

LYNNFIELD PLANNING BOARD MEETING October 14, 2020

1. Call to Order

A special meeting of the Planning Board (PB) was held on Wednesday, October 14, 2020. Chairman Charville called the meeting to order at 7:04 PM and said this meeting would hear Warrant Articles (WA) in advance of Town Meeting (TM) and would include a Public Hearing (PH) for WA #9 as it was a Zoning Bylaw. Planning and Conservation Director Emilie Cademartori informed that the time for TM had been moved from 10:00 AM to 4:00 PM due to predicted inclement weather. Chairman Charville said the meeting was being held virtually per Governor Baker's directive and would be recorded, and that a quorum of PB members were in attendance, including Chairman Brian Charville, Vice Chairman Michael Sheehan, Tom Wallace, and Ed Champy; Clerk Kate Flaws would be arriving shortly.

2. Public Hearing – Warrant Article 9 – Open Space Residential Design (OSRD) Bylaw

Mr. Sheehan motioned to open the Public Hearing (PH) and Mr. Wallace seconded it; the vote was taken via roll call: Charville-Aye, Sheehan-Aye, Wallace-Aye, and Champy-Aye, and the PH notice was partially read. Mr. Wallace motioned to waive the reading in its entirety and Mr. Champy seconded it; the vote was taken via roll call: Charville-Aye, Sheehan-Aye, Wallace-Aye, and Champy-Aye.

Chairman Charville said the WA would be voted on at Town Meeting on Saturday the 17th at 4:00 PM. Chairman Charville said the Finance Committee (FinCom) had voted on this and WA 8, the Tree Protection Bylaw, with the result of unanimous support for the tree bylaw and 8 – 2 support of the OSRD bylaw. The FinCom had concern over including “duplexes and 2-families” in the OSRD bylaw and requested it be removed. Resident John Thomas, 1385 Main St., presented questions:

- Is the drafted, 13-page bylaw specific to Lynnfield, or is it a “canned” version; Chairman Charville explained it was drafted using an MAPC grant and was modified for Lynnfield but based on their standard bylaw.
- Are lot dimensions, frontage, and coverage minimums no longer binding when an OSRD subdivision is being planned; Chairman Charville said yes. Additional discussion ensued regarding Ground Water Protection District restrictions, and Ms. Cademartori explained that the regulations referred to were all state law and had been included in the WA for clarification.
- Is the open space requirement a minimum of 50%; Ms. Cademartori said yes. Mr. Thomas stated that portions of this can be allocated for conservation and recreation and other purposes, which in the aggregate could decrease actual open space to 15%.

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- Shared driveways and cluster parking requirements were a concern; Ms. Cademartori said these were erroneously included.

Resident Paul Marchionda, 77 Bourque Rd., congratulated the PB on drafting the OSRD bylaw, and said he was concerned about the legality of taking away by-right subdivisions and he felt the bylaw needed more work. Chairman Charville said that Town Counsel (TC) had confirmed it was legal; Ms. Cademartori added that such a bylaw has been approved by many other towns. Resident Holly Ciampa, 2 Friendship Ln., stated her opposition to the bylaw saying she preferred open space in Lynnfield. Resident Ken Peterson, 1477 Main St., said he was very opposed to the bylaw as the northernmost Residence D district had limited water supply and no fire suppression system; he added that OSRD puts all zoning aside and requested an exemption from OSRD for the Residence D zone. Mr. Peterson urged TM to reject this and stated the bylaw was a “power play by the PB in order to reject all zoning in town”. Chairman Charville responded that Mr. Peterson clearly did not fully understand the proposed bylaw and he requested staff to include the comment letter from resident Alan Dresios in the hearing record.

Mr. Wallace informed that the OSRD development Caldwell Farms in Newbury was able to preserve 80% open space and this boosted selling prices of the 62 cluster-style and two 2-family units to single-family levels. Mr. Wallace recommended reading the entire WA to understand the many benefits OSRD offered, including enhanced market value and incentives for developers. PB members discussed whether to remove 2-families from the bylaw, and it was decided to do so in order to garner greater overall support.

Chairman Charville summarized the OSRD bylaw:

- Encourages shared water supply and shared septic systems
- Applies to Residence B, C, and D zones only
- Does NOT allow a higher yield than traditional subdivision would achieve on a site
- Is NOT a power grab by the PB as it will actually create more work for the Board and for Planning and Conservation staff
- Overall, “a smarter way of doing things”

Chairman Charville requested a motion to adopt WA 9 as printed, subject to deletion of 4.10.8, subsection 1B, and, deletion of 4.10.12, subsection 2; as well as any needed numbering changes. Mr. Wallace made the motion, and Mr. Sheehan seconded it; the vote was taken via roll call: Charville-Aye, Wallace-Aye, Sheehan-Aye, Flaws-Aye, and Champy-Aye. Ms. Flaws then motioned to close the PH, and Mr. Wallace seconded it; the vote was taken via roll call: Charville-Aye, Wallace-Aye, Sheehan-Aye, Flaws-Aye, and Champy-Aye.

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3. Article 5 – Proposed Eminent Domain Acquisition of 163 Lowell Street

Historical Commission (HC) Chairman Kirk Mansfield presented the WA submitted by the HC; he said the owner of the property, known as “The Smith Farm House”, had intended to raze the home and the HC had posted a meeting about this. Mr. Mansfield said that residents and abutters attended the meeting, but the owner(s) did not. At this meeting, the HC chose to enact the 1-year Demolition Delay Bylaw (DDB) as this is an impressive, historic home, the demolition of which would be a loss to the town. Mr. Mansfield said this allows time to discuss the possibility of the town acquiring the property to permanently protect it as was done with the Centre Farm (CF) on Main Street. Chairman Charville asked about funding for such a purchase; Mr. Mansfield said he had a meeting the next day to discuss this, and he envisioned a process similar to CF when the town purchased the property, added restrictions, and then re-sold it. Mr. Champy noted that CF was a much larger parcel and the deed restrictions reduced its value; he then asked how large the Smith Home was and whether it would need restrictions. HC member Roy Sorli said CF had 3-4 developable lots, and this parcel had no developable land and the home was in very good shape. Mr. Champy said it made sense to preserve the home if it could be done without a financial loss; Mr. Sorli said the new owner would have to agree to uphold the historical restrictions, and Mr. Mansfield said that CF was an outright purchase, it was not taken by eminent domain. Mr. Champy said the property was adjacent to the Boston Clear Water (BCW) site; Ms. Flaws questioned whether the town would be able to sell it and Mr. Mansfield noted that the rear landscaping would need significant improvement. Mr. Champy said the acquisition price of the home in November 2019 was \$860K and Mr. Wallace mentioned the previous homeowner and 4 other BCW abutters had sued BCW and expressed concern the town may have to hold the property while lawsuits are pending.

Atty. Julie Connolly, representing the property owner, Virgil Lynnfield Properties LLC, said she had many concerns, including:

- Virgil only learned of the planned eminent domain takeover from TC on September 17th as no public meeting notice was ever posted; she added this is a violation of the Open Meeting law and her client would have attended.
- Virgil has no intention of razing the building and this matter is a “misunderstanding” between the owners, who only wish to do work on side porches which a structural engineer has deemed unsound.
- The requested Building Permit was to work on restoring and improving the property.

Atty. Connolly said she had told TC of Virgil’s not wanting to raze the building; TC informed her that the BOS wish to proceed with the WA, but she requested that the PB NOT support the

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WA as Virgil wants to preserve the property and would meet with the HC and the PB to work out the historical designation. Mr. Mansfield said he had received the demolition notice which stated the reason for it as “personal”, and added that the owner did receive notice of the meeting. Chairman Charville asked if Mr. Mansfield and Atty. Connolly had spoken prior to this meeting; both said no. Atty. Connolly restated that they were unaware of the eminent domain issue until September 17th and added that the current owner would agree with the town to designate the property as historical. Mr. Mansfield asked if 163 Lowell St. was the owner’s first property purchase; Atty. Connolly said, yes, it was Virgil LLC’s first purchase. Mr. Mansfield asked who filled out the demolition request; Atty. Connolly thought it was Paul Marchionda. Mr. Marchionda stated he had filled out the form as he was the Property Manager. Mr. Mansfield asked him if this was his first building permit and how it came about that razing was requested vs. rebuilding. Atty. Connolly said it was a misunderstanding due to the razing of the side porch; she added that there exists “no common ownership between Virgil and BCW, but they are friendly”. Chairman Charville asked if the demolition permit had been pulled; Mr. O’Callaghan said the permit was still open but it had been denied. Atty. Connolly said the permit was pending due to the DDB; Mr. Sorli said the delay period is 1-year and would expire on 7/29/2021. Mr. Mansfield said the owner now said he wanted to preserve the home, yet he had an email he read between attorneys stating “Mr. Gattineri will not allow preservation of the home past 3 years”. Atty. Connolly requested discussing this matter offline.

Mr. Sheehan said these discussions should have occurred prior to this meeting, but the property was worth preserving and he hoped both parties could work together. Ms. Flaws said she supported the WA in order to give the BOS the option of eminent domain if needed. Mr. Champy and Mr. Wallace both echoed the support of the WA. Mr. Sheehan motioned to support the adoption of WA 5 at TM while encouraging both parties to work together to resolve this issue. Mr. Champy seconded the motion; the vote was taken via roll call: Charville-Aye, Sheehan-Aye, Wallace-Aye, Flaws-Aye, and Champy-Aye.

4. Article 8 - Proposed Tree Protection Bylaw Update

Chairman Charville requested Ms. Cademartori give a brief presentation of the bylaw, which she concluded by saying the bylaw is “lengthy in text, but simple in purpose”. Chairman Charville said the FinCom had unanimously supported the bylaw. Resident Patricia Campbell, 7 Patrice Lane, asked whether “private property” meant all property; Ms. Cademartori said it did not include town- or state-owned property, or lots smaller than 7500 square feet. Mrs. Campbell said she was concerned the PB would take over all of our trees and the public needed a more formal presentation to help understand the bylaw, especially Table 1. Mr. Marchionda said he felt the bylaw infringed his rights and asked for details on the proposed mitigation. Chairman

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Charville said hazardous trees were not subject to the bylaw and mitigation would be based on replacement tree costs at the time. Mr. Marchionda said the bylaw was well intentioned but people needed to know how much associated costs were. Resident Jim Healey, 17 Pine Hill Rd., asked for a range of current tree costs; Ms. Cademartori said that depending on species and size, cost could range from \$50 - \$500. Ms. Cademartori estimated the average cost to be \$100 - \$200 per tree, and added that the Tree Warden had a recommended list of trees and she did not wish to speak for him. Mr. Marchionda said to mitigate a 24" tree, the cost of 12 2" trees would be \$1200 - \$2400. Ms. Ciampa asked if the bylaw also applied to developers; Ms. Cademartori said new subdivisions would be subject to the tree yards based on the new lot lines. Ms. Ciampa asked if a developer was unable to plant, would they be subject to mitigation; Ms. Cademartori said yes. Mr. Peterson said he shared Mr. Marchionda's concerns and asked if hazardous trees included "overhanging" trees; Chairman Charville said trees interfering with structures were considered hazardous. Roy Sorli, 244 Main St., said he grew trees with the intention of using them as firewood; Ms. Flaws said she had taken down trees to avoid them becoming hazardous, and both wondered how the bylaw would affect them. Mr. Wallace motioned that the PB recommend adoption of WA 8 as printed at TM, and Ms. Flaws seconded it. The vote was taken via roll call: Charville-Aye, Wallace-Aye, Sheehan-Aye, Flaws-Aye, and Champy-Aye.

5. Approval of Minutes – September 30, 2020, and October 6, 2020

Mr. Sheehan motioned to approve the September 30, 2020, and October 6, 2020 meeting minutes as circulated, and Mr. Champy seconded it. The vote was taken via roll call: Charville-Aye, Wallace-Aye, Sheehan-Aye, Flaws-Aye, and Champy-Aye.

6. Administrative Matters/Topics for Next Meeting

Chairman Charville said the WAs would be heard by the Board of Selectmen the next evening, that TM would be on Saturday at 4:00 PM., and the next regular PB meeting would be on October 28th. Prospective topics include: the Preliminary Plan for 109 Lowell St., and an ANR for Harvey Park.

Mr. Champy motioned to adjourn the meeting at 9:03 PM; Ms. Flaws seconded the motion. The vote was taken via roll call: Charville-Aye, Wallace-Aye, Sheehan-Aye, Champy-Aye, and Flaws-Aye.

Respectfully submitted,

Susan Lambe, Planning Office