



Town of Westport
Planning and Zoning Commission
Town Hall, 110 Myrtle Avenue
Westport, CT 06880
Tel: 203-341-1030 Fax: 203-454-6145
www.westportct.gov

Minutes

Planning and Zoning Commission's Zoning Regulation Revision Subcommittee

Wednesday, February 9, 2022 at 12:00pm

P&Z Commissioners in Attendance:

Danielle Dobin, P&Z Commission Chair and Subcommittee Member
Neil Cohn, P&Z Commission Member

Public in Attendance

Jay Keenan, RTM District #2	Dave Lowrie, Tree Board
Louis Mall, RTM District #2	Ken Stamm
Gretchen Webster	Thea Osserian
Melissa Ceriale	Bill Achilles, AIA

Town Hall Staff

Michelle Perillie, Deputy Planning and Zoning Director
Michael Kiselak, Planner
Alicia Mozian, Conservation Department Director

Agenda

1. Discussion of draft text amendment regarding preservation of mature trees.

P&Z Zoning Regulation Revision Subcommittee Chairwoman Danielle Dobin welcomed meeting attendees and read **Agenda Item #1** into the record regarding tree preservation.

Ms. Dobin explained that there have been multiple Zoning Regulation Revision Subcommittee meetings already to discuss this topic with the aim of mitigating flood and erosion impacts from development and to limit clearcutting of lots while under development.

Mr. Kiselak of the P&Z Department presented the draft proposal to the audience and explained the significant changes since the previous subcommittee meeting on 1/8/22, which seek to address many comments raised. A definition for "Diameter at Breast Height" was added in accordance with industry standards. The requirement for replanting after the removal of a Mature Tree has been removed from the proposal. The proposal now outlines circumstances when a Zoning Permit would be needed to remove a Mature Tree, including within already-regulated setbacks, within sensitive areas, and the removal of more than three trees per year. The current proposal also includes revised modifications to the §32-8 Excavation and Fill regulations to limit the amount of earth clearing that can be conducted without an Excavation and Fil Permit. The full proposal is available [here](#).

Mr. Kiselak added that it was brought to staff's attention that the proposal as written would impede the Parks and Recreation Department and Board of Education from maintaining land that they oversee.

Ms. Dobin added that the proposed restriction on trees in setbacks on lots of one acre or more is intended to recognize that smaller lots have smaller building areas and less room for flexible design. The regulation pertaining to removal of three mature trees in a calendar year applies to all lots, regardless of location in setbacks. Three trees seemed like a fair starting point but she's open to feedback on this point. She acknowledged the permitting process for tree removal needs to be further discussed and refined.

Mr. Cohn, Planning and Zoning Commission member had no comment. He said he's waiting to hear feedback from the public.

Ms. Dobin opened the floor for members of the public to speak.

Mr. Stamm was supportive of the proposal overall and said that deforestation has affected his neighborhood. He pointed out minor typos and inconsistencies in proposed §31-17.

Mr. Keenan, RTM District #2 representative, said he's not in favor of the proposal to require Zoning Permits for tree removal because it could infringe upon property rights. He asked why the number three was chosen as the limit for how many Mature Trees can be cleared without a Zoning Permit. He asked why one acre was chosen as part of the setback restriction. He said that most trees on residential lots are in the setbacks and that could create burdens for property owners. He pointed to the burden of requiring a survey for a Zoning Permit to verify if trees are in setbacks or not. He was in favor of the and Excavation and Fill (§32-8) and S&E (§37) components of the proposal.

Mr. Lowrie, a Tree Board member, said he endorses P&Z's efforts towards this topic. He said he likes the three-tree limit before permits are required and he think the Mature Tree definition is appropriate.

Ms. Mozian, Conservation Director, asked if CT Notable Trees can be added to the definition of Mature Tree because there are many such recognized trees in Westport worth preserving. She said the Conservation Department's list of invasive species is good but shouldn't be considered exhaustive – there may be species not listed. She pointed out that steep slopes are considered to be 25%, not 20%, elsewhere in the Zoning Regulations and suggested that P&Z consider changing to 25% for consistency. She pointed out that the WPLO covers large swaths of land, such as most of Saugatuck Shores, and thus it may be impractical to restrict to restrict tree clearing within the WPLO. She recommended that anyone seeking a retroactive permit after removing a tree for dangerous conditions should be asked for proof, such as a picture.

Ms. Mozian also said she doesn't see why the single-family home exemption in §37-3 of the Sediment and Erosion Control regulations needs to remain in place. She pointed out other minor inconsistencies with the proposal to look into. Finally, she said she understands that this discussion requires a balancing act with consideration of personal property rights.

Ms. Ceriale said this is important work. She said the Town is experiencing worsening flooding issues, so trees need to be taken care of. She asked about why the tree replacement

was taken out from the previous draft? She also asked how is immediate danger assessed for trees that need to be removed immediately for safety concerns? She stated that developers are largely responsible for clearcutting, not individuals, and it's important to make that distinction.

Ms. Dobin responded that the subcommittee and staff are doing more research into ways that Mature Trees could be replaced. The subcommittee is trying to give flexibility and not completely constrain people. It will take more work to get this proposal finished. Regarding trees that pose an immediate danger or safety concern, she said it's not expensive to have an arborist come out and determine the condition of a tree. The language in the proposal needs further refining, though. The subcommittee wants to make sure people think twice before removing a Mature Tree.

Ms. Dobin clarified that no moratoriums on tree cutting are in place in the meantime nor will any be placed while this topic is still being deliberated. This proposal needs to work its way through the zoning process, which is designed to take time on purpose.

Mr. Mall, RTM District #2 representative, stated that he thinks there should be a larger conversation about the responsibilities of the Tree Warden and Tree Board. He said he wants to make sure both are involved in this process.

Ms. Dobin assured Mr. Mall that the Tree Warden and Tree Board have been involved in developing the proposals.

Mr. Keenan clarified that he has no issue with trying to prevent clearcutting by developers. He does have an issue with putting the onus on homeowners to solve the problems of excessive tree clearing. He maintained that most trees on residential lots are in the setbacks and requiring a permit (including a survey) to remove each of them could be excessively difficult. He also said to consider the workload on Town staff to enforce such permits.

Ms. Dobin responded that not much can be built in setbacks anyway, so it shouldn't impede homeowners too much to restrict tree clearing there. P&Z can work on developing a process for this that is quick and easy for homeowners. She added that all property owners ultimately need to be treated the same way. If P&Z makes a change to the regulations and citizens find it too onerous, it can always be revisited/refined. She said that doing nothing with regards to tree clearing/preservation is not an option. She welcomed feedback from anyone with better ideas on how to move forward.

Ms. Dobin closed by stating that she will work with staff to further refine and develop this proposal and bring it forward again at a future subcommittee meeting.

Ms. Dobin adjourned the meeting at 12:49 pm.

A full audio recording of the meeting is archived and available on the Town of Westport's website, [here](#).

Respectfully Submitted by Michael Kiselak on February 10, 2022.