

# PLANNING BOARD

May 3, 2011 - Minutes

*W. Darling, Ass't*  
ORLEANS TOWN CLERK

A meeting of the Orleans Planning Board was called to order at 7:00 p.m. in the Nauset Meeting Room at the Orleans Town Hall. **Present:** **Chairman:** Kenneth McKusick; **Vice-Chairman:** Chet Crabtree; **Clerk:** Steve Bornemeier; **Regular Members:** John Fallender and Chip Bechtold. **Associate:** Paul McNulty. **Planning Department Staff:** George Meservey; **Secretary:** Karen Sharpless. **Also Present:** Orleans Tree Warden: Daniel Connolly.

## 7:00 P.M. - SHADE TREE PUBLIC HEARING - David Abel, 217 Main Street

McKusick opened the public hearing and Bornemeier read the legal ad into the record. McKusick explained that this is a public hearing for the Tree Warden and Planning Board members to hear the issues of the removal of five town-owned trees, without permission from the town, formerly located at 217 Main Street. David Abel explained the history of the property located at 217 Main Street since he bought it eight years ago. Abel stated that he has pruned the trees (which are located very close to his house) and sprayed for winter moths over the past few years, but the trees have been deteriorating as confirmed by multiple tree companies which recommended removal of the trees. Abel stated he did not have any knowledge of town regulations regarding trees and apologized for his part in the removal of town-owned trees. Abel provided Planning Board members with color pictures of the trees for the record.

Connolly thanked Planning Board members for their part in passing the town's tree bylaw which provides clear direction for offenses which requires a fine of \$300.00 per tree. Connolly noted that on this property, five trees were removed without notification or permission from the Town's Tree Warden which would result in a fine of \$1,500.00. Connolly stated that A to Z Treez has been warned on multiple occasions about town-owned trees they have cut down and removed without prior permission from the Orleans Tree Warden. Connolly noted that the second part of the Orleans Tree bylaw has a provision which requires restitution to the town for the value of each of the trees which are cut down and removed from town-owned property. McKusick noted that offenses for this company go back multiple years. Connolly stated that under the Orleans General Bylaw, Chapter 127-4 no town-owned trees in town are allowed to be planted on public property or right-of-way, removed, pruned (including root pruning or disturbance), or construction activities within the drip line of a public tree that may be damaging without his consent as the Orleans Tree Warden and as well as a permit. Planning Board members noted that under the Orleans General Bylaw, Chapter 127-5 other prohibited tree activities such as carving, breaking limbs, poisoning, cutting or digging of roots, girdling, nailing, posting of signs, topping or otherwise damaging them, injuring or otherwise putting public trees at risk. Planning Board members agreed that the five trees cut and removed from 217 Main Street were clearly in the public way located on the sides of the town's public road.

Connolly stated the town (through the Tree Warden) has the right to decide whether a town-owned tree should remain or be cut, pruned or removed, not a property owner or business doing tree work. Planning Board members discussed with Connolly whether the missing trees should be replaced at 217 Main Street. Connolly noted that due to the seeming poor health of the trees, he would not require that they be replaced, but stated for the record that he should have been notified before any tree work commenced in order to make a determination of whether any trees could be saved. Planning Board members discussed the fact that all businesses that do tree cutting and removals in town must obtain copies of the Orleans Tree Bylaw, Chapter 127 and must make themselves aware of the contents. McKusick noted that the Orleans Tree Bylaw was discussed extensively at multiple public hearings over the past few years and it was passed unanimously at the Annual Town Meeting on May 10, 2010. Abel reiterated that he never

LIST OF HANDOUTS FOR MAY 3, 2011 PLANNING BOARD MEETING:

1. *Memorandum from Planning Director dated April 28, 2011 re: Unauthorized Removal of Public Trees on Lewis Road*
  2. *Legal Ad for Public Tree Hearing for David Abel, Lewis Road*
  3. *Application for Public Shade Tree Hearing*
  4. *Orleans General Bylaw, Chapter 127, Public Trees*
  5. *Approval Not Required Application for Endorsement, Esther P. Lobo, 15 Baxter Lane*
  6. *Approval Not Required Plan of Land for Esther P. Lobo, dated April 4, 2011*
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