



**Town of Concord, Massachusetts**  
**22 Monument Square, Concord, MA 01742**

## **Tree Preservation Subcommittee Minutes 06-20-16**

Pursuant to a notice filed with the Town Clerk, the Tree Preservation Subcommittee met at 7:00 am on Monday, June 20 in the First Floor Meeting Room, 141 Keyes Road, Concord, MA.

Members present:  
Elissa Brown, Chair  
Tanya Gailus  
Rob Meltzer  
Gail Magenau Hire  
Pete Funkhouser

Staff Present: Elizabeth Hughes

Citizen Present: Mark Gailus

The meeting commenced at 7:00 a.m. and was audio-recorded. Ms. Brown took the minutes for the June 20, 2016 meeting.

### **Meeting Minutes.**

The minutes of June 3, 2016 were reviewed. Ms. Gailus and Ms. Brown suggested amendments to be incorporated. A motion was made by Ms. Hire to approve the minutes with the proposed amendments. Ms. Gailus seconded. All voted in favor

### **Review of Wellesley Bylaw**

Mr. Meltzer introduced the Wellesley Bylaw, explaining that the "intents and purposes" section was a weak spot, open to a challenge since it was based on aesthetics and property values. Ms. Brown asked whether it had been challenged, to which Mr. Melzer replied that it had not. Ms. Hire stated that property values are a legitimate zoning purpose.

Mr. Melzer further explained that Wellesley skipped the issue of surveying and went right to "protected trees", which are very large trees that may have an impact on habitat. The bylaw has been in effect for four years, but only applies in limited circumstances. There is a relatively short process for obtaining a tree protection permit.

Ms. Gailus noted that the Wellesley bylaw references Large House Review, which Concord does not have and that a Concord bylaw would need to be revised to accommodate it. Mr. Funkhouser said we are not at that level of detail yet. Ms. Gailus explained that she was referring to the note from Ms. Whiting Cash. Mr. Melzer stated that a concern in Wellesley was that houses on the order of 20,000 sf were being built and that there were concerns that these would be unsaleable except to non-profit agencies, which would impact the town's tax base.

Mr. Meltzer mentioned that the definitions section was clearly written.

### **Newton Bylaw**

Ms. Brown questioned whether the Newton bylaw should be discussed because it did not seem to be a good fit for Concord.

Mr. Melzer responded that parts of the Newton bylaw had value because it was written at least in part to address abandoned housing stock that was being replaced by very large houses, balancing redevelopment with change in town character. Although a permit is necessary in Newton, there are several exempt categories. There have been instances when delays in obtaining a tree permit have held up a property closing. However, fees for violations are so low that developers have found that it is sometimes cheaper to pay the violation rather than go through the permit process.

Ms. Hughes suggested that we wait to move forward on drafting a bylaw until after reporting to and getting feedback from the Planning Board.

Mr. Funkhouser noted that the permits reviewed by the Subcommittee shared the same general principles: regulate private property only, require a building permit, require an arboreal study, are enforced by the local building department, and include penalties.

A brief discussion ensued as to whether the Subcommittee should be limiting its focus to private property. Ms. Hughes stated that she believed that the Planning Board was interested in private property only, but that the question should be raised with the Planning Board. Ms. Gailus questioned why public projects should not be included if the bylaw is based on aesthetics. Ms. Hughes responded that Town projects are for public purposes, not monetary ones. Ms. Hire suggested that this would also be a good question to ask the Planning Board.

#### Planning Board Presentation

Ms. Brown stated that she would prepare a presentation for the Planning Board. Mr. Funkhouser stated that we should mention the fact that we have not been able to define the magnitude nor the cost of the problem, which will be a key analysis required by the Finance Committee. Ms. Hughes volunteered to reach out to the Town of Wellesley to see how much it costs the Town and how much effect is having on the town and private property.

Mr. Meltzer questioned whether a bylaw would solve an actual problem, for example if it only addresses 10-in DBH trees it may not effectively protect wildlife habitat. Ms. Hire mentioned that the USDA Tree Calculator, the link for which is posted on our website, is helpful for identifying benefits. Ms. Hughes stated that if the Subcommittee moves forward with a bylaw, that a public outreach/education program will be necessary to accompany it. Mr. Meltzer stated that he believed there would be a lot of pressure from developers and it would really come down to private property owners to take care of their property before it changes hands.

Ms. Gailus questioned whether the Subcommittee members would be able to comment during the Planning Board meeting, since both were posted as public meetings. Ms. Hughes explained that when there is a presentation from a subcommittee it is posted as a meeting for that subcommittee in case there is a quorum.

Ms. Gailus also asked how important an issue cost consideration might be since town citizens may not object to added costs if the environmental benefit of a bylaw might be seen as worth it. Ms. Hughes stated that educating the public about the environmental benefits would be part of the process but that homeowners will need to have an idea of cost and the Finance Committee will not support a bylaw without cost data.

Mr. Meltzer drew attention to Wellesley's Critical Root Zone, which he said can take up much of a homeowner's property. Ms. Brown stated that Cherrie Corey had spoken to the value of retaining a continuous canopy, with good local documentation. Ms. Gailus stated that that concept resonates with trees connecting at roots.

#### Procedural Questions

Ms. Hughes volunteered to set up a Doodle poll with times for the next meeting.

Ms. Gailus questioned the term limits established in the Subcommittee charge and whether that would impact service on other Town committees. Ms. Hughes stated that the period of the term set forth in the charge is not set in stone, what is important is that the Subcommittee get to the stage of being able to submit a draft bylaw at Town Meeting. That may take considerably longer than 18 months.

Mr. Meltzer voted to adjourn the meeting at 8:06 am. Ms. Gailus seconded. All voted in favor.