

**Brandon Select Board Hearing - Objection to Noticed Removal of Shade Tree Between 42 and 44 Park Street  
October 28, 2024**

**NOTE: These are unapproved minutes, subject to amendment and/or approval at the subsequent board meeting.**

**Board Members in Attendance:** Doug Bailey, Heather Nelson, Brian Coolidge, Ralph Ethier, Tim Guiles

**Others In Attendance:** Seth Hopkins, Bill Moore, Tanner Romano, Karen Rhodes, Jack Schneider, Steve Bisette, Neil Silins, Barry Varian, Billy Bullock, Steven Jupiter, Jan Coolidge, Judy Bunde, Tom Kilpeck, Helyn Anderson

**Others by Zoom:** Keith Whitcomb, Tricia Welch

**Heather Nelson recused herself and removed herself from the Board table.**

## **1. Open Hearing**

Doug Bailey, Board Chair, opened the public hearing at 8:09PM.

Doug Bailey requested Neil Silins, Brandon's Tree Warden, to speak to the request to remove the tree. Mr. Silins advised the tree was brought to his attention. The juncture in the tree catches moisture and makes it prone to rotting and deterioration. The Town does not have a resident arborist so Mr. Silins requested an arborist from the State Forest, Parks, and Recreation department to view the tree and he agreed that it was questionable. Over a period of months, the tree grew fungus that made it more obvious there is damage to the tree and the fungus was identified as bracket fungus that indicates that there is likely significant structural damage and occurs when a tree is dying and it is likely to fail sooner rather than later. From the input of Ms. Anderson, the tree was explored further and an official analysis of the tree was done. A letter was received from Adam McCullough and he stayed with his decision that it is a tree that needs removal. Mr. Silins stated he relies on the professional's assessment and he has to take their decision seriously. If the tree remains and it fails, it could damage one or two houses.

## **2. Public Comment**

Helyn Anderson read the following:

*"Thank you for rescheduling the October 14, 2024 public hearing so I could be present.*

*My objection to taking down the tree living between 42-44 Park Street was based on 47 years of daily observation, which never sent signals that this tree posed any higher public risk than any other historic public shade tree in Brandon. Most questions and concerns voiced in my "Request for a Stay of Execution" letter have been answered by our State Urban Forester, Mr. Adam McCullough. He evaluated the tree in person on October 10, 2024. His resistograph inspection was not conclusive, so not helpful in assessing the tree's core density. The ISA (International Society of Arboriculture) Basic Tree Risk Assessment ratings indicates this tree is a low to moderate risk to people and property (see attached). The overall moderate risk rating is most relevant to the 42 Park Street property. Any risk to other property is mitigated by the presence of the nearby 150 plus year old tree to its east and the cabling between its codominant stems.*

*Mr. McCullough can reevaluate the tree annually. Although he has no actual authority in Brandon, he can assess this tree, offer support and advice. It is up to you, the Select Board, to make the final decision as to "where in the list of tree removal priorities this tree falls. (McCullough 10/10/24 ISA)" The ISA assessment indicates that, currently, it does not pose an extreme or high risk hazard to public safety. Given that the tree's current overall evaluation by our State arborist rates it to be moderate risk; it is not infested by a recognized tree pest and is rated a low possible risk to the public, I request that you please consider removing this tree from your 2024 priority list, marking it for a follow-up reevaluation in October of 2025.*

*Thanks for allowing me to express my opinion and feelings about the importance of not just this tree but any tree, that has survived 150-170 years of life in our public way. Trees of this size are becoming increasingly rare. Each is a significant landscape feature of our beautiful Town of Brandon. I'm confident that you will be taking Vermont's Urban Forester's ISA assessment, my observations and a concern for facts into consideration in your final decision. Thank YOU for all YOU do."*

Ms. Anderson stated the fungus is actually an edible fungus and it is hard to know if the trunk is truly solid. Its overall rating was moderate and her property has the greatest risk.

Jan Coolidge asked what the liability is to the Town if the tree falls now that the Select Board is aware of the condition of the tree and is it a high risk to the town. Doug Bailey stated now that the tree has been highlighted as a risk, if property gets damaged or if someone gets hurt the Town is more liable. There is a risk of dead limbs falling as this has happened in the past.

Judy Bunde previously owned 69 Park Street and she noted the Town removed two large historic maple trees near her property. The tree in question has a broad canopy and the ones in front of her property did not. Those trees were designated for removal by the prior tree warden and when removed it was shocking to see that the top and bottom third of the trees were intact and the center 1/3 had been hollowed out. The removal of the trees made a huge difference in the landscape. There was also a tree taken down in front of 63 Park Street. She understands the trees are at the end of life but the Town has not done anything to replace them and there is not a good tree planting program with the trees that are replanted being tiny. If on a scale of 1 to 4, and this is a 2, why is it being removed. There was also talk of reevaluating it in a year. Ms. Bunde did not feel it is a danger to leave the tree and review it in another year. After the trees were removed near her house, she had 6 inches of water in her basement for 6 weeks in the spring and her neighbor also had 6 inches of water in their basement that would not go away. A cause was never determined why there was now water in her basement but she spent a lot of money to remediate the basement. The remediation failed the next year after she sold the house and she noted something changed in the water table after those trees were removed. She noted concern that the tree in question is much closer to the river and the water table. Ms. Bunde suggested giving it another year as she understands the tree is not dropping branches like the trees near her property.

Ms. Anderson stated there is not a Town Shade Tree plan and in walking through Town, this tree is less of a risk than others she has seen. There is a tree on Grove Street north of the Steven Douglas House that should have been removed, but it collapsed prior to removal. There are many trees of greater risk than this one and no limbs have dropped with the recent high winds. Ms. Anderson requested the Select Board consider this not a high risk at this point and possibly trim the dead limbs.

Bill Moore stated with regard to liability and with Ms. Anderson indicating her house had the greatest risk whether she would sign a waiver of liability if the tree were to remain. Ms. Anderson stated Adam McCullough indicated that her house is of greatest risk, but the tree is cabled. If the two dead limbs were trimmed, Ms. Anderson noted she would be willing to sign a waiver.

Doug Bailey viewed the tree and what is most at risk is the sidewalk and the fence that belongs to Ms. Anderson's neighbor. He stated the tree height could reach part of the neighboring house, also. Mr. Bailey noted that the arborist report was somewhat confusing as on one page it indicates the failure is minor, but on another page, it indicates the likelihood of failure is probable and he also listed the overall risk rating is high. Mr. Bailey sees those comments as being more of a problem.

Judy Bunde noted there are two different reports dated October 9<sup>th</sup> and October 10<sup>th</sup>, with the report on the 10<sup>th</sup> was from his physical inspection. The mushrooms were not on the tree in the 1<sup>st</sup> report. The second report was a moderate conclusion and she thought that he wrote the first report from an earlier viewing of the tree.

Helyn Anderson advised Mr. McCullough's October 9<sup>th</sup> report was based on photos he had seen in April and it wasn't a day between visits. He summarized his experience of 6 months prior and is a very difficult report to read. It was rated as moderate and is not an extreme risk tree. There are trees on Carver Street, Steinberg Road, Fox Road and others on Park Street that are also highly dangerous and the Urban Forestry Department has not yet received the assessment on those trees.

Tim Guiles stated when he first moved to Vermont, he worked on a farm that had a beautiful tree and a limb fell off and killed someone and he does not want to be responsible for someone getting hurt. He appreciates the beauty of the tree and will do everything he can to get the planting program up and running. From what he has read, he would support the removal of the tree.

Brian Coolidge stated the Tree Warden does not want the tree to be removed, however, he trusts Mr. Silins' and Mr. McCullough's recommendation.

**Motion** by Brian Coolidge/Tim Guiles to approve the removal of the tree. **The motion passed unanimously.**

Doug Bailey stated once the Select Board has been notified of the problem, it is the direction that the Board needs to go.

Ms. Anderson stated there is statutory requirements prior to the removal of the tree. Mr. Hopkins advised that the requirements talk about the Tree Warden posting the acknowledgement that was done in the spring, but the process was delayed to the fall due to nesting. Objections have been heard, and the objector submitted a letter to the legislative body. The legislative body held the hearing and the decision of the Select Board is considered to be final. Mr. Hopkins noted this is the third step in the process, not the first step. Mr. Hopkins will review the guidance and will advise the Board.

### **3. Close Hearing**

The hearing was closed at 8:41PM.

Respectfully submitted,

Charlene Bryant  
Recording Secretary