



TOWN OF WORTHINGTON

PO Box 247 · Worthington, MA 01098 · (413) 238-5577 · FAX (413) 238-5579

SELECTBOARD

June 29, 2020

Helen and David Pollard
343 Huntington Road
Worthington, MA 01098

Dear Helen and Dave,

Following the receipt of your complaints, related email exchange, and discussion of same with you at our June 9th meeting concerning tree removals by the Tree Warden adjacent to your property on the easterly side of Ridge Road and the planned tree removals by Eversource on the westerly side of Ridge Road and elsewhere in town, we have consulted with Town Counsel at KP Law on both matters.

Based on that input and our understanding of the facts involved, we respond as follows:

Tree removals by Tree Warden: These removals are authorized under the Shade Tree Law (M.G.L Ch. 87, Sect. 5), where, in the opinion of the Tree Warden, they are “deemed to obstruct, hinder, endanger ... persons travelling on the way...”.

No public hearing is required under these circumstances.

In addition, although the Scenic Roads law (M.G.L. Ch. 40, Sect. 15C), gives the Planning Board jurisdiction over designated scenic roads, and our Scenic Roads By-law (General By-laws, Section XII), designates Ridge Road as a scenic road, it is the opinion of Town Counsel that jurisdiction is limited, where done by the town or its agents, to removals undertaken to maintain the scenic way. Further, Section XII of the above by-law specifically exempts “hazardous trees” as that term is defined in the by-law. As you are aware, Tree Warden Ben Brown has determined that the trees marked by him with a red painted “X”, located on the east side of Ridge Rd. and running along the golf course are hazardous and should therefore be removed. While it would have been better practice for the Tree Warden to have contacted you personally prior to the work being performed, especially given the number of trees involved and the resulting change to the scenic landscape, such notice is not legally required. Ben has acknowledged this to you directly at our June 9th meeting.

Tree Removals by Eversource. The tree removals currently underway in Worthington, involve trees marked with a blue paint dot, including those along the public way pole easement on the west side of Ridge Road. They are being undertaken as part of an Annual Vegetation Management Plan and/or Annual Tree Removal Plan furnished to our elected Tree Warden and approved by him. Town Administrative assistant Peggy O'Neal has a copy of that plan if you would like to review same.

M.G.L. Ch 87, Sect. 14(c) provides a public hearing exception under the above circumstances. Further, as Ben Brown mentioned on June 9th, he reviewed Eversource's numerous planned tree removals on site with them as part of his approval process.

There is a further question as to what, if any, additional requirements are imposed by the third sentence of Ch 87, Sect. 14 (c) which states: "The plan shall comply with local ordinances and regulations." Please note however, that following our meeting Tuesday night, it was discovered that the quote was wrongly stated as M.G.L. Ch. 40, Sect. 15C. Accordingly, it is not necessary to address this provision's applicability with Town Counsel where the local bylaw relates only to Town maintenance of Scenic Roads and not maintenance by Eversource.

This will be addressed with Town Counsel and you will be informed accordingly.

Hopefully, this letter satisfactorily addresses the concerns you have raised with our board. If you have any further questions, please let us know.

Sincerely yours,

