

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

1. 7:04pm - Call to Order

Chair Brian Charville called the special meeting to order at 7:04 pm and identified the Planning Board (PB) members in attendance, including himself, Vice Chair Kate Flaws, Clerk Edward Champy, and members Amy MacNulty and Page Wilkins. He noted staff members in attendance; Director Emilie Cademartori and Administrative Assistant Sondria Berman, and stated the meeting was being recorded by audio.

2. 7:05pm – Continued Public Hearing - 109 Lowell Street (Vallis Way) – Proposed Definitive Subdivision Plan

Chair Charville requested a motion to re-open the public hearing for Vallis Way; Clerk Champy motioned in favor and Ms. MacNulty seconded the motion; the motion carried 5-0.

Atty. Jay Kimball stated the PB was in receipt of a revised definitive plan and stormwater calculations from his client as well as Bill Jones of Linden Engineering's peer review and comments on behalf of the PB. He stated that there are a few outstanding items, including the question of enforcement as it related to each lot's roof infiltration systems as it related to the larger street's stormwater calculations and compliance, and whether or not this should be enforced by the HOA or the town. Atty. Kimball advised that although an HOA can be granted the authority to access and inspect each lot's infiltration systems for compliance, they do not have enforcement authority. He continued that town counsel Tom Mullen recommended PB make a final determination on enforcement in their decision to be recorded at the Registry of Deeds. Mr. Jones stated that the maintenance requirements were included in the revised HOA agreement for Vallis Way, but not the enforcement. He highlighted the concern over builder(s) making modifications to the impervious surface area on a given lot, and how these changes impact the proper functioning of the larger street stormwater system. With proper oversight and compliance, Mr. Jones stated, problems can be avoided- but the concern over who or what can provide enforcement during the street's development remains uncertain. Mr. Jones used the example of Lynnfield's recent subdivision Sagamore Place, wherein roof infiltration systems were not installed and/or were not in compliance with the stormwater calculations for the street due to each lot making design changes to the imperviousness of their lot resulting in drainage problems for homeowners.

Director Cademartori stressed the importance of having language in the HOA that speaks to the requirement for functioning infiltration systems that meet street stormwater standards. She explained that the HOA is ultimately responsible for street stormwater maintenance and the infrastructure. She continued individual lots are not in compliance, this will negatively impact the street's stormwater infrastructure system thereby costing the HOA more money to make repairs.

Clerk Champy inquired if the HOA had the authority to place a lien on an individual property whose lot infiltration systems were not in compliance; Atty. Kimball stated HOAs have the authority to

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

inspect and assess but not to enforce. Ms. Wilkins stated there needs to be a mechanism in place whereby the systems are properly installed, so that inspections and compliance can be done.

Peter Ogren of Hayes Engineering stated that it was written in the PB decision for Pagos Way that the infiltration systems be installed as part of the street's stormwater design.

Director Cademartori stated that the roof infiltration requirements were also included in the Conservation Commission's Order of Conditions (OOC) for each of the lots on Pagos Way, which offered a means of enforcement via certificates of compliance which were required before an Occupancy Permit could be issued by the Building Department.

Clerk Champy raised the concern that builders will be delayed in achieving street acceptance from the town if they must complete roof-infiltration installation on all lots prior to town approval. He added that this perpetuates the bond being held by the town, should a lot on a new street remain undeveloped for years.

Ms. Wilkins asked about what the Building Department and inspector could do to mitigate the issue of enforcement; Director Cademartori stated that oversight requires different departments to collaborate before issuing permits and other permissions, but that this does not always occur and risks builders receiving permits before having completed compliance-related benchmarks. She referenced a home on Pizzuti Way whose sale was delayed due to an open OOC.

Mr. Jones suggested a deed restriction on each of the lots stating that roof infiltration systems be installed in compliance with the street's stormwater system; he added that having a sign-off procedure within the town for permits and inspections might help to ensure the systems are properly installed. Director Cademartori stated a checklist system for each department was recently implemented, but that it requires each department to adhere to the process and standards of practice in order for it work as intended.

Clerk Champy suggested the idea of allowing streets to be accepted with undeveloped lots, provided each lot gives the town a bond of approximately \$10,000 to cover the costs of the infiltration system installations should the lot not install them; Atty. Kimball questioned who would pledge the bond – the builder or the homeowner who buys the lot and if this would cause confusion. Clerk Champy reiterated his concerns rest with the developer of the street having a bond held until all lots are completed.

Atty. Kimball emphasized the importance of having roof infiltration systems for each lot as part of the PB written decision; Mr. Jones stated that the goal is to prevent enforcement from having to take place because proper protections and processes were put in place ahead of time.

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

Paul Caggiano, developer of Vallis Way, asked the PB for clarification on the requirement for stormwater system compliance as it related to street acceptance; Clerk Champy explained that the town is seeking to coordinate stormwater compliance with street acceptance and bond release timelines.

Director Cademartori explained the roof infiltration systems are part of the street stormwater calculations, and therefore each lot must function according to the approved design in order for the street stormwater system to work as intended. Mr. Caggiano stated that in his previous projects, proof of properly installed infiltration systems is required to receive an occupancy permit, and there is no separate bond process with the town. Clerk Champy inquired if occupancy permits are withheld until roof infiltration systems are installed as designed; Director Cademartori stated this is not always the case.

Director Cademartori suggested that the bond for the street be reduced according to the success of each lot having successfully completed their roof infiltration systems; she added that the street could remain eligible for street acceptance even with undeveloped lots, provided a specific sum was left as part of the bond for each lot that did not have their infiltration systems installed.

Mr. Jones stated that the PB could write in their decision that the town has the authority to enforce the roof infiltration requirements for each lot.

Chair Charville cited larger, sprawling subdivisions in the south that do not develop lots for many years allow for road acceptance to occur; he stated it was possible for Vallis Way to receive street acceptance with undeveloped lots provided the PB decision requires roof infiltration systems be compliant with street stormwater system design.

Chair Charville summarized that both the PB decision, and the HOA agreement would include terms specific to individual lot requirements for roof infiltration systems that meet the design specifications for the street stormwater system.

Ms. Flaws suggested the deed to the land also reflect each lot's infiltration system requirements; Chair Charville asked where this would be articulated; Director Cademartori stated the PB decision on Vallis Way could state that the infiltration systems be a part of the deed for each lot.

Linda Vallis of 109 Lowell Street, stated that the developer plans to build the homes himself and sell the homes and land together; she questioned if it was necessary to incorporate special language and requirements for each lot into the PB decision. Chair Charville responded that the PB seeks to be mindful of the possibility that the developer could sell the lots to another developer, builder and/or property manager and this could lead to issues with infiltration and street stormwater compliance. Ms. Flaws added that should Ms. Vallis's lot be subdivided further, there is no guarantee the same developer or builder would be tied to the lots and aware of the stormwater requirements. Ms. Flaws

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

added there would be no new bonds required for the individual lot infiltration systems in the PB decision.

Ms. Wilkins stated that the HOA already states there will be a bond posted; Atty. Kimball clarified that the \$2,500 specified is to establish the HOA fund itself, but is not specific to roof infiltration needs.

Ms. Wilkins questioned why a requirement for roof infiltration systems in the HOA agreement would not be sufficient to ensure compliance for each lot; Director Cademartori echoed Ms. Wilkins's response stating that the enforceability would arise through the HOA's responsibility to ensure proper street stormwater compliance, which requires each lot to establish and maintain functioning systems.

Chair Charville asked about the detention basin's location and size. Mr. Jones stated that ESE performed additional geotechnical testing on site for the basin, and the results came back as overwhelmingly positive. Mr. Jones stressed the soil performed well during testing.

Chair Charville asked about the recent change from a Stormceptor stormwater system to a Barracuda system; Mr. Jones suggested the newly proposed Barracuda system be vetted as it is a different treatment system than the one proposed. He added that he would also suggest moving the infiltration system off the road and onto Ms. Vallis's property.

Mr. Ogren stated that the Barracuda system is becoming the new "standard" in stormwater systems, and did not foresee an issue with the new system. Mr. Ogren also responded to Mr. Jones's request to move the infiltration system away from the roadway and onto Ms. Vallis's property, however, he did not know if Ms. Vallis was comfortable with that change to the plan. Mr. Ogren cited that the system requires maintenance and cleaning, and therefore, he thought it better to be placed in the roadway instead of Ms. Vallis's private property. Mr. Jones responded that the infiltration system's performance would be improved by the relocation onto Ms. Vallis's property. He reiterated new calculations for the Barracuda system would be necessary to confirm his recommendations and the unit's performance. He emphasized having more time to review the Barracuda system.

Chair Charville confirmed that when the Barracuda analyses are completed, this will prompt a change in the definitive plan calculations and depictions; Mr. Jones confirmed that the system change would need to be noted on the definitive plan. Chair Charville asked for PB comments on the stormwater system; none replied.

Chair Charville asked for comments on the proposed retaining wall on Vallis Way. Mr. Jones stated he was concerned about access to the retaining wall for construction and repair, given that the wall will be constructed on Ms. Vallis's private property (Lot 5). He recommended an easement be granted to the town to allow to access the wall. Mr. Jones also recommend the PB determine what the front facing materials of the wall would be and look like. Mr. Jones continued his final concern involved the limit of work line relative to the construction of the wall itself. He raised concerns that either the wall, or the

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

limit of work line, would need to be adjusted to comply with the plan as the current plan does not afford enough space. He offered suggestions of different wall types that could potentially work, but these would depend on the height of the proposed wall.

Mr. Ogren stated that they planned on imposing a 15-ft. easement in which to construct the retaining wall; he added they did not specify which kind of wall would be built as they were considering either poured concrete or a custom engineered wall. Mr. Ogren added that the retaining wall construction itself requires a separate building permit and engineered design, and requested the details of the retaining wall be presented to the PB at a later date for approval.

Mr. Jones suggested the PB confirm the conservation restriction on Lot 5 would not preclude the construction of the retaining wall. He added that an easement should be indicated on the definitive plan and that the PB require the applicant come back to the PB for design review and approval of the retaining wall in their decision. Clerk Champy asked about the height of the wall; Mr. Ogren responded it would likely be between 4-7 feet tall.

Mr. Ogren stated that there was a chart submitted to the PB that showed the proposed restriction area, as updated by Atty. Doyle. Director Cademartori asked why the restricted area was pulled away from the edge of the property lines of Lot 5; Mr. Ogren stated that he believed the trees in the setback would already be protected by the Tree Preservation Bylaw (TPB). Director Cademartori stated that the TPB is only triggered by a building permit, and therefore the building of the retaining wall might trigger it. Chair Charville stated he believed the proposed restriction area, as depicted on the definitive plan, is consistent with what was discussed with Atty. Doyle. Director Cademartori commented that the restriction on Lot 5 only protects a fraction of the hill itself, as evidenced by the topography on the plan.

Chair Charville requested a second plan be produced with less detail than the definitive plan sheets which have a lot of typewritten language on them, so that the restricted area could be more easily discerned. Atty. Doyle stated his conservation-restriction plan incorporates the topography to give context to the area, as Ms. Vallis wished to preserve as much of the hill as possible. He stated that removing the tree depictions on the plan, as well as some of the topography detail, would make the restriction parameters more visible. Director Cademartori stated it would be wise to keep the tree locations on the plan, as it helps to orient oneself when walking the site and determining property/conservation boundary lines.

Chair Charville asked the PB if they required a new definitive plan be produced, with the aforementioned detail updates, before the PB were to issue a decision; Director Cademartori stated that there are two plans to consider – the lotting subdivision plan, and a second (Exhibit B) plan that speaks to the conservation restriction itself for Lot 5. Mr. Jones recommended the conservation restriction plan be drawn up prior to the PB issuing its final decision on Vallis Way.

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

The PB discussed with Atty. Kimball the terms of the deed of easement and if it should be held in escrow; they continued a discussion regarding whether the HOA, the town, or both should be granted the easement and if said easement should be classified as appurtenant or in gross and the potential liabilities and risks of each. Chair Charville concluded a deeded appurtenant easement to both the town and HOA would allow for continued maintenance of the wall in perpetuity. Atty. Kimball confirmed it would be the HOA who would be responsible for the long-term maintenance of the wall.

Mr. Ogren requested the deed of easement be included in the 20-day appeal period; Chair Charville stated he did not oppose its inclusion, but required the PB review the document before its inclusion. Atty. Doyle stated he had not yet provided the PB with a final draft of the deeded easement for the retaining wall but will do so before the PB's next meeting on November 30.

Chair Charville asked for comments on Lot 5 and the proposed conservation restriction boundary as provided on the plan; Ms. Wilkins asked for clarification on how the Town would access the conservation restricted area and whether or not an additional easement would be needed as the area is surrounded by private property; Atty. Doyle stated he would need to discuss with his client a means of granting an easement to the Town for access to the conservation area. The PB discussed the possibility that the 15-ft easement on Lot 5 for the retaining wall could double as a means of access to the conservation area.

The PB confirmed with Mr. Ogren there would be sidewalks on both sides of Vallis Way.

Chair Charville inquired about easements for the water line easements and loop design for Vallis Way; Mr. Jones confirmed the LCWD approved the design; Director Cademartori stated the only item outstanding is the connection from the end of the cul-de-sac at Vallis Way to the Sagamore Spring Real Estate Trust property.

Chair Charville asked about the PB's designation of significant trees; Director Cademartori stated that the PB never decided on specific trees, but focused instead on sensitive areas such as the hill on Lot 5. Chair Charville stated that the conservation restriction on Lot 5 incorporated significant trees, and that each of the new respective lots would be subject to the TPB.

Chair Charville requested to review the waivers for Vallis Way. Director Cademartori stated there appear to be five design standard waivers and four plan waivers; she stated they are referenced in the PB decision but also must be inscribed on the plans. Director Cademartori noted that the subdivision regulations were recently re-ordered, and noted the referenced waiver citations reflect the updated citations. Mr. Jones and Mr. Ogren stated that in the PB decision, the original citations must be used, and the new citations added in parentheses.

Chair Charville asked for comments or concerns with proceeding with a PB vote on the proposed waivers; none replied.

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

Chair Charville requested a motion that the PB waive the design standard requirement § 9.1 A4 to not provide projection / access to adjacent property; Vice Chair Flaws motioned in favor and Clerk Champy seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the design standard requirement § 9.1 D1 to allow a dead-end street to be longer than 500 ft. Vice Chair Flaws motioned in favor and Ms. Wilkins seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the design standard requirement § 9.3 to create one lot that does not comply with zoning requirements. Ms. Wilkins motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the design standard requirement § 10.3 B1 to allow the use of an HDPE pipe in place of a reinforced concrete pipe only in the off-road areas noted; Clerk Champy motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the design standard requirement § 10.7 A to not provide natural gas service to each lot of the proposed subdivision; Vice Chair Flaws motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the plan/sheet requirement § 6.4 B1, to allow use of 1-ft contours in lieu of 2-ft contours; Clerk Champy motioned in favor and Vice Chair Flaws seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the plan/sheet requirement § 6.4 B4 to not show slopes steeper than 15% grade; Ms. Wilkins motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the plan/sheet requirement § 6.4 G1M to not show the detail for wood and/or steel guardrail installations; Vice Chair Flaws motioned in favor and Ms. Wilkins seconded the motion. The motion carried 5-0.

Chair Charville requested a motion that the PB waive the plan/sheet requirement § 6.4 G1U to not show designated tree protections on the plan; Chair Charville motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville inquired when the developer intends to begin work; Atty. Kimball stated his client is still deciding on a timeline.

Atty. Kimball raised the issue of shade/street tree placement; Director Cademartori explained the town regulations require street trees be planted on private property instead of the public right-of-way. She continued that this becomes a problem for the Tree Warden, who must determine which trees are town-

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

owned street trees, as they are not in the public ROW. Director Cademartori suggested making street trees the perpetual responsibility of the HOA, or allow for specific, small box-like easements wherein the trees can be planted and accepted by the town or HOA. Mr. Jones cautioned that box easements can become a problem if/when a property owner wishes to remove a tree to create a new driveway, and then the question of where to replant becomes a problem if the easement is spot-specific. Director Cademartori stated the regulations for new subdivisions require the HOA to maintain 3 street trees per lot no greater than 20 feet from the road. Clerk Champy stated if the HOA requires street tree maintenance and repair, then the enforcement and responsibility for replacement could be issued through the HOA itself. Atty. Kimball recommended the HOA, made up of residents of the street, be allowed to maintain street trees as they have a vested interest in the street appearance being maintained. Ms. Wilkins asked about street tree enforcement by the Town if the HOA is the responsible party for planting and maintaining street trees; Atty. Kimball stated the HOA agreement can specify the Town as a designated entity for enforcement. Atty. Kimball asked if a 15ft. easement, parallel with the roadway, would allow for the HOA and Town to adequately enforce street-tree maintenance. Ms. Wilkins confirmed the HOA would ultimately be financially responsible to maintain and/or replace street trees.

Chair Charville summarized there will be a handful of plan adjustments, HOA agreement and PB revisions to be completed before a final decision on Vallis Way is issued. He asked if the PB decision references the Vallis Way lots correctly; Director Cademartori stated the phrases used are written as “Lots 1-4 and Lot 6.” Director Cademartori asked if the PB would remove from their decision the requirement for the final definitive plan to denote the street addresses for each lot; Atty. Kimball and the PB concurred.

Director Cademartori noted that for a PB decision to be issued for Vallis Way, updated materials need to be received prior to the Thanksgiving holiday. Mr. Ogren requested that Director Cademartori supply him with the waiver citations to add to the definitive plan.

Chair Charville requested a motion to continue the deadline for approval for 109 Lowell Street (Vallis Way) through November 30th, 2022; Vice Chair Flaws motioned in favor and Ms. MacNulty seconded the motion. The motion carried 5-0.

Chair Charville requested a motion to continue the public hearing for 109 Lowell Street (Vallis Way) to Wednesday, November 30, 2022, at 7:00 pm at the Maney Room at Town Hall. Vice Chair Flaws motioned in favor and Ms. Wilkins seconded the motion. The motion carried 5-0.

3. 8:26pm - Administrative Matters/Discussion of Topics for next meeting

Sagamore Place Update: Director Cademartori provided an update on the paving progress at Sagamore Place. She stated the paving was completed and to the satisfaction of the peer review engineer for the Town. She added the drainage seems to be working well. She noted that the street

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

continues to have issues with trash removal; she recommended the residents coordinate a private contract with a trash removal company, especially homeowners who are still continuing with construction projects and dumpsters. She noted the winter weather will only make trash more of an issue for homeowners, who will likely have a harder time moving their trash to a dumpster in snow.

Director Cademartori noted that for the Vallis Way PB decision, it would be important to state the plan for how trash removal will be coordinated before, during, and after street construction, paving, and acceptance.

Mini-Master Plan Update: Director Cademartori asked if the PB could meet an hour before the regular PB monthly meeting to host the kickoff meeting for the mini-master plan; she also suggested scheduling the mini-master plan as the last item on the agenda to allow for other matters to be addressed prior. Director Cademartori said the scope of the mini-master plan would be finalized the week after town meeting, followed by a contract signing with the consultant.

December PB Meeting Date: Chair Charville asked about the date for the December PB meeting; Director Cademartori stated the date is Wednesday, December 21st, and she would not be able to attend. Chair Charville stated the PB could consider the date of December 14th for the meeting, but would make the final determination at a later time.

4. Approval of Minutes – October 19th, 2022 and October 26, 2022

Chair Charville requested a motion to approve the minutes for the October 19, 2022 PB Public Hearing and the October 26th, 2022 PB meeting. Vice Chair Flaws stated she wished to amend the October 19, 2022 minutes with a correction on page 3 paragraph 5, to reflect her statement was to amend the development agreement by removing the word “detached” so as to allow the agreement to stand with 66 units to be built as detached or attached homes.

Chair Charville requested a motion to approve the October 19, 2022 PB Public Hearing minutes, as revised by Vice Chair Flaws and the October 26, 2022 PB meeting minutes as written; Clerk Champy motioned in favor and Vice Chair Flaws seconded the motion. The motion carried 5-0.

Dan Tomasello of the Lynnfield Villager asked the PB to clarify if Toll Brothers would build a subdivision should the two proposed zoning amendments not pass at Town Meeting; Chair Charville stated it was shared with the PB that should one or both amendments fail at Town Meeting, the development could proceed as a subdivision with Toll Brothers serving as developer. The PB exchanged comments regarding the upcoming Town Meeting, specifically the possible developments that could occur at Sagamore Spring Golf Course.

5. 8:40pm– Adjournment

LYNNFIELD PLANNING BOARD SPECIAL MEETING – NOVEMBER 2, 2022

Chair Charville requested a motion to adjourn. Mr. Champy motioned in favor and Ms. Flaws seconded the motion. The motion carried 5-0.

Respectfully submitted,
Sondria Berman