



Braintree Town Council

ORDER NO: 23 051

DATE FILED: SEPTEMBER 19, 2023

REQUEST OF: TOWN COUNCIL

**BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRAINTREE THAT ZONING ORDINANCE TEXT AMENDMENTS RELATED TO "TREE PROTECTION", AMEND SECTION 135-702 LANDSCAPE AND BUFFER ZONES, AMEND SECTION 135-711(C)(3)(h) BE AMENDED AS FOLLOWS:**

To approve Order 23 051 as submitted with Planning Board recommendations.

YEAS: Boericke, Flaherty, Hume, Maglio, Reynolds, Ryan

NAYS: NONE

ABSENT: Mackin, O'Brien, Ringius

PASSED IN COUNCIL: OCTOBER 17, 2023

PRESENTED TO MAYOR: OCTOBER 19, 2023

A True Record, Attest:

10/19/2023  
Date Approved

James M. Casey  
James M. Casey, Town Clerk

Charles C. Kokoros  
Charles C. Kokoros, Mayor



Braintree Town Council

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**§135-702. Landscaping, Tree Protection and Buffer Zones. [Amended 10-27-1998 STM by Art. 31]**

**(Please refer to Braintree General Ordinance Section 12.30 for Definitions that apply to Section 135-702)**

A. Landscaping.

- (1) Purpose. It is the purpose of this section to establish certain regulations pertaining to landscaping and tree protection that must be provided in connection with a Special Permit or Site Plan Review. These regulations provide standards and criteria for landscaping which are intended to enhance the value of property, provide buffers between dissimilar uses, preserve existing trees, improve the physical appearance of the Town and maintain an ecological balance. Maintaining and recreating an ecological balance is of increasing concern because of land coverage of pavement and structures. These impervious surfaces create an increase in air temperatures, water runoff, flooding, erosion, water pollution and groundwater depletion. Vegetation effectively alters these imbalances through oxygen replenishment, water absorption, and abatement of noise, glare and heat. Landscape methods which conserve water through the use of drought-tolerant plants and planting techniques are encouraged.
- (2) Applicability. The standards and criteria contained within this section are deemed to be minimum standards and shall apply to all proposed development which will require a Definitive Subdivision Approval, Site Plan Review or Special Permit.
- (3) Submission requirements for Landscape and Tree Protection Plans.



Braintree Town Council

- (a) The Landscape and Tree Protection Plans shall be submitted concurrently with the Definitive Subdivision Application, Special Permit or Site Plan Review Application, as required by the Planning Board. The Planning Board shall review Landscape and Tree Protection Plans in accordance with the plan requirements and standards below.
- (b) Landscape and Tree Protection Plan shall contain the following information:
  - [1] Scale and North arrow.
  - [2] Title block with applicant's name and the name, address and stamp of the landscape professional who prepared the plan(s).
  - [3] A base layer that shows proposed building and structure footprints, walls, fences, terrace, circulation, parking and loading layouts, curb cuts, all subsurface utilities and easements.
  - [4] An existing tree layer and schedule, that depicts all existing tree canopy and denotes trees 8 inches or greater in diameter breast height with a measurement. Said layer shall highlight all trees to remain and all trees proposed to be removed as part of the site development. All trees removed with 8 inches or greater in diameter breast height within 18 months or proposed to be removed as part of a development shall be replanted on the property at a 1:1 ratio. If the Applicant is not able to replant on site at a 1:1 ratio then the Applicant shall be required to make a payment in lieu of replacement. (See General Ordinance Section 12.30.060.)
  - [5] A proposed tree and planting layer that includes the location and method of any excavation and preparation all proposed trees, shrubs and ground cover. Details including location, species, size and number of trees, shrubs, ground cover and structural landscaping elements.
  - [6] Landscape methods which conserve water through the use of native species and drought-tolerant plants are encouraged.
  - [7] A proposed tree and planting table that includes botanical (and latin) common names of plants to be used, size at the time of planting, mature size and quantity of each, broken down by category of deciduous, conifer, shrubs, perennials, and annuals.
  - [8] At a scale no greater than one (1) inch equals 50 feet.



Braintree Town Council

- (4) Standards. The following criteria and standards shall apply to landscape materials and installation:
- (a) Landscape and tree protection plans shall provide, to the maximum extent practicable, for the preservation of existing trees. It is the intent to discourage the practice of removing all existing trees in the improvement or development of properties within the Town. A landscape and tree protection plan which provides for clear-cutting of existing trees shall not be approved by the Planning Board unless the Applicant establishes by clear and convincing evidence that the prohibition of clear-cutting substantially and unreasonably restricts the ability to develop the property, and that the development will not be economically viable unless clear-cutting is permitted.
  - (b) Maintenance. The owner of the property shall be responsible for maintaining, in a healthy and well pruned manner at all times, the landscaping and tree protection plans required by this section. Plant materials shall be maintained in a healthy and growing condition that is appropriate for the season of the year. Plant materials which die shall be replaced in the Spring with healthy plant material of similar variety and meeting the size requirement of this section.
  - (c) Quality. All trees and shrubs used in conformance with the provisions of this section shall have well-developed leaders and tops, and roots characteristic of the non-cultivar, native species, or variety and shall show evidence of proper nursery pruning. All plant materials must be free of insects and diseases.
  - (d) Coverage. Grass, ground cover, shrubs and other living landscape materials shall be used  
to cover all open ground. Landscaping materials, such as mulch, bark, etc., can be incorporated into a landscape plan where appropriate.
  - (e) Trees. Trees referred to in this section shall be of a species common to or adapted to this area of Massachusetts, on the tree list provided in the *General Ordinance Section Chapter 12.30 Appendix A* or as approved by the Planning Board or Department of Planning and Community Development. Caliper measurements shall be taken (2) inches above grade. Trees shall have the following characteristics:



Braintree Town Council

- [1] Canopy trees shall be deciduous trees that have a minimum height of 30 feet at maturity. All canopy trees shall have a caliper width of three inches to 3.5 inches at time of planting.
  - [2] Understory trees shall be deciduous trees that have a maximum height of less than 30 feet at maturity. All understory trees shall have a caliper width of one inch to 1.5 inches at time of planting.
  - [3] Ornamental trees shall be flowering deciduous trees. All ornamental trees shall have a caliper width of one inch to 1.5 inches at time of planting.
  - [4] Evergreen or conifer trees shall have a minimum height of 20 feet at maturity. All evergreen or conifer trees shall be at least five feet to six feet high at time of planting.
- (f) Shrubs and hedges. Shrubs shall be a minimum of 18 inches in height when measured immediately after planting. Hedges, where installed, shall be planted and maintained so as to form a continuous, unbroken, solid, visual screen.
  - (g) Ground cover. Ground covers used in lieu of grass in whole and in part shall be planted in such a manner as to present a finished appearance and reasonable complete coverage within one year after time of planting.
  - (h) Lawn grass. Grass areas may be sodded, plugged, sprigged or seeded except that solid sod shall be used in swales, berms or other areas subject to erosion.
- (5) Maintenance requirements.
- (a) All newly planted vegetative material shall be guaranteed for one year thereafter.
  - (b) Any agreement for long-term maintenance of any landscaping project must be negotiated prior to Site Plan or Special Permit approval based on the following criteria: vegetation replacement; irrigation; pruning; fertilizing; insect and disease protection; litter/debris cleanup; drainage; tree protection if grade change.



Braintree Town Council

- (c) A maintenance program shall be established. Pruning should be started early and kept up at regular intervals. Trees should be pruned and shaped to avoid splitting later in life. Broken tops and branches should be removed as soon as possible after injury. Broken, weak or diseased branches should be removed first, dead branches second and healthy branches last.
- (d) Trees and shrubs should be protected against damage incurred with lawn mower and garden equipment. Keeping grass away from tree trunks with the use of mulch is recommended.
- (e) Avoid or minimize the use of road salt around the trees and shrubs.
- (f) Required landscaped areas shall be routinely maintained free of debris and litter and in good condition, with regular mowing of grass, so as to present a neat, healthy and orderly appearance. Maintenance shall include the replacement of all dead plant material within the guaranteed contract period.

B. Buffer zones.

(1) Applicability.

- (a) In Commercial Districts and Highway Business Districts no building, structure or part thereof shall be erected or placed within 100 feet of any residential or Open Space and Conservancy District line.
- (b) In General Business Districts no building, structure or part thereof shall be erected or placed within 10 feet of any residential district.
- (c) Any building in a Residence A or B District shall be set back at least 30 feet from the Open Space and Conservancy District and, in the case of Residence C District, at least 50 feet.

Further, the required buffer strips described in a, b, and c above shall not be used for parking or for any other accessory structure or use except for access.

Landscaping and screening of parking areas shall be provided in accordance with Article VIII.



Braintree Town Council

- (2) Composition of buffer zones. A buffer zone shall consist of a landscaped strip and may include fences, walls or berms which shall serve to provide an effective year-round visual screen at the time of installation.
- (3) Height of screening. Visual screening comprised of a mixed planting of deciduous and coniferous trees and shrubs and walls or fences shall have a minimum overall height of six feet at the time of installation except in a required front yard where the maximum height shall not interfere with sight distance.
- (4) Sight distance. In order to provide an unobstructed sight distance for motorists, there shall be a triangle which is at least 30 feet on two sides of the intersection of a street with a driveway or an interior drive that shall be clear of visual obstructions. The triangle shall be measured from the point of intersection of the street with the driveway or interior drive for a distance of at least 30 feet along the street line; along the side line of the driveway or interior drive for a distance of at least 30 feet; and by a third line connecting these two points. Within this triangle so described, nothing shall be erected, placed, planted or allowed to grow in such a manner as to impede vision for motorists between a height of 2.5 feet and 10 feet above the grade of the center lines of the street and the driveway or interior drive.
- (5) Type of plant materials.
  - (a) A variety of plant materials shall be selected to provide an effective visual screen to be maintained at a minimum height of six feet. Plantings shall be a mixture of deciduous and coniferous trees and shrubs for the screening to maintain its effectiveness throughout the winter months.
  - (b) Ground cover, grass, mulch or other equivalent landscape treatment shall be provided in all landscaped buffer zones. Where the width of a transition area exceeds 20 feet, and where existing vegetation is used as the required planting, no ground cover, grass, mulch or equivalent treatment shall be required, provided all man-made debris has been removed from within the buffer zone.
  - (c) The substitution of artificial plant materials is not permitted.
  - (d) Existing vegetation in a healthy condition which provides an effective year-round visual screen may be used as the required planting provided it is approved by the SPGA, which may require supplemental planting.



Braintree Town Council

- (6) Size of plant materials. All trees required by this section shall have a minimum caliper of two inches to 2.5 inches at the time of planting. All conifers shall be a minimum of five feet to six feet.
- (7) Spacing of plant materials. The arrangement of plant materials shall consider the relationship of plants in size, form, texture and color. The configuration and combinations of plant materials shall be in accordance with sound horticultural and landscape architectural practices.
- (8) Protection of landscaping and screening areas. Whenever required landscaping, transition or screening areas are adjacent to parking areas or driveways such areas shall be protected by curbing or wheel stops to avoid damage to the plant materials and other structures by vehicles.
- (9) Structures within buffer zones.
  - (a) Walls or fences may be erected within a transition area to supplement the required planting to provide an effective visual screen as determined by the SPGA. Billboards of any type are prohibited in buffer zones. **[Added 3-17-2015 by Ord. No. 14-066(7)]**
  - (b) When walls or fences are required by the SPGA, they shall be of the following type:
    - [1] Solid masonry wall faced with visually attractive materials on the side which faces the residential or less intensive use.
    - [2] Wood stockade or other opaque wooden fence installed so that the attractive side faces the residential or less intensive use. Between such fence and the lot line there shall be planted a minimum of one shrub or vine per 10 LF, and a minimum of one small deciduous tree per 40 LF.
    - [3] Fence or wall of an alternate material which may be appropriate to the site which may be proposed by the applicant's landscape architect.
  - (c) Walls or fences may not be substituted for plant materials to reduce the required width of a transition and screening area. A wall or fence may be added only where a mass of plant materials would not provide an adequate screen or where required by the SPGA.



Braintree Town Council

- (10) Earthen berms.
- (a) The SPGA may require that earthen berms be constructed within a transition area as part of a residential development adjacent to an arterial street or limited access highway. The berms shall be planted. Whenever a wall or fence is required in addition to a berm, the wall or fence shall be located between the berm and the higher intensity use in order to improve sound absorption.
  - (b) The use of earthen berms and similar grading techniques in combination with the standard landscaping requirement is encouraged.
  - (c) Berms shall be constructed of earth and shall be between three feet and six feet in height.
- (11) Use of buffer zones. Only necessary driveways or interior drives shall be located across a required transition area. No structure, parking area, play area, interior street or driveway may be located in this transition area. A transition area may be used for passive recreation; it may contain pedestrian, bike or equestrian trails, provided they do not reduce the effectiveness of the transition area as a year-round visual screen. No other uses are permitted in transition areas.
- (12) Exceptions, special permits. Where, due to the size, shape or topography of a lot, the strict provisions of this section would reduce the usable area of a lot so as to preclude a reasonable use of the lot, the SPGA may grant a special permit to modify the transition area requirements where the side of a building, a barrier, and/or the land between the building and the lot line has been specifically designed, through a combination of architectural and landscaping techniques, to minimize potential adverse impacts on abutting lots.

The application for a special permit must demonstrate in detail the problems imposed by these requirements and provide an effective alternative.

Any modification of the required transition areas may be made subject to such conditions as are determined by the SPGA to assure adequate screening and buffering between particular uses. In determining what, if any, such conditions are necessary, the SPGA shall consider:



Braintree Town Council

- (a) Proximity to a residential development.
  - (b) Topography of the site and the adjacent property.
  - (c) Nature of the use and/or activity on the site.
  - (d) Land use of adjacent property.
  - (e) Width and use of all abutting public rights-of-way.
  - (f) Potential for impact of any nuisance activities such as noise, light, or glare.
- (13) Maintenance. The owner of the lot shall be responsible for the maintenance, repair and replacement of all landscaping materials installed in accordance with the approved landscape plan.

All plant material shall be maintained in a healthy growing condition, replaced when necessary and kept free of refuse and debris. After the initial planting, all plant materials not surviving after the first winter and through the following growing season shall be replaced in kind.

Fences and walls shall be maintained in good repair. Gates or openings may be provided where necessary for access to area for maintenance.

**§135-711. Site plan review (SPR) of multifamily, apartment, business and commercial developments.**

- A. Purpose. The purpose of a site plan review conducted under this section is to:
- (1) Ensure that the design and construction of developments will not create detrimental impacts to the neighborhood or the environment;
  - (2) Ensure a development will be in harmony with surrounding areas;
  - (3) Ensure compliance with all the requirements set forth in this chapter.
- B. Applicability. A site plan review shall be required prior to the issuance of a building permit for:



Braintree Town Council

- (1) All special permits as required under this chapter;
- (2) All multifamily or apartment developments; and
- (3) All developments where the area of any new structure or extension of an existing structure is 500 square feet or more excluding single- and two-family homes that are not subject to special permit and related accessory structures. **[Amended 5-3-1993 ATM by Art. 55]**
- (4) Any municipal public park as defined in § 135-102 where the area of said lot is greater than 1,000 square feet. **[Added 8-10-2011 by Ord. No. 11-032]**

C. Procedure for application.

- (1) Each application for a SPR shall be filed with the special permit granting authority (SPGA) in accordance with the provisions of Article V of this chapter and with any rules and regulations as have been adopted by the SPGA.
- (2) Each application for a SPR filed with the SPGA shall be administratively processed in accordance with the provisions of Article V of this chapter and with any rules and regulations as adopted by the SPGA. Approval of a site plan review shall require the affirmative vote of at least four members of the SPGA. **[Amended 5-11-1994 ATM by Art. 56]**
- (3) All plans submitted by an applicant in support of a SPR shall be signed and stamped by a professional engineer registered in Massachusetts or by a professional land surveyor registered in Massachusetts. Each application for a SPR shall include site plan(s) and profile drawings of the proposed development for SPGA review. At a minimum, the site plan(s) and profile drawings shall show both existing and proposed (if applicable):
  - (a) Access and egress to and from the site.
  - (b) Lot lines and easements.
  - (c) Buildings and structures.
  - (d) Topography in one-foot contour intervals.
  - (e) Surface water bodies, wetlands, areas subject to the one-hundred-year flood.
  - (f) Soil profile with depth to groundwater.



Braintree Town Council

- (g) Landscape features such as fences, walls, walks and lighting.
  - (h) Landscaping and Tree Protection Plans as required pursuant to 135-702.
  - (i) Parking areas and facilities for internal vehicular and pedestrian circulation.
  - (j) Site drainage and drainage calculations.
  - (k) The location, capacity and projected usage of utilities.
  - (l) Lighting.
  - (m) Loading facilities.
  - (n) Provisions for refuse removal.
  - (o) Traffic study (if required by Article XIV).
  - (p) Evidence as to the status of all permit applications for the project to other local, state and federal agencies.
  - (q) Architectural drawings showing proposed buildings and structures and how they relate to the surrounding neighborhood.
  - (r) Other information as may be necessary to assist the SPGA in review of the project.
- D. Criteria for approval. Prior to approving a SPR, the SPGA shall ensure that there will be a reasonable use of the site subject to the following criteria:
- (1) Adequacy of the capacity of local streets to accommodate the traffic to be generated by the proposed use. In addressing this criteria, the SPGA may consider projections of increased traffic volumes due to the proposed development and their impacts on existing streets.
  - (2) Adequacy of the public infrastructure to service the project and the area in the immediate vicinity of the site. The public infrastructure includes the Town's water distribution system, its sewage collection system and fire protection.



Braintree Town Council

- (3) Relationship of structures and open spaces to the natural landscape, existing buildings and other community assets in the area.
  - (4) Protection of adjoining property against serious detrimental uses by providing for adequate site drainage, sound and sight buffers and the preservation of views, light and air quality.
  - (5) Convenience and safety of vehicular and pedestrian movement within the site, the location of driveway openings in relation to traffic or to adjacent streets and, when necessary, compliance with regulations for the handicapped.
  - (6) Adequacy of the arrangement of parking and loading spaces in relation to the proposed uses on site.
  - (7) Adequacy of the methods of treatment, service and disposal of water, refuse and other wastes resulting from the uses permitted on the site.
  - (8) Compliance with all the requirements set forth in this chapter.
- E.** Any person aggrieved by a decision of SPGA or failure of the SPGA to take final action concerning any application for site plan review under this section may appeal to Superior Court or District Court pursuant to MGL c. 40A, § 17. Said appeal shall be filed within 20 days after the decision has been filed in the office of the Town Clerk or, in the absence of a decision, within 20 days after constructive approval has been deemed granted in accordance with MGL c. 40A. **[Added 5-4-1999 STM by Art. 25]**