major economic impact, and that the Town had approved under-road infiltration at the Perley Burrill Subdivision.

Chair Charville stated a major remaining issue was the existing hill and suggested shifting the road to avoid all the resulting hardships. Mr. Caggiano said moving the roadway had been explored and did not offer a solution. Chair Charville noted the large size of Lot 6, and Mr. Champy added it was the owner's choice to parcel the subdivision as it was, which had resulted in the inferior road location. Chair Charville asked Mr. Caggiano if Mrs. Vallis might be willing to sell more land; Mr. Caggiano asked how moving the roadway would help secure the dead-end road length waiver. Ms. Wilkins explained the PB was looking for a "legitimate reason" to allow the waiver, and Ms. Flaws said the Board was trying to protect current and future residents.

Mrs. Vallis spoke and said the previous plan, drawn in 1989, had been approved by the PB and that abutters were encroaching on her property and removing her trees, even though she had allowed them the use of her property. Chair Charville asked if she was retaining a 149,000 square-foot lot because that was on the prior plan; Mrs. Vallis said she was being a good neighbor allowing the use of her yard, and that reducing her lot would reduce its value. Mr. Champy noted that shifting the road would avoid removal of the Lowell Street trees; Mr. Caggiano said having the road in front of the existing home would be worse due to lights shining in on the property. Ms. Flaws said if the road length waiver was approved it would have to be conditioned based on the results of the hydrogeologic study. Ms. Wilkins stated that the

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PB was bound by regulations which only allow a 500' road length and that nothing evidenced by topography or local conditions necessitated granting the waiver; she added that tearing down the hill was a self-imposed condition. Mr. Caggiano said the road length was necessary to access the subdivision. Ms. Flaws explained that having to go around the hill could be a reason for granting the road length waiver; Ms. Wilkins added that creating additional lots did not constitute a basis to grant a waiver. Chair Charville said the PB is not bound by a preliminary plan approved 29 years ago. Atty. Doyle asked if eliminating Lot 5 would allow the PB to rethink the waiver request; Ms. Wilkins said it would be helpful to see that on a plan. Further discussion about the hill, and possibly removing it, ensued. Richard McCarthy, 4 Mohawk Ln., confirmed that he had misinformation about his lot line when he purchased the house, and that he had asked to locate a swing set on Mrs. Vallis's property; she had agreed, but the swing set is now gone and he has not removed any trees belonging to her. Ms. Wilkins asked If Mr. Caggiano had discussed any possible mitigations with him; Mr. McCarthy said they had discussed possible plantings or a land concession. Matthew Itzkowitz, 110 Lowell St., noted if the road remained as is, the Lowell St. trees would be lost and lights would then shine in on his home. Jane Bandini, 537 Essex St., asked why the extensive tree locator plan had not yielded any results; Chair Charville said the "big picture" issues needed to be resolved first and further tree protection will be addressed in the future. Board members each stated their priority for the plan:

- Chair Charville – reduce Lot 6 to allow not more than 3 future lots and view the resulting road and lot line shifts
- Ms. Flaws – Lot 5: leave hill intact and do not locate home on it; Ms. MacNulty agreed
- Mr. Champy – show plan using the existing driveway as the entrance to the subdivision
- Ms. Wilkins – have no house on Lot 5

Atty. Kimball requested continuance of the PH and an extension of time for the PB to act; Chair Charville requested a motion to extend the approval period until 2/28/2022. Ms. Flaws made the motion, and Mr. Champy seconded it; the motion carried 5 – 0. Mr. Champy motioned to continue this PH until 2/16/2022 at 7:00 PM at the Merritt Center, and Ms. Wilkins seconded it; the motion carried 5 – 0.

### **3. Public Hearing, Proposed Rules and Regulations for Town Bylaw §225, Tree Preservation Bylaw**

Ms. Flaws motioned to the PH and Ms. Wilkins seconded the motion, which carried 5 – 0. Ms. Cademartori said the Rules and Regulations had been completed and both applications had been created; the Tree Permit Application had a required info sheet attached and included mitigation money amounts, and the Application for a Certificate of Exemption had been streamlined to

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make it less cumbersome. Scenarios in which an exemption would be requested were discussed. Mr. Champy motioned to approve the proposed TPB rules and regulations and the 2 applications as drafted; Ms. MacNulty seconded the motion which carried 5 - 0. Patricia Campbell, 7 Patrice Ln., asked why town officials were not addressed in the Rules and Regulations; Ms. Cademartori said the regulations address application procedures and it is the bylaw itself that addresses who is subject to them. Mr. Champy motioned to close the PH on the TPB Rules and Regulations, and Ms. MacNulty seconded the motion, which carried 5 - 0.

(Ms. Flaws departs at 9:50 PM)

### **4. Master Plan Update**

Ms. Cademartori informed that she had applied for MAPC assistance for updating the Master Plan (MP) in January of 2020; this was not granted due to Covid. Ralph Wilmer of MAPC informed her there will be a call for new proposals next month when an updated proposal may be submitted. Ms. Cademartori added that some cash match is needed and that our proposal must be consistent with the 2050 Metro Common regional plans. Chair Charville noted that it is common to revise only portions of a master plan.

### **5. Ch. 61 – Richardson Green**

Ms. Cademartori informed that the Conservation Commission had endorsed the Ch. 61 purchase and sale at their meeting on the prior evening and all necessary paperwork has now been signed and will be forwarded to Essex County Greenbelt Association; closing on the property is still planned for February of 2022.

### **6. Vision for Willis Woods**

Ms. Cademartori said a partners meeting had been held on December 14 and that the Vision for Willis Woods was now complete; she added that the project was “a good multi-town cooperative effort” and that our MAPC staff planner was leaving to take another position.

### **7. Approval of Minutes – November 15, 2021**

Ms. Wilkins motioned to approve the November 17 meeting minutes as circulated, and Ms. MacNulty seconded the motion, which carried 4 – 0.

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

- Review draft of FY 2023 budget
- Master Plan grant application update
- PH for 169 Essex St. – SRB violation

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Mr. Champy motioned to adjourn the meeting and Ms. Wilkins seconded the motion, which carried 4 – 0 at 9:58 PM.

Respectfully submitted,

Susan Lambe, Planning Office