

# **Minutes of the Planning Board 2017 Annual Town Meeting Public Hearing of March 7, 2017**

Pursuant to a notice filed with the Town Clerk, the Planning Board met at 7:00 p.m. on March 7, 2017 in the Second Floor Hearing Room, 22 Monument Square, Concord, MA.

Present:

Brooke Whiting Cash  
John Cratsley  
John Canally  
Rob Easton  
Gary Kleiman  
Allen Sayegh

Marcia Rasmussen, DPLM Director  
Elizabeth Hughes, Town Planner

Absent:

Matt Johnson

The public hearing commenced at 7:00 p.m. and was broadcast live and recorded by CCTV. Chair Whiting Cash asked that anyone else present recording the meeting needs to inform the Board.

## **Article 35 Site Plan Review for Religious Uses, Educational Uses, and Child Care Facilities**

Mr. Canally went through the presentation for Article 35 and then asked for any questions. There were no questions from the Board or the public.

## **Article 36 Professional Office**

Mr. Kleiman went through the presentation for Article 36 and then asked for any questions. There were no questions from the Board or the public.

## **Article 37 Nonconforming Single and Two-Family Residential Structures**

Mr. Kleiman went through the presentation for Article 37 and then asked for any questions. There were no questions from the Board or the public.

## **Article 38 Residential Uses**

Mr. Kleiman went through the presentation for Article 38 and then asked for any questions. There were no questions from the Board or the public.

### **Article 39 Marijuana Establishment Temporary Moratorium**

Mr. Easton went through the presentation for Article 39 and then asked for any questions.

Nancy Beeuwkes, 1360 Monument Street, asked if the Board of Health would be involved in the process. Mr. Easton replied that yes they would be involved and have submitted a letter to the Planning Board in support of the Article.

There were no further questions from the Board or the public.

### **Article 40 Tree Preservation Bylaw**

Ms. Whiting Cash went through the presentation for Article 40 and then asked for any questions.

Mark White, 233 Independence Road, asked if any consideration had been given to allow trees to be removed without the required mitigation that are inhibiting the growth of a more substantial tree based on the recommendation of a certified arborist. Ms. Whiting Cash responded that there currently was no provision for this type of removal if it was part of a project, but there is a provision in the bylaw to appeals to the Board of Appeals.

Mr. White asked if there was any exemption for putting in a new driveway on an undeveloped lot. Ms. Whiting Cash replied that no there was no exemption because the intention is to protect the trees along the street to the maximum extent possible to preserve the neighborhood character. She noted it was a balancing act when developing a lot on the placement of a house and driveway and the preservation of trees.

Mr. White commented that the aerial example in the presentation is a project his company is developing and it was not an accurate representation of the site because it didn't have any significant trees larger than 6 to 8 inches.

Elissa Brown, 158 Laurel Street, questioned how the 12 month time period in the Bylaw would work. Ms. Whiting Cash replied that the Town has very good aerial photos to use to check, as well as when lots are being developed, neighbors are pretty good about taking pictures. She noted that the hope is the lot isn't just cleared and then sold.

Ms. Brown questioned whether in the first year there would be a lot of tree removal. Ms. Whiting Cash thought it is possible if homeowners thinking of selling thought clearing the lot would make the lot easier to sell. Ms. Brown questioned how the 12 month limitation would come into play once the Bylaw passes. Ms. Whiting Cash stated that the Town cannot go back 12 months before the Bylaw passes.

Holly Cratsley, 10 Edmonds Road, questioned whether a person could replant on someone else's lot or in a park. Ms. Whiting Cash replied that there is a provision to allow a person to plant on an adjacent lot with that owner's permission, but not in a park. She stated that if someone contributed to the Tree Fund, those trees would be planted in residential neighborhoods and not in parks.

Ms. Cratsley expressed concern with the smaller lots and four items: the need to put in a foundation that needs four feet, which can go into the setback area; the need for a septic system, which can go into the setback area; driveways are legal in the setback area, and; play equipment. She noted that all of these are difficult in the Residence C Zone District and the Board should consider exempting them. Ms. Whiting Cash disagreed, noting that in the Residence C Zone District the loss of larger trees makes the biggest difference given the denser development and that the neighborhood character and community preservation would be most critical in those neighborhoods. The whole point, she noted, was to make there be a cost benefit analysis for the construction of a new house as to where the house, foundation, driveway are to be place in relation to the existing trees.

Tanya Gailus, 62 Prescott Road, raised an issues she has discussed with the Board previously regarding the Bylaw not utilizing the critical root zone, having the Town be in charge of how a tree should be protected since the arborist is hired by the owner/developer and trees should be protected, as they are in Lexington, whether they are invasive or not because of the wildlife and habitat value. Additionally, she felt that the trees to be replanted should be native. Ms. Whiting Cash replied that the removal of the critical root zone was done to simplify the bylaw, the amount of staff time and the financial burden to the Town. She opined that Lexington is not a good example for Concord, because some invasive species like Norway maples are important street trees in a more urban environment due to their hardiness, but that is not the case for Concord. Ms. Whiting Cash added that replanting natives is not a requirement and that the Board did not feel that should be a limitation.

Board member John Canally questioned how the Board came up with the \$375 mitigation fee. Ms. Whiting Cash replied that the fee would ultimately be part of the Rules & Regulations adopted by the Select Board, but the intention was to look at the cost of the replanting option and make it equal to or exceed a reasonable market rate replanting cost.

Ms. Brown questioned how the fine schedule was set up. Ms. Whiting Cash noted that the Town was limited to the State's limit for noncriminal fines and a violator would be fined the noncriminal fee as well as the mitigation fee.

Edward Perry, 362 Bedford Street, asked how 4.1(c) would be implemented in Concord Center which has many large homes, where a small addition would not fall under this Bylaw, but large trees could be removed. Ms. Whiting Cash stated that the balance in the Bylaw was looking at the addressing the biggest concerns in balance with people who wanted to do small additions, needed a new septic system, or wanted to install solar against the staff burden to implement the Bylaw.

There were no further questions from the Board or the public.

#### **Article 41 Tree Preservation Revolving Fund**

Ms. Whiting Cash went through the presentation for Article 41 and then asked for any questions.

Elissa Brown, 158 Laurel Street, questioned whether trees would be planted on private property or in the right-of-way. Ms. Whiting Cash informed her that the Town already has a public shade tree planting program where the Town plants Town street trees within the first 20 feet of private property adjacent to a public right-of-way because planting within the right-of-way might be good due to utilities. These trees are jointly owned so the owner cannot cut the tree down years later.

Dean Banfield, 73 Walden Terrace, questioned whether a new owner of a public shade tree on private property is notified or if there is something recorded on the property. Ms. Whiting Cash stated that the Town has a GIS layer documenting the public shade trees, but did not know if other documentation was required.

There were no further questions from the Board or the public.

### **Article 42 Alternative PRD & Article 43 Release of Deed Restriction**

Mr. Jack McBride, 57 Everett Street and Article Petitioner, went through the presentation for Article 42 and then Article 43. Mr. McBride asked for questions following the two presentations. There were no questions from the Board or the public.

Chair Whiting Cash thanked everyone for attending the public hearing and their thoughtful questions.

On a motion made by Mr. Canally and seconded by Mr. Kleiman, the public hearing was closed at 8:05 p.m.

On a motion made by Mr. Kleiman and seconded by Mr. Easton, the meeting was adjourned at 8:06 p.m.

Respectfully submitted,

Gary Kleiman, Clerk

Minutes approved on: 4/4/17