

LYNNFIELD PLANNING BOARD MEETING May 29, 2019

1. Call to Order

A meeting of the Planning Board (PB) was held on Wednesday, May 29, 2019 in the Maney Meeting Room at Town Hall. Chairman Charville called the meeting to order at 7:01 PM and said it was being recorded with audio. All Planning Board (PB) members were present: Chairman Brian Charville, Vice-chairman Michael Sheehan, Clerk Charlie Wills, Katherine Flaws, and Thomas Wallace. Chairman Charville recognized PB member Tom Wallace for his participation in the town's Memorial Day observance; Mr. Wallace, a 20-year Air Force veteran, was the featured speaker at the ceremony on the Common.

2. 7:00 Continued Public Hearing – Sagamore Place (formerly Janet Way) – Proposed Definitive Plan Modifications

Mr. Sheehan motioned to reopen the Public Hearing (PH) at 7:03 and Mr. Wills seconded; the motion carried 5 – 0. An email from developer Angus Bruce requesting the hearing be continued until August 28, 2019 was read. Resident Ken Peterson asked if the number of allowed continuances was finite; Chairman Charville said no. Mr. Peterson asked if something could be done to secure the abandoned buildings and debris; Chairman Charville said the area is an approved subdivision and therefore, any safety concerns should be addressed with the Building Inspector. Resident Patricia Campbell asked why continuance of the hearing was requested; Chairman Charville said no reason must be specified. Mr. Wills suggested that the defeat of Mr. Bruce's proposal at Town Meeting was likely the reason for the requested continuance; Director of Planning and Conservation Emilie Cademartori said Mr. Wills was correct and Mr. Bruce is preparing an entirely new plan. Mrs. Campbell asked if Mr. Bruce had purchased all the property; Chairman Charville said the PB does not know.

Chairman Charville requested a motion to continue the PH until August 28, 2019 at 7:30 PM at Town Hall, and added that Mr. Bruce be notified this would be the final continuance. Mr. Sheehan made the motion, and Mr. Wills seconded; the motion carried 5 – 0.

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

4. 19 Yorkshire Drive – BOA Case #19-09

An email from the applicant, Matthew Monkiewicz, was read. It explained details of his requested Variance to add a proposed addition, the reason for the delay, and the fact that the plan is the same that had been approved by the Planning Board and the ZBA in 2015. Mr. Sheehan noted the prior approval and asked if neighbors were in agreement. Atty. Jay Kimball (who represented the applicant in 2015) said that abutters had been in agreement and the project

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was postponed due to family issues. Chairman Charville requested a motion that the PB not oppose this proposed Variance. Mr. Wills made the motion, and Mr. Sheehan seconded; the motion carried 5 – 0.

5. Violet Circle – Extension Request

Applicant Marco Tammaro informed the PB that the subdivision is still under litigation; he added that in addition to the completed work listed on the extension application, he had seeded and landscaped the left side of the property as Ms. Flaws had suggested. Chairman Charville asked what stage the litigation was in. Mr. Tammaro said litigation is ongoing in federal court, and would be back in state court on June 5th. Chairman Charville asked what the length of the extension request was; Mr. Tammaro said one year. Ms. Flaws asked why a boat was being stored on the site; Mr. Tammaro said it had been removed. Chairman Charville asked Mr. Tammaro if he planned to finish the work as soon as litigation is concluded; the answer was yes. Mr. Wills moved to approve the extension as requested; Mr. Sheehan seconded the motion. The motion carried 4 – 0, with Ms. Flaws abstaining.

6. 6 Witham Street

Chairman Charville shared an update from Atty. Doyle and said the Variance requested for lot frontage had been granted by the ZBA, and that Atty. Doyle requested the PB hear this matter at the June meeting so that the 20 day appeal period will have lapsed. At that time, the approved subdivision would be rescinded and plans to build on the 2 separate lots could move ahead. Ms. Cademartori said Atty. Doyle had questioned the procedure in consideration of the outstanding conditions on the approved plan. Ms. Cademartori suggested to Atty. Doyle that any conditions could remain as covenants added to the deed restrictions and Chairman Charville agreed.

3. 7:30 Continued Public Hearing “Road A”, 333, 339, & 349 Summer Street – Proposed Definitive Plan of Subdivision

Chairman Charville requested reopening of the PH at 7:22. Mr. Sheehan motioned, and Mr. Wills seconded; the motion carried 5 – 0. Chairman Charville said he had sought the opinion of Town Counsel (TC) with regard to new PB member Tom Wallace’s eligibility to participate and vote on the Road A proposal. TC’s opinion was that if Mr. Wallace signed a certified statement confirming he had reviewed the audio recording of the missed hearing session, he would be fully eligible to participate and vote; Atty. Regnante said he was in full agreement with this.

Atty. Regnante distributed a list of 4 requested waivers and an agenda of discussion items to the Board, including:

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ConCom Issues:

Engineer Chris Sparages said the ConCom had continued their PH until 6/18/2019, and the Peer Review of the plans had just been received that day. He added that he would submit revised plans addressing ConCom issues by 6/18, and these would include moving the stormwater area to the 50' buffer line which allows for saving trees and reshaping the detention basin.

Stub to Cranberry Lane and Water Loop:

Mr. Sparages said the stub could be used as a utility easement; the Fire Department (FD) and the LCWD favor this, and the existing easement currently shows the water loop in that location. The easement has been staked and is shown to run through a grove of pine trees. Homeowners at 4 Cranberry Lane, the Allens, have offered to grant a utility easement through their property to save the pine grove. Mr. Sparages will present a plan of this easement to the Allens. Atty. Regnante added that not looping the road and creating a new easement would save trees.

Stub to Reed property and 20' ROW to access no more than one lot:

Atty. Regnante said Atty. Kimball represented the Reeds and they have agreed to lay out the stub on the plan and convey it to the town. Additionally, a 20' driveway would be conveyed to the Reeds. Atty. Regnante requested the PB waive the requirement to construct the roadway easement and instead build a driveway easement. Mr. Sparages shared details of the driveway construction including 20' width, curbing on both sides, and no planned sidewalks. He added there was no need of streetlights since it was a driveway. Atty. Regnante said Atty. Kimball has agreed to construction of a turnaround on the Reed property to accommodate the FD. Chairman Charville informed that TC has said the Reed land is not buildable. Atty. Kimball said this was only due to limited frontage, and Atty. Regnante added that the new roadway would convey the needed frontage. Mr. Sparages said the frontage would be created on the Reed land. Ms. Flaws asked if a stub creates frontage; Atty. Kimball replied that it gives access to create frontage. Mr. Sparages said the plan would include a turnaround to create frontage and Ms. Flaws replied that this creates a road; Mr. Sparages and Atty. Kimball agreed. Ms. Flaws stated that this is entirely different than the definitive plan; Chairman Charville added that the easement could not be both a roadway and a driveway. Ms. Flaws said this was trying to create property rights where there are none. Atty. Kimball said this has been done in town in the past. Ms. Cademartori asked how this proposal could not be in

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violation of the established Covenant. Mr. Sheehan said it was fine to discuss this, but the Covenant clearly states this is not a buildable lot, so there is no need to create a stub. Mr. Wills said he had been in favor of a stub before he knew of the Covenant, but now he is against it. Chairman Charville had TC review the Covenant and had cited the text “no additional building lots shall be created” and “no additional number of lots” contained therein. Atty. Kimball said a road construction waiver would be requested, and the Covenant is subject to amendment with PB approval. Chairman Charville stated the PB feels the stub should be built to road standards. Atty. Regnante asked if this statement is a determination that the Reed land is not suitable for development; Chairman Charville said no. Atty. Regnante said they were willing to build a driveway, not a road; Chairman Charville said required stubs must be built to road standards. Atty. Regnante said the Regulations provide that the PB must determine if a property is suitable for “ultimate development”. Chairman Charville said the Covenant has determined that the property not be developed and Ms. Cademartori added that nothing has changed since that time. Ms. Flaws noted that if the road length waiver were not allowed, this matter would not be an issue.

Chairman Charville opened an informal discussion on the allowed 500’ road length and the waiver for 815’ being requested. Mr. Sheehan said that the information given by the ConCom and the FD at the last meeting was significant, and he is now in favor of a shorter road. Ms. Flaws agreed and said that approving a waiver without seeing an alternative plan is not possible. Ms. Flaws added that the Subdivision Rules and Regulations (SR&R) state that a road length waiver should be allowed if “topographical or structural issues make no other solution possible”. Chairman Charville said the PB needed to see a plan with access via the Cranberry Lane easement. Mr. Sparages then sketched an idea of what the Cranberry Lane access would look like. Chairman Charville asked if the cul de sac on the plan would remain; Mr. Sparages said no, it would be a through road. Atty. Regnante said the group needs a sense of direction in order to proceed and requested action on the waivers. Chairman Charville asked if the 500’ road length had been enforced by the PB in the past. Atty. Regnante said he felt strongly it would be appropriate to grant the waiver based on the approved Preliminary Plan. Chairman Charville said that TC had informed that the Preliminary Plan serves to “lock in zoning” and affect the time line. Atty. Regnante disagreed. Chairman Charville added that many positive changes to the plan have come about due to the ongoing review. Mr. Wills said the PB must be more careful in the future when voting on Preliminary Plans. Ms. Cademartori informed that of the 16 streets granted waivers in the past; only 3 had

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another option to connect elsewhere. Mr. Wallace said that this is a complex issue and priorities must be weighed. Ms. Flaws said the ConCom was led to believe they had no choice but to work with the extended road length. Atty. Regnante said they have made concessions to the ConCom and changing the Board's position now is inappropriate. Ms. Flaws asked what the address on the Reed land would be; Atty. Regnante said Tuttle Lane in memory of a WWII veteran. Ms. Flaws asked if this would be a road or a driveway; Atty. Regnante said it would be both. Ms. Cademartori said there would have to be a Definitive Plan for the Reed property that would likely require another road length waiver to 950'. FD Lt. Richard Ripley said that if the Reed property is accessed via the cul-de-sac or a turnaround, this constitutes a roadway, not a driveway. Chairman Charville summarized that there seemed to be majority support for the road waiver, but not for constructing the stub to the Reed property.

Peer Review Engineer Bill Jones said he found 3 major issues with the plan:

1. The possible construction of the stub to the Reed land has been far too much of a distraction to the Subdivision Plan. His solution would be to provide for the easement, but not build it until there is an actual plan for the Reed property; Chairman Charville said that building it was a requirement.
2. Mr. Jones said the primary issue was the length of the dead end road, and if a connection to Cranberry Lane was made, it would resolve this issue as well as the Reed stub.
3. Mr. Jones added that the tree species on the plan need to be identified as required, and the 2' contours on the plan should be added as a waiver as the SR&R state 1' – 2'.

Mr. Jones said the complete stormwater review is pending, but appears promising. Mr. Sparages said the plan would become unreadable if all SR&R were adhered to, and he had discussed which details must be included with Town Engineer Richter. Mr. Wills asked what the diameter of the planter in the cul-de-sac would be; Mr. Jones answered 54'. Mr. Wills opined that it could be smaller if the FD preferred. Chairman Charville asked if the swept study using a ladder truck had been completed; Mr. Sparages said the largest truck available (from Wakefield) had been used. Mr. Jones added that the Town Engineer was in agreement with the island. Mr. Wallace asked why the wetlands boundary dimensions on Sheet 4 were missing; Mr. Sparages answered on that profile page the view needed to be shifted away from the wetlands to display other aspects. Atty. Regnante requested the PB take action on the 4 listed waivers. Developer Michael Hammond requested a 5 minute adjournment which was granted.

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Subdivision Waivers (#1 - #4):

Chairman Charville reconvened the PH at 8:40 PM and asked Atty. Regnante if he wished to have only the 4 listed waivers addressed. Atty. Regnante answered yes, the others are less significant. Mr. Wallace asked if TC opinion was needed on waiver #4 regarding the Reed stub; Ms. Cademartori said it had been obtained. Chairman Charville asked what granting #4 would result in; Mr. Sparages said it would be constructed to town roadway standards, but it would be 20' of pavement vs. the required 26', no sidewalks, no streetlights, and a rounded end. He added that this had been referred to as a "glorified driveway" since it will serve to access only 1 house. Chairman Charville asked if the waiver must mention "to benefit a maximum of one building lot on the adjoining property owned by Wesley W. Reed"; Atty. Regnante felt it was important to include this. Chairman Charville stated that by voting on waiver #4, the PB is NOT speaking to the buildability of the Reed land; Ms. Flaws disagreed. Chairman Charville said the PB is not opining on whether it is a building lot; Ms. Flaws opined that the Board was, as the Covenant states clearly "there shall be no additional building lots". More discussion ensued, and Ms. Flaws stated that the PB should have been told about the Covenant and the ConCom letter from the Reeds. Mr. Wills asked if the Supplemental Covenant (#1) consists of a promise not to create a building lot unless they seek PB permission; Chairman Charville answered yes. Chairman Charville also cited the ConCom letter as evidence, adding that Ms. Flaws was correct to refer to it. Chairman Charville asked Atty. Kimball for comment, and if the Covenant was done in the context of obtaining a road waiver at the time; Atty. Kimball said yes.

Chairman Charville requested a motion on waiver #1, that the PB waive requirements of Section 8.5.B. (1)(a) to allow replacement of Colonial Pole-top lighting fixture with Americana Electric Lighting Part #247L-20LEDE70 or approved equal. Ms. Flaws made the motion, and Mr. Wallace seconded it; the motion carried 5-0.

Chairman Charville requested a motion on waiver #2, that the PB waive requirements on 7.1.D (2) to allow construction of an island within the cul-de-sac as shown on the updated Proposed Definitive Plan. Mr. Wills made the motion, and Mr. Wallace seconded it; the motion carried 4-1, with Ms. Flaws voting against.

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Chairman Charville requested a motion on waiver #3, that the PB waive requirements of Section 7.1.D(1), to allow a dead-end street length of 812.91' vs. the required 500'. Mr. Wills asked Ms. Cademartori if she had found the 3 past granted waivers where another street connection would have been possible. She answered that they were: Timberhill Lane, Tappan Way, and Alexandra Road, and added that Ramsdell Way (at 1500') had provided a stub and was currently still a private way. Ms. Cademartori said that the other 13 waivers granted all had no other possible connections. Chairman Charville asked if the requested waiver was for 812.91'; Mr. Sparages said yes. Chairman Charville requested the motion to grant this waiver. Mr. Wills made the motion, and Mr. Wallace seconded it; the motion carried 3-2, with Ms. Flaws and Mr. Sheehan voting against.

Chairman Charville requested a motion on waiver #4, that the PB waive the construction requirement of the future roadway easement stub. Chairman Charville made the motion and Mr. Sheehan seconded it. Mr. Wills suggested "leaving room" for the Reeds to come forward. Chairman Charville then suggested amending the motion to waive the requirement to include the easement. Mr. Jones said that in doing this, the developer could still grant an easement, and the Reeds could still come forward. Ms. Cademartori said that any property owner can grant an easement to a neighbor at any time. Chairman Charville then amended his motion to "the Planning Board NOT require granting or construction of a future roadway easement or stub on Lot #5 or a portion of Lot #6 "; Mr. Sheehan seconded and the motion carried 5 – 0. Atty. Regnante then asked the Board to take action on waiver #4; Chairman Charville answered that the PB had relieved them of the burden of having this on the plan.

Sheet Waivers (Sheets 2, 4, 5, & 6):

These will be determined at a future meeting.

HOA Creation and Document (a –c):

Chairman Charville requested Ms. Cademartori forward the HOA to TC for his opinion.

Naming of Road A:

Developer partner Ken Gudek proposed the name "Tuttle Road" in honor of Pvt. Charles Wesley Tuttle, a Lynnfield native who was killed in action in 1943. Mr. Gudek said he would conduct further research and contact the American Legion about this. Chairman Charville said the PB was in agreement with this.

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Chairman Charville asked Peer Review engineer Bill Jones if he planned to confer with Mr. Sparages and Town Engineer Charlie Richter; Mr. Jones said yes. Chairman Charville asked if the PH could continue at the June meeting; Atty. Regnante said yes, and that another deadline extension would be granted if needed.

Chairman Charville requested a motion to continue the PH until Wednesday, June 26 at 7:30 PM in the Maney Meeting Room at Town Hall. Mr. Sheehan made the motion, and Mr. Wallace seconded; the motion carried 5 – 0.

7. Approval of Minutes – April 24, 2019, and April 29, 2019

Chairman Charville requested a motion that the PB approve both sets of minutes. Mr. Wills motioned, and Ms. Flaws seconded; the motion carried 5 – 0.

8. Administrative Matters/Topics for Next Meeting

Ms. Cademartori informed that a grant had been submitted to revise Greenbelt Zoning Regulations and the Tree Retention Bylaws. She added that the grant requires a match and this would be staff time only. Mr. Wills informed that when the Stafford Road Greenbelt was created, the PB had insisted that this Greenbelt land be “high and dry”, and this had not been a requirement previously. Ms. Cademartori said a Field Inspector had been hired, thus creating a temporary, full time position shared between the DPW (GIS intern) and the Department of Planning and Conservation. She said that in two weeks’ time she would be on a short leave.

Chairman Charville suggested sending the LCWD the revised Road A plans; Ms. Cademartori said all respondents would be notified of the revised plan should they wish to see it (which could be done digitally). Chairman Charville suggested “negative consent” could be used for the memo. Chairman Charville asked that Town Counsel (TC) review the HOA. Ms. Cademartori stated that she is currently working to have all existing HOAs with private stormwater maintenance agreements be brought up to compliance. Findings to date indicate that none of the approximately 30 such HOAs are in compliance. TC has suggested that bond monies could be set aside for this purpose.

Chairman Charville asked about the progress of the revised Zoning Map; Ms. Cademartori said strides are being made by the GIS intern. She added that the project has become increasingly difficult as many errors have surfaced; therefore, all Zoning Warrant Articles dating back to the original 1953 map are being reviewed. This will result in a database for all zoning changes since 1953, which will be very useful. Ms. Cademartori said the town will likely use a new GIS contractor for the final map.

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Mr. Sheehan motioned to adjourn the meeting at 9:31 PM; Ms. Flaws seconded, and the motion carried 5 – 0.

Respectfully submitted,

Susan Lambe, Planning Office