

TOWN OF LINCOLN
MINUTES OF THE PLANNING BOARD
JANUARY 12, 2021
ZOOM MEETING

PRESENT: Margaret Olson (Chair), Lynn DeLisi (Vice-Chair), Gary Taylor, Stephen Gladstone, Robert Domnitz.

STAFF: Paula Vaughn-MacKenzie

7:00 PM Fence Permit, Section 18.5: Pless, 112 Codman Road, Parcel 171-30-0. Request for a fence permit.

Benjamin Pless is requesting a fence permit to run along Route 117 and Codman Road to help diminish the impact of the road traffic on the yard and in the house.

The fence is in three sections. A 200 foot section along Route 117, a 14 foot opening with a 6 foot high gate for the driveway, a 96 foot section along Codman Road, another 14 foot opening for the driveway (which is U shaped) with no gate, and an additional 24 foot section along Codman Road.

The fence is 8' high cedar tongue and groove that tapers to 6' high at the driveway openings and at each end of the fence. The fence will not be painted.

There is a sidewalk along the road and the fence will be sited behind a stone wall and line of trees. The distance from the sidewalk ranges from 9-15 feet from the edge of the sidewalk. The land slopes down from the sidewalk towards the house approximately 1+ feet so that the view of the fence from the street will be no higher than 7 feet.

The applicant submitted plot plan showing the location of each section of the fence and the gates, a schematic of the entire fence length, and a sketch showing a representation of the view from the sidewalk.

The applicant has also submitted a sketch showing the sight lines as well as a photo of the proposed fence.

The applicant has submitted photos of the streetscape view of the locations of the proposed fence along route 117 and Codman Road.

PV-M reported on the compliance of the proposal with the criteria for fence approval contained in the zoning bylaw.

18.5.5 Criteria For Approval In deciding whether to approve an application for a fence, the Building Inspector or Planning Board shall be guided by the following criteria. The Building Inspector may consult with the Planning Board on any fence application.

1. Fences must be constructed of materials which blend harmoniously with the surrounding landscape and the immediate neighborhood.

The fence material is natural cedar which has been preferred in Lincoln.

2. Fences shall be placed so that the finished side faces the street or other property open to use by the general public.
3. On a corner lot, in order to ensure visibility, no fence higher than three (3) feet shall be erected, placed or maintained within the triangular area formed by the intersecting streets (measured at the edge of paving) and a straight line adjoining said streets measured at points which are twenty-five (25) feet back from the point of intersection of said street lines.

This is not a corner in the usual sense as you bear onto Codman Road. The fence is located behind the tree line and stone wall, so it does not affect any sight lines.

4. Fences shall be located so as not to restrict sight distances at driveway entrances and exits.

The two exits for the driveway are not affected. The first has no gate and a car that is exiting will clear the fence to exit. The second end of the driveway will also clear the gate which will be approximately 20' back. Sight distances are not affected by this proposal.

5. The location of a fence shall allow adequate space for snow clearing and storage consistent with the Town's normal snow removal operations. The Building Inspector or Planning Board shall consult with the Lincoln Department of Public Works to review a proposed fence location.

The location of the fence is behind the tree line and stone wall and will have no effect on snow clearing activities of the Town.

6. The location of a fence shall be set back at least ten (10) feet from the edge of the public way where there is no bicycle path or sidewalk, and at least five (5) feet from a bicycle path or sidewalk.

The proposed fence exceeds the five foot setback from the sidewalk. The fence will be located a minimum of 9 feet from the edge of the sidewalk.

7. The location of a fence shall allow adequate space for safety of pedestrians and for access by emergency vehicles. The Building Inspector or Planning Board shall consult with the Public Safety Officer to review a proposed fence location.

The fence allows adequate space for emergency vehicles and does not impact pedestrians.

8. Conservation. The Building Inspector shall consult with the Conservation Commission to review the proposed fence location with regard to the Town's natural resource protection goals. These goals include wild life, plants and wetlands.

This application was sent to Conservation Department for review. A site visit was conducted, and staff of the Conservation Department concluded that the fence did not affect any wetlands and no permitting was required.

The applicant submitted a revised sketch for the first 48' of the fence adjacent to the Braithwaite property. The first 24' of the fence will be four feet high in order to tie into the neighbor's fence. The second 24' of the fence will transition gradually from 4 feet high to 8 feet high.

PV-M noted that there was a sidewalk along the entire length of the property. The fence is located behind a stone wall and then behind a stand of trees. The land slopes down from the road approximately one foot so that the height of the fence will appear to be approximately seven feet high rather than eight feet high and where the land flattens out on the Codman Road end, it will be eight feet high.

PV-M received requests from various abutters. Charlotte Trim, a direct abutter sent an e-mail stating that she had no objections to the fence and that it will not affect sight lines because it will be located behind the tree line. Mr. Pless came to an agreement with his other direct abutter, Ann Braithwaite and revised the fence accordingly as shown on the submitted sketch. Denis and Valerie Fox requested plans and Denis Fox was in attendance.

Photos of the site were shown as well as the Google map. BD asked if the greenery shown on the google map was just the canopy of the trees. MO stated that it was, and PV-M showed photos showing the lack of understory beneath the tree canopy.

BD noted that the location of the fence was measured from edge of the sidewalk and not the property line and wondered if they were sure the fence was on the homeowner's property. The Board members did not think that fence could be in the Town right of way because it was so far back and behind the stone wall. BD wondered if there was any vegetation that needed to be maintained. There is only the line of existing trees and the fence will be located behind the trees.

GT made a motion to approve the fence application as submitted.

Mr. Fox stated that he had some concerns. He and his wife have lived in Lincoln for 26 years and he noted that the neighborhood is very pretty and nicely wooded. It is his opinion the fence is too long and too tall which makes it look unfriendly. He thought the 8 foot height was out of character with the Town. He suggested that Mr. Pless plant a vegetative buffer instead or a shorter fence that would still afford privacy. He noted that the fence application complied with the fence approval criteria but was asking the Planning Board to consider the impact of the fence on the Town's character. He noted that the bylaw talks about the design and that it should be harmonious with the surrounding landscape and consistent with the character of the Town.

LD noted that she lives on route 117 and it is filled with fences because of the traffic noise and lights. She thought you need to balance the reality of the road with what it looks like to people walking. She noted that there are many fences along 117 and that adding another will not matter. MO noted that she lives in the area and walks. She walked by this house every day to the train. The fence will be well back from the sidewalk so it will not detract from the view in a meaningful way. She agreed with LD that the noise and traffic affected the properties along 117 and that many of them have fences. BD noted that there are fences along 117 but he thinks this particular area is very bucolic. He noted that there are no fences in the immediate area and this fence will change the look and feel of the area. He noted that Mr. Pless has the right to put up a fence without question, but the Board has the obligation to find harmony with the Town. BD asked if a six foot fence would be sufficient to block the car lights. Mr. Pless responded that he has thought about this fence for awhile and has tried to balance the various concerns by placing the fence behind the tree lines. Mr. Pless did not believe that a six-foot-high fence would be sufficient.

MO agreed that because the fence will be located behind the tree line, it will not intrude on the view. BD asked if there were any decision criteria that the Board used for the height of fences. PV-M responded that if a fence was within 20 feet of a lot line and greater than 3 and ½ feet, a fence permit is required. Historically the Board has approved up to ten-foot fences along route 117.

SG called the motion.

GT noted that he came from California where if you wanted to change the windows in your house or paint it a different color, you needed to go before an architectural design board. He noted that we have a set of bylaws that guide decision making and the last thing he would want to see is the Planning Board devolving into a design review board based on individual tastes and opinions. MO agreed. BD thought the Board has an obligation to see if the fence blends harmoniously with the surrounding landscape and noted that there had been no comments on the design of the fence. Denis Fox stated that he had no problem with the design of the fence but would like to see the height be six feet.

There were no further comments.

GT had made a motion to approve the fence as submitted. LD Seconded. Roll Call: SG Aye, BD No, LD aye, GT aye, MO aye. The motion passed 4-1.

7:40 PM Discussion: Review of Draft of Revision of Accessory Apartment Bylaw

The Board has discussed deleting the ten year age of the structure requirement for accessory apartments. The requirement is awkward and has resulted in some applications being rejected. Some are rejected because the applicant needs to construct an addition to create the apartment or the applicant wishes to construct a new detached garage with an apartment above. BD and PV-M researched the history of accessory apartments. BD noted that when the bylaw for accessory apartments was first put on the books in 1972, there was concern about essentially turning the R1 district into a de facto two-family district. The bylaw as it was amended from the original, allowed

accessory apartments to be added to any structure existing at the time. For example, in 1994, the bylaw was amended to allow accessory apartments in structures built prior to 1994. This went on for a number of years until the requirement was changed to allow accessory apartments in a structure that is at least 10 years old. PV-M noted that historic Planning Board minutes indicated that previous Boards did not want a single family house to look like a two family. The original bylaw had a cap of 10% of the entire number of residences but it disappeared at some point. The idea of restoring a cap on the number of accessory apartments was discussed a few times over the years but never implemented.

MO thought that the 10 year requirement prevents multi-generational living and seems arbitrary. The bylaw has restrictions on size and where the door can be located so deleting the 10-year age requirement will not create something that looks or feels or functions like a two-family residence. She thought that anyone who wants an accessory apartment should be able to have one.

BD agreed that the 10 year age requirement is illogical. It is an indirect way of making sure that nothing happens very fast in town. He would favor a quota or cap which would not need to be very restrictive but would allow the town to slowly transition.

GT thought that a cap is probably not necessary but agreed with BD that a non-restrictive cap such as 10% would be a point where the Board could go back and re-evaluate after hitting the 10%. MO asked if the Town has a count of illegal apartments. PV-M responded that there is information only on the accessory apartments permitted by the ZBA. There are a few apartments that were created before the bylaw and those are legal apartments not subject to special permits. GT and MO were both worried about illegal apartments having safety issues and GT suggested a forgiveness provision. LD noted that people will continue to have illegal accessory apartments if the requirements are too great.

MO asked if the Board would consider getting rid of the special permit requirement for accessory apartments. SG thought it was a bit too far. He thought the neighbors should be able to give input. BD agreed that there were certain things that needed to be looked at such as vehicle parking and consistency with the appearance of a single family home.

LD thought that there should be no cap and that the Board could always put one on later. She thought that there would be a problem keeping track and calculating the numbers correctly. SG thought the optics of a cap would signal to residents that there is an endpoint. Any changes would be incremental and slow with plenty of time to address issues, but it would be beneficial to show people that there is a cap.

The Board asked PV-M to research the number of residential units and the number of existing accessory apartments in order to evaluate a cap. The cap should be a number that is far enough into the future so that there would be time to adjust the cap number, as necessary. There would be time to allow the Town and the Board to evaluate whether or not the additional accessory apartments are working or have created a problem.

The Board asked that PV-M put the accessory apartment on another agenda for discussion with the ZBA.

7:30 PM Business

- Approval of December 8, 2020 minutes.

MO made a motion to approve the December 8, 2020 minutes. SG Seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye. The motion passed 5-0.

- Appointment of Rachel Drew as the Housing Commission member to SLPAC

MO made a motion to appoint Rachel Drew as the Housing Commission member of SLPAC to replace Allen Vander Meulen who has stepped down. GT Seconded. Roll Call: SG aye, LD aye, BD aye, MO aye, GT aye. The motion passed 5-0.

- Review of EEE Grant revised scope.

PV-M reported that the revised EEE grant will help SLPAC and the Planning Board with community engagement and outreach regarding South Lincoln planning. The grant will cover developing a contact database which will be helpful with e-mail blasts. It will develop a project website which again would be helpful for public outreach. MAPC can provide state, regional, and local housing data. The grant will also include interviewing developers to get a real world evaluation of development and what makes a project feasible. The grant will help identify whether and how the number of nearby housing units factors into the decision of businesses to locate in a particular area and to identify the nexus between housing and commercial activity. The grant will finalize zoning language that addresses concerns raised by members of the public. MAPC will organize a summary based on a series of trade offs so people can understand the benefits and the concerns.

The Board was happy with the revised scope and authorized PV-M to proceed with the written scope and associated contract with MAPC.

- Review of H5250

GT asked about the legislation H5250 that was just passed. PV-M noted that it still had not been signed by the Governor. If and when it is signed, KP law will draft a guidance memo which she will share with the Board and with SLPAC. PV-M would like a representative from KP Law to come to a meeting and explain the guidance memo in general and the impact of the legislation specifically to Lincoln.

The Traffic Study conducted by Ron Muller and Associates prior to the pandemic has been finalized and will be presented at the Planning Board meeting on February 9th. PV-M will put a notice on Lincoln Talk, Lincoln Squirrel, and the Town website.

BD asked if the Board would consider an amendment to the South Lincoln overlay to clarify that a modification to the South Lincoln overlay requires a majority vote of Town Meeting rather than a 2/3 vote. The intent was always that it would take a majority vote to either establish a planned development district or modify an existing one. The existing language is somewhat confusing because it refers to the requirements of the North Lincoln Overlay District which does require a 2/3

vote of approval at Town Meeting. The amendment would make it clear that any project within the South Lincoln overlay would require a majority vote at Town Meeting.

GT noted that this was another area where the pending legislation would have an impact. If signed, the legislation would require only a majority vote for all of these zoning issues. The Board decided to wait to see if the Governor signs the legislation.

MO made a motion to adjourn. SG Seconded. Roll Call: SG aye, LD aye, BD aye, GT aye, MO aye. The motion passed 5-0.

Approved as amended January 26, 2021.