

# **TOWN OF LYNNFIELD CONSERVATION COMMISSION**

## **MEETING MINUTES**

**June 20, 2023 - 6:30 PM**

**H. Joseph Maney Room, Lynnfield Town Hall**

### **Board Members:**

Chairman Don Gentile, Vice Chair Kirk Mansfield, Angelo Salamone, Jared Yagjian, Erin Hohmann, Bryce Foote, Jan Solomon, Director Emilie Cademartori

**6:32pm – Chairman Gentile called the meeting to order.**

## **Continued Public Hearings**

### **6:33pm - Notice of Intent – 397 Walnut Street**

Applicant: Town of Lynnfield

Project: To construct a golf clubhouse facility with new utilities and new gravel parking lot with associated drainage infrastructure

Director Cademartori reported that the applicant has requested a continuance until the July 18, 2023 meeting.

*On a motion duly made by Salamone and seconded by Solomon, the LCC voted (7-0) to continue the hearing for 397 Walnut Street until the July 18, 2023 meeting.*

### **6:34pm - Notice of Intent – 12 Hampton Court - File #209-0667**

Applicant: Maryrose Pino

Project: Construction of four foot retaining wall with associated backfill and grading, removal of 17 trees, installation of an irrigation well and fence

Paul Marchionda, Marchionda & Associates, was present to summarize the project. Marchionda reported to the Board that the owner would like to erect a retaining wall and remove up to 17 trees in the backyard. Cademartori reported that the *recent* original order included a minimum of a 10' natural buffer between any disturbance and the rear yard, and markers were installed. Cademartori noted that the Request for COC was granted on the condition that one of the markers be moved to the correct location- and it has not been moved. And, the applicant is requesting relief from a condition that was in a prior order.

Solomon suggested that some of the trees can be limbed rather than removed. Gentile expressed concern that the original project was just permitted, which included significant tree removal, some negotiations and compromises. Yagjian expressed concern with the number of additional trees slated for removal, and would prefer to see the applicant work around some of the existing trees, and plant some replacements.

Cademartori reported that the locations of some of the trees on the original plan have been moved on the plan under discussion, such that they are no longer located in the “tree yard” and subject to the Tree Preservation permit. Marchionda went to great lengths to explain how the trees that need to remain/be removed from the tree yard are determined. Gentile asked for confirmation that the plan before the Planning Board was the plan of record, to which Cademartori said yes. Gentile then said that the Commission cannot overrule a Planning Board plan of record. Solomon said that she will not agree with this path, noting that some of the trees were supposed to be protected in perpetuity. She also expressed concern that there are 2 different plans under discussion. Yagjian suggested that Marchionda should have resolved this issue with the Planning Board when it was first considered. Salamone asked if planting replacement trees in the set backs could be considered as suitable mitigation.

Cademartori was going to suggest a compromise plan that would satisfy both permits, but the discussion did not continue along this path. Gentile asked if there was any written report from an arborist as to the health of the 17 trees, but a report was not forthcoming..

Marchionda said that he can always go the DEP and appeal for a superseding order, and that the applicant has that right. However, he would prefer to avoid this path, based on time and cost. Solomon said that she would not support this project. Hohmann said that she whole-heartedly agreed with Solomon. Gentile said that there was not enough information for him to feel comfortable approving the application.

Homeowner Paul Cuccinatti said that he could have done what “everyone else in town does and cut down trees”.

Melanie Lovell, Tree Committee Chair, speaking on behalf of herself only, said that the decision should be made on the merits of the case, rather than be influenced by the threat of the applicant appealing to DEP. The Commission has the right to say no to this application, just as the applicant has the right to appeal.

Marchionda suggested that the meeting be continued, and that he will make an appointment with Cademartori to review the plans.

***On a motion duly made by Mansfield and seconded by Hohmann, the LCC voted (7-0) to continue the hearing for 12 Hampton Court until the July 18, 2023 meeting.***

## **New Public Hearings**

### **7:16pm - Notice of Intent – 35 South Common**

Applicant: Town of Lynnfield

Project: Construction new septic system and driveway extension

Lynnfield DPW Director John Tomasz was present to summarize the project. In between the Town Hall and the Historical Building, the NOI calls for construction of a driveway connection. Just before the June 20 meeting, a site visit was held with Commissioners to review the project property, and potential tree removal.

*On a motion duly made by Solomon and seconded by Foote, the LCC voted (7-0) to issue an OOC for 35 South Common Street.*

## **Enforcement Order Updates**

### **7:20pm - 21 Lakeview Avenue**

Attorney Tim Doyle was present, along with homeowner J. R DeFreitas. Wetland Scientist Julie Vondrak provided a brief history of the projects for this parcel. The Enforcement Order expired May 30. She confirmed that DeFreitas has complied with half of the order, which includes planting the 3 mitigation areas. The last planting area is being completed, awaiting nursery stock, and markers still need to be installed. She explained that the applicant wants to keep his walkways, and he contends that removal of them would cause undue harm to the resource areas.

Gentile said that 5 or 6 years ago, this significant retaining wall was discovered on the pond. It was permitted retroactively. In the process, the Commission asked for some mitigation, which was never completed. Then the Commission requested an as built, and through this process, discovered how much more harmful the construction was. Yagjian asked how the homeowner could possibly have been unaware of the rules. Attorney Doyle opined that he himself believed 90% of the pond abutters are also unaware, to which Yagjian disagreed. DeFreitas continued to maintain that he was unaware of the rules, and asked if - as a penalty - there was anything other than removal of the walkways that he could do to satisfy the Commission. Yagjian disagreed that removal of the patio would be too harmful, since these are pavers that are just laid in the ground, and can be easily lifted without machinery.

Solomon remarked that she had said no in September, and “it’s no tonight”. Mansfield said that it is happening more and more that the Commission is hearing from homeowners coming in after the fact asking for forgiveness and seeking to satisfy the Commission in some other way - setting a dangerous precedent.

Gentile asked how to proceed. Cademartori said if the Commission denies the application, the path she would predict is the applicant would want to file an appeal to the DEP for a superseding order to protect the walkways. Vondrak suggested that the Enforcement Order be closed out, with a new Enforcement Order written to complete the work that is still unfinished, to be completed by some deadline, which also demands a filing for a new NOI that seeks to determine

if the project can be permissible. Then, a decision could be made to accept or deny the application.

***On a motion duly made by Yagjian and seconded by Salamone, the LCC voted (7-0) to issue an Enforcement Order for 21 Lakeview Avenue which requires filing a new NOI for the unpermitted walkways and patio areas.***

#### **7:56pm - 11 Ramsdell**

Cademartori reported that the soccer field has been removed, and that the homeowner and the next door neighbor are both having their properties resurveyed.

### **New Violations**

#### **7:58pm - 45 Wildewood**

Homeowner Matthew Rasetta was present to explain his project. Cademartori provided timed images to explain the history of the tree clearing on the property. Her concern is the work that occurred in what had been declared a perpetual no disturb area when the original home was permitted in 1991. Rasetta began by saying that he was unaware of rules when he removed many trees, and has done the work himself. Rasetta provided his landscaping plan for restoration - including planting of 3 trees, shrubs and a row of boxwoods. Cademartori said that all the work that Rasetta performed was in the 100' buffer, and her focus was the work that should be done to repair the "no disturb" area and re-establishment the natural area. She asked how the Commission would want to memorialize this work so that it is on record; a friendly enforcement order, a letter, or an RDA. (There is a vernal pool on the property.) Rasetta agreed to place wetland markers once the boundary plantings are installed.

***On a motion duly made by Solomon and seconded by Foote, the LCC voted (7-0) to issue an Enforcement Order for 45 Wildewood to allow the homeowner to complete the work by November 21, 2023, provide for a site visit Spring, 2024, include a minimum of 1 year monitoring, and include the installation of wetland markers.***

#### **8:18pm - 15 Townsend**

Homeowner Kyle Lussier was present for the discussion. He would like to fence his backyard with a black fence that is the kind that allows habitat pass-through. His entire property is jurisdictional. He has already cleared a significant number of trees.

For mitigation, Gentile suggested that the homeowner work with Patrick to determine what types of native trees should be planted and their locations. Cademartori suggested a row of street trees. The mitigation plan should include a minimum of 6 trees (of which the homeowner has already planted 2 trees). The fence should be placed a minimum of 10', if not 15' from the wetland edge. Beyond the fence, the property should be left natural, and not be lawn. The fence will also be a black fence of habitat pass-through design.

## **Requests for Certificates of Compliance**

### **8:35pm - Request for Certificate of Compliance - 592 Main Street #209-0620**

Cademartori reported that this request will not be taken up at this time.

## **Administrative Matters**

### **8:36pm - Lynnfield Woodlot CR - proposed parking area approval**

Cademartori reported that Greenbelt wishes to construct a small parking lot and per the CR, the Conservation Commission must approve it. The parking lot is for 6 spaces, and is very close to Main Street. Trees will be required to be removed for its construction, and the parking lot is subject to the Scenic Roads Bylaw and will require a public shade trees hearing.

*On a motion duly made by Yagjian and seconded by Hohmann, the LCC voted (7-0) to approve the proposed parking area plan for Lynnfield Woodlot.*

*(8:44pm - Erin Hohmann departs the meeting.)*

### **Updates Ongoing/New projects at conservation properties**

Cademartori reported that the Rotary Park restoration project is “spectacular” and that all the work done by GroundMasters has been free of charge. She would like owner Bryan Last to have a significant showing of appreciation, beyond the press releases.

**Review draft May 16, 2023 minutes** - Not taken up at this time

### **8: 46PM - Adjournment**

*On a motion duly made by Mansfield and seconded by Foote, the LCC voted (6-0) to adjourn the June 20, 2023 meeting.*

## **NEXT REGULAR MEETING – Tuesday, July 18, 2023**

As recorded and submitted by Jennifer Welter.