

LOWER FREDERICK TOWNSHIP – Ad Hoc Ordinance Committee

Meeting Minutes of January 18, 2022

Meeting called to order at 7:00 pm.

Present for Roll Call:

Members:

Dyanne Jurin

Warren Jacobs

Ranier Keown

Associated Township Staff:

Mark Hudson, Township Manager

Notes:

The meeting was held in person at the Lower Frederick Township Building and on Zoom.

Mark Hudson, LFT Manager presided over the organization of the committee until the appointment of the chairperson took place. Mark Hudson explained that the meeting was advertised in the newspaper, Facebook, the township website, and on the township building sign.

1. Organization of the Ad Hoc Committee

Chairperson:

- Ranier Keown was nominated for Chairperson by Warren Jacobs.
- Ranier Keown asked if anyone else would be interested in being Chairperson.
- Dyanne Jurin expressed her desire to be Chairperson.
- Dyanne Jurin was nominated by Ranier Keown for Chairperson.
- Warren Jacobs seconded the nomination of Dyanne Jurin.
- The motion carried unanimously.

Dyanne Jurin took over the meeting and continued with the organization process.

Vice Chairperson:

- Warren Jacobs was nominated for Vice Chairperson by Ranier Keown.
- Dyanne Jurin seconded the nomination of Warren Jacobs.
- The motion carried unanimously.

Recording Secretary:

- Ranier Keown was nominated by Dyanne Jurin.
- Warren Jacobs seconded the nomination of Ranier Keown.
- The motion carried unanimously.

2. Public Comment

No public comment was offered.

3. Definition of “Woodlands”

Dyanne Jurin asked for feedback on the current definition of woodlands. She also provided paper copies of woodland definitions from other local governments (Appendix A).

Dyanne expressed that our definition seems to limit the idea of trees being a certain caliper. We do have areas of forest regenerating. Do we want to limit that (as well)?

Ranier Keown said the current definition is simple and clear. It would be too much to open it up to brushland or fallow fields. He feels the current definition is fine.

Warren Jacobs explained that no definition is ideal, but a clear definition is needed. Tree size is not an exclusive indication of forest health and importance. He feels it is important to account for other factors of importance of forest value in the definition such as tree type, tree health, etc.

Dyanne relayed some information from another municipality that classifies woodlands based on distance from the edge of the forest among other factors. This information would then be mapped throughout the township so that property owners know what type of woodlands they have and what the associated requirements are.

Mark Hudson explained that the use of tree caliper and DBH (diameter at breast height) are not consistent in the township ordinances and this should be considered as we review the woodlands definition. DBH is more applicable to woodlands than caliper.

4. Goals of the “Woodlands” section (170-41.1 I) of the zoning ordinance

Warren Jacobs suggested we discuss the goals of the woodlands section of the ordinance. The group agreed.

Ranier Keown explained his understanding is the ordinance was created primarily to address the woodland removal that occurred prior to and during the Arcadia development.

Warren Jacobs agreed that this was the impetus for the ordinance and noted that the developer didn't document the trees on the property and therefore we don't have a record of what was removed. He continued that Lower Frederick Township already has tree protection zone requirements in other sections of the SALDO, but some aspects weren't enforceable in the case of the Acadia development according to the solicitor. In response to this, the EAC set-out to enhance the township ordinances. The solicitor advised the EAC that it can't be enforced unless it is in the zoning ordinance.

Ranier Keown expressed that once large developers know that they must finish with 25% woodland coverage as required in the SALDO portion of the ordinance, they will accommodate this in their planning and maintain the existing trees rather than deal with the reforestation requirements.

Dyanne expressed the importance of creating and protecting contiguous and connected woodlands in the township. To do this, both developers and private property owners with wooded land must be covered by this ordinance.

Warren said that's where we go beyond the original thing that got us here.

Ranier said he thought the committee was tasked to back-off a little bit from what was in the original ordinance.

Dyanne Jurin expressed that she did not interpret it as backing off of anything, but rather making things clearer for people whichever direction that might go.

Mark Hudson expressed that with the amount of people that we had out and talking about it and everything, the hope was that we would look at the percentages, diameters, replacements, alternatives,

Warren Jacobs explained that some of the woodland related concerns about the Arcadia development are already addressed in existing township ordinances. For example, the tree protection zone requirement is in the existing SALDO, but the developer didn't follow the requirements.

Ranier Keown expressed that 90% of problem we are trying to address is with large developers removing trees from wooded properties as part of neighborhood lotted developments. However, 90% of the impact of this ordinance is on private property owners. Developers won't care about this as long as they get the number of lots allowed in the zoning. Private property owners aren't the problem, but they are being impacted. Developers need to finish with 25% woodlands while existing property owners are forced to maintain 80% of their woodlands. We need to figure out how to protect woodlands during large developments without restricting the private property rights of individual land owners.

Mark Hudson explained there are 2 lots currently being developed which will be the first lots developed under the new ordinance. This may provide good input to this discussion.

Dyanne Jurin questioned why someone with a larger lot can remove more woodland than a person on a smaller lot.

Ranier Keown explained that 20% cleared on a 1 acre lot is not adequate for a typical home.

Dan Orfe (Supervisor) cautioned that we don't want to punish large wooded property owners. This zoning requirement ties their hands, and we don't want the ordinance to encourage people to divide or sell their property.

Warren Jacobs stated that you cannot restrict tree cutting for timber harvest. This should be clarified with the solicitor.

Ranier Keown questioned the group if there was a bullet proof way to prevent a property owner or developer from avoiding certain SALDO requirements by clearing land prior to the official start of development, would we be willing to forego the Zoning section of this ordinance? Isn't this the purpose of the reforestation section? Isn't the purpose of the SALDO additions to penalize the developer for removing the trees to the point that it isn't economical or practical to do so? The question is whether this is enforceable.

Warren Jacobs agreed that was the purpose of the reforestation requirement in the SALDO, but the solicitor said that is not adequate.

Ruth Heil (former EAC member) stated that the purpose of the ordinance is to remove the Ragusa Loophole that allowed someone (a landowner) to clear property before it transitioned to a development site. The solicitor concluded that it had to be in zoning to prevent this.

Dyanne Jurin said this makes it clearer that we possibly do want this to apply to individual lot owners, as those individual lots may become developments in the future.

Warren Jacobs suggested someone review the percentage calculations to see if they're even practical. Ranier Keown explained the sample lots shown in Appendix B, and that the percentages are not practical for wooded lots.

Ranier Keown expressed his view again that the ordinance treats large developers more leniently than private property owners, while the primary culprit is large neighborhood lotted developers.

Dyanne Jurin expressed that it's not just about percentages. We should also consider the ecological value of particular woodlands, soil type, etc. She said Montgomery County P.C. has data to create a classification map of our woodlands so people would know how each property was affected.

5. Replacement tree diameter, density, and alternatives

Andy Feick (207 Meng Rd) shared some information regarding an ongoing revision to the Swarthmore Borough tree ordinance. Swarthmore College and the Scott Arboretum are working with the Borough to update the ordinance. They found that a requirement for 3.5" caliper trees greatly reduces the quantity and variety of nursery stock that is available. Smaller trees are much more available in greater diversity. Smaller trees tend to transplant better with faster root regeneration and better survivability. Smaller trees are less expensive, and don't require a machine for transplanting.

Also, evergreens are typically not measured using caliper and therefore the ordinance should include specific language to account for evergreens.

He provided several articles on the subject for reference. His notes are attached as Appendix C.

6. Public Comment and General Discussion

Bill McGovern (107 Memorial Drive) described a scenario where someone would need to go to Zoning Hearing Board to remove a heritage tree to put up a garage or addition.

There was also discussion of what determines whether a tree is hazardous. Warren explained the tree needs to have a target. It doesn't necessarily need to be an unhealthy tree. The group agreed that the solicitor should provide some additional guidance on what is hazardous.

Chuck Yeiser (Supervisor) explained that some other tree ordinances use tree area in their requirements rather than tree diameter. It may be better to replant more smaller trees, instead of fewer 3.5" caliper trees. Using tree area would allow for this.

Ruth Heil (former EAC member) clarified that this committee is tasked to review the woodlands section and not the heritage tree section. She also said that large developers will target wooded land when the farmland becomes scarce. She read some comments from the solicitor explaining that zoning is better than SALDO to regulate property uses. She also relayed some comments from the solicitor explaining that penalties and fines are not always effective to deter violations by developers.

Bill McGovern (107 Memorial Drive) questioned if we are only reviewing the woodlands section, or the entire ordinance. His understanding from the public meeting is that the entire ordinance would be reviewed. Mark Hudson explained that the current focus is the woodlands section. The supervisors may decide to review other sections in the future.

Bill McGovern also suggested that the township not enact ordinances until they are finalized. He clarified for the group that zoning requirements cannot be waived by the supervisors. Only the zoning hearing board can waive these requirements.

7. Items we hope to cover in the next meeting - February 10, 2022 at 7:00 pm.

Review percentages again to see what is realistic.

Review tree replacement requirements (size, evergreens, density).

Touch on the woodlands definition once again to make sure we are satisfied.

Update on the development examples in process (2nd Avenue and 3rd Avenue).

Response from the solicitor on specific questions.

Definition of a hazardous tree.

Appendix A:

Alternate definitions of Woodlands from other local governments

Provided by Dyanne Jurin for discussion

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WOODLAND DEFINITIONS

LFT WOODLANDS

Land containing areas, groves, or stands of mature or largely mature trees (trees with a caliper of six (6) inches or greater) that form a continuous canopy covering an area of 1/4 of an acre or more, as measured from the drip line of the outer trees; or groves or stands of mature trees (trees with a caliper of twelve (12) inches or greater) consisting of ten (10) or more individual specimens forming a continuous canopy.

SIMILAR TO LFT MARLBOROUGH TWP.

WOODLANDS

A tree mass or plant community in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete, aerial canopy. Any area, grove, or stand of mature or largely mature trees (larger than six inches' dbh) covering an area of 1/4 acre or more, or consisting of 10 individual trees larger than six inches' dbh, shall be considered a woodland. The extent of any woodland plant community or any part thereof shall be measured from the outermost dripline of all the trees in the plant community.

HEREFORD & KENNETT SQUARE

Woodland means a tree mass or plant community covering an area of one-quarter-acre or more, in which tree species are dominant or codominant and the branches of the trees form a complete or nearly complete aerial canopy. The extent of any woodland plant community or any part thereof shall be measured from the outermost dripline of all the trees in such plant community. Woodland shall include any area where timber has been harvested within the previous three years and/or woodland disturbance has occurred within the previous three years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards or old fields.

WOODLAND CLASSIFICATION DEFINITIONS

The Classes of Woodland are determined by size and distance from an opening, road's or field's edge: the highest class, Class I, is those forests located more than 300 feet from an edge, known as the Forest Interior

LANCASTER COUNTY PLANNING

Defining Criteria

- (1) Forest Blocks are contiguous areas of Woodland one hundred (100) acres or greater, regardless of the location of parcel lines, municipal boundaries, zoning districts, or other similar features, as depicted on the Natural Resource Overlay
- 2) Interior Forests are Woodlands of five (5) acres or greater, located at least three hundred twenty-eight (328) feet (an equivalent conversion of 100 meters) in from the woodland edge or from an opening such as a field, road, railway line, or utility right-of-way, as depicted on the Natural Resource Overlay Map. [Note: Lancaster County

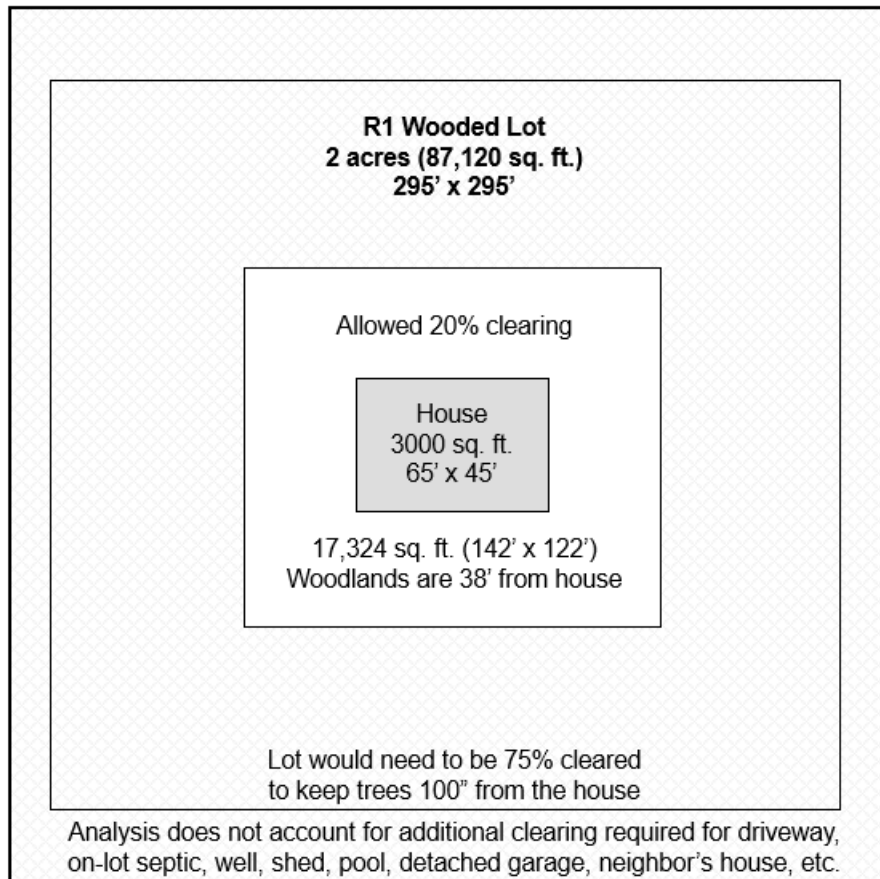
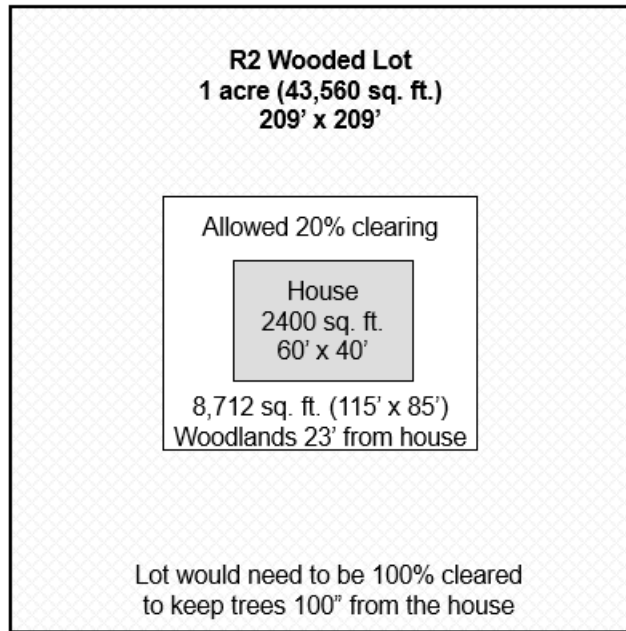
GIS's depiction of the Natural Heritage Inventory of Lancaster County [or other municipal natural resource inventory mapping] may be consulted for the location of qualifying Interior Forests.]

- (3) Woodland is land predominantly covered with trees and shrubs. Without limiting the foregoing, Woodlands include all land areas of 10,000 square feet or greater, supporting at least 100 trees per acre, so that either (i) at least 50 trees are two inches or greater in DBH, or (ii) 50 trees are at least 12 feet in height.

Appendix B:

Hypothetical lot layouts and a comparison of requirements on Developers vs. Existing Property Owners
Provided by Ranier Keown for discussion.

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Appendix B:

Hypothetical lot layouts and a comparison of requirements on Developers vs. Existing Property Owners
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Comparison of NRPO Requirements on Developers vs. Wooded Property Owners

New Developments (Article II)

Must be 15% to 25% wooded.

1. Typically large open fields that were once covered with forest but were cleared for farming in the past.
2. Almost always developed with neighborhood lotting.
3. Large developers don't care as long as they get the desired number of lots.
4. All afforestation/reforestation shall occur on non-buildable areas of the site.
5. Trees would typically be in the common open space and not around the houses.
6. Once the property is developed, it typically has no additional development potential. These properties already have the maximum allowable development. Their usage is limited to the existing development.

Existing Wooded Properties (Article V)

Must maintain 80% of their woodlands.

1. Typically long term residents on older individual lots that were allowed to naturally reforest in the past.
2. Usually individual privately owned lots.
3. This impacts private property owners who have chosen to keep trees on their land.
4. Affects all of the wooded land including buildable land.
5. Trees are often around the house, yard, driveway, and other functional areas of the property.
6. Many of these properties have additional usage potential such as accessory buildings, vegetable garden, swimming pool, larger yard, pasture, etc. Some larger properties have subdivision potential.

The ordinance is more restrictive on private property owners than it is on large developers. We should revise the ordinance to address specific concerns about woodlands being removed and harmed as part of large developments.

Appendix C:

Discussion points provided by Andy Feick (207 Meng) regarding tree size and type, etc.

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1. Evergreens are not measured in caliper @ chest height. Either 12" off the ground or specify 6' - 8' tall evergreens
2. There are far fewer nursery-grown trees @ 3 1/2" caliper than 2 - 2 1/2" caliper. Allowing smaller trees will promote greater biodiversity than limited stock available @ 3 1/2"
3. Research indicates smaller trees transplanted will regenerate roots faster than larger and by x years, will catch up to the size of most larger trees. This is probably not a factor with 2 1/2 vs 3 1/2" trees.
4. 2 1/2" trees are less expensive than 3 1/2" trees and cost less to plant. a 2 1/2" caliper container tree can be handled by 2 people. a 3 1/2" B+B tree requires a machine to move it.

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B. Proper planting matters a lot. Should there be standard planting details that developers must follow?

"Larger trees require a longer recovery period than smaller trees. They must grow a proportionally larger volume of roots in order to support a much larger crown."

DE Subdivision Plans Start with the civil engineer or landscape architect laying out for net benefit. The ordinance should influence the developers to lean toward preservation of woodland, not clearing + replanting.

I'm ok with the % for wooded lots. If wooded lot holders need to clear more than 20% then the fee in lieu of replanting on the site could establish forest on open fields elsewhere.