

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, April 16, 2009**

LOCATION: Broadmeadow Elementary School Media Center

ATTENDING: Lisa Standley, Carl Shapiro, Janet Bernardo, Sharon Soltzberg, Dawn Stolfi Stalenhoef, Kristen Phelps (Agent)

GUESTS: Rick Rice, John Rockwood, Richard Nysten, Milton Schafer, Marcia Handin, Roy Cramer, Don Sandler, Lance Remsen

L. Standley opened the meeting at 7:35 p.m.

PUBLIC HEARINGS

28 MARR ROAD (DEP File # 234-554) – NOTICE OF INTENT

L. Standley opened the public hearing at 7:56 p.m. Property owner Milton Schafer was accompanied by John Rockwood of EcoTec and attorney Richard Nysten. J. Rockwood described the proposed project which involves removing eleven trees from the buffer zone; five of the trees proposed for removal fall within 50 feet of the bank or BVW and seven of the trees are within a deed restricted area. He reviewed the report provided by the Applicant's arborist outlining the perceived problems which each of the trees slated for removal, and then described the protocol that would be used to remove the trees noting that stumps would be left in place. R. Nysten addressed the legal question of whether this work could be allowed within a deed restricted area. He noted that the restriction prohibits clearing, but argued that the proposed work does not meet the standard definition of clearing. He added that the restriction does not speak to maintenance of trees and therefore does not specifically prohibit such activity. He stated that it was his professional opinion that the Commission has the authority to allow such work within the restricted area through their review and action on this Notice of Intent.

L. Standley stated that the Commission had conducted a site visit prior to the hearing to review the trees in question. She noted that while three of the trees leaned towards the house the others appeared to be healthy and vertical. She questioned why the Applicant felt these trees were an imminent threat and whether some of the trees could be pruned rather than removed to reduce any potential hazard. Following further discussion about specific trees, R. Nysten suggested that the hearing be continued to allow the Applicant to revise their proposal based on the input provided by the Commission.

M. Handin, abutter from South Street stated that she had submitted a letter in opposition to the previous project (tennis court) proposed on this lot which described the wildlife she observed in this area. She asked that the Commission consider her points in relation to this project noting that the removal of 11 trees would change the area and impact the wildlife using it.

Motion to continue the public hearing for DEP File # 234-554 (at Applicant's request) to April 30, 2009 at 8:00 p.m. by Carl Shapiro, seconded by Dawn Stolfi Stalenhoef, approved 5-0-0.

61 BORDER ROAD – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:23 p.m. Property owner Don Sandler was accompanied by attorney Roy Cramer. R. Cramer stated that the application was an after-the-fact filing for work involving the reinforcement of footings under an existing deck and sunroom. Both rooms were constructed by a prior owner more than 10 years ago. The recent work was done at the direction of the

Building Department in order to close out an open building permit. The work involved trenching along the back of the existing rooms to the rear of the house, pouring concrete under the existing footings, and backfilling around the foundation. All work was done within existing lawn area within the Riverfront Area of Rosemary Brook. **Motion to issue a Negative Determination of Applicability by Carl Shapiro, seconded by Janet Bernardo, approved 5-0-0.**

NEWMAN SCHOOL FIELD WORK – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:30 p.m. Parks & Forestry Superintendent Mr. Lance Remsen was present. He described the proposed work which will occur in two separate areas within the school grounds. The first project involves installing a four-foot chain link fence around the outfield of Cusick Field (near Central Avenue). The fence will be located approximately 6 inches behind the existing irrigation heads at the limit of the outfield and some minor vegetation removal will be required to accommodate the fence posts. The second work area abuts the Eastman Conservation Area to the rear of the Newman School. L. Remsen stated that a row of *Rosa multiflora* was encroaching into the multipurpose fields. The Parks & Forestry Division has historically installed seasonal netting on existing poles to maintain separation between the fields and the naturally vegetated area. This fencing has not been used for the last few years, and the vegetation is now several feet beyond the poles (which remain in place). He would like to cut the vegetation along the edge of the field to a point just behind the existing fence poles such that the seasonal netting could be installed.

L. Standley asked whether the Town would consider treating the cut stems of any invasives with an herbicide. L. Remsen replied that under the Family & Child Safety Act, he would have to provide notification and close the fields and would therefore prefer not to use these chemicals. **Motion to issue a Negative Determination of Applicability by Sharon Soltzberg, seconded by Dawn Stolfi Stalenhoef, approved 5-0-0.**

COMMISSION ACTIONS

33 PENNSYLVANIA AVENUE – Unauthorized removal of vegetation

K. Phelps stated that she was at the McCracken Camp property on Saturday, April 11th to oversee the Girl Scout Gold Award project recently reviewed and approved by the Commission. At that time, she observed significant cutting on the abutting property at 33 Pennsylvania Avenue. Several trees and several feet of brush had been cut both within and beyond the buffer zone. Additionally, the cut material had been plowed and stockpiled on Town-owned land, changing the character of the existing trail and creating significant soil disturbance. K. Phelps stated that the Park & Recreation Commission had been notified about the encroachment and unauthorized cutting on property under their control.

The Commission noted that this was not the first violation at this site. They discussed what actions should be taken to address the unauthorized activity and agreed they should issue an Enforcement Order requiring the property owner to cease and desist from further activity within the buffer and to submit a Notice of Intent by May 28, 2009 to restore the areas within the Conservation Commission's jurisdiction. The Commission further agreed that a non-criminal citation should be issued for all unauthorized activity subject to the local bylaw. Some of the specific violations noted included working without a permit, removing several trees, clearing shrubs and brush, disturbing soils, and stockpiling. **Motion to issue an Enforcement Order (as discussed) and to impose a non-criminal penalty in the amount of \$1700.00 for unauthorized activity at 33 Pennsylvania Avenue by Carl Shapiro, seconded by Janet Bernardo, approved 5-0-0.**

77 SYLVAN ROAD; HIGH ROCK SCHOOL (DEP File #234-518) – Request for Minor Modification

Mr. Rick Rice from DiNisco Design was present on behalf of the Applicant. He reviewed the proposed plan changes which include adding plantings within the large detention basin (outside of the 100-foot buffer zone); adding four white pines next to 35 Linden Street to provide additional screening (plantings would supplement approved landscaping plan); and constructing a 170 square foot shed approximately 45 feet from the bordering vegetated wetland. The proposed shed is located next to the dumpster pad in an area that was disturbed during the High Rock School construction project, and the plans include a stone filter trench around two sides of the shed to capture roof runoff. R. Rice confirmed that abutters had been notified of the project changes through the public hearing held by the Planning Board on this same matter. The Commission expressed concerns over the storage of chemicals and petroleum products in this area, and agreed that their approval should be contingent upon limiting the storage of such products. They concurred that their action on this matter should stipulate that no herbicides or pesticides could be stored in the proposed shed and that no more than 10 gallons of properly contained petroleum could be kept in the shed at any time. **Motion to approve the proposed project changes (with noted limitations) as a minor modification to the Order of Conditions for DEP File # 234-518 by Janet Bernardo, seconded by Sharon Soltzberg, approved 5-0-0.**

TRAIL MAINTENANCE (Generic RDA) – Trail work at Newman School

L. Remsen was present to discuss the proposed project which involves placing crushed stone on the path that runs between the Newman School and Cusick Field. He noted that this is an activity that the Parks & Forestry Department undertakes periodically, and that a new application of stone is needed given the condition of this path. **Motion to approve the proposed trail work under the Generic Trail Maintenance Determination of Applicability by Sharon Soltzberg, seconded by Carl Shapiro, approved 5-0-0.**

DPW GENERIC PERMIT (DEP File # 234-356) – Request to trim vegetation around reservoir

L. Remsen noted that this was an annual request to trim the vegetation on the berm around the southern edge of the reservoir in advance of the spring recreation season. **Motion to approve the request under the DPW Generic Maintenance Permit by Sharon Soltzberg, seconded by Carl Shapiro, approved 5-0-0.**

58 POND STREET – Request for exemption for fence installation

The proposed fence will be installed within lawn area at a distance of more than 50 feet from the bank of Sportsman's Pond (located on the abutting lot). **Motion to approve the proposed fence as an exempt minor activity by Janet Bernardo, seconded by Sharon Soltzberg, approved 5-0-0.**

1336 GREAT PLAIN AVENUE – Confirmatory Easement

In August of 2008, the Commission and the Board of Selectmen accepted a parcel of land on Great Plain Avenue along with a five foot pedestrian easement. A confirmatory easement including all parties with an interest in the land over which the pedestrian easement runs was also accepted by both boards, however, this document was recorded at the Registry of Deeds without the paperwork reflecting acceptance by the Conservation Commission and the Selectmen. In order to properly record the acceptance of the confirmatory easement, both Boards have been asked to either reaccept or acknowledge their prior acceptance by signing the appropriate paperwork. Once the signatures of both Boards have been obtained, the fully executed document will be recorded at the Registry of Deeds. **Motion to accept the confirmatory easement as discussed by Carl Shapiro, seconded by Janet Bernardo, approved 5-0-0.**

OTHER BUSINESS

ROSEMARY LAKE – Discussion of erosion issues

J. Bernardo stated that she had visited the Rosemary Pool parking area during recent storm events and witnessed significant erosion issues in two areas: (1) at the trailhead leading to the McCracken Camp property where runoff has caused a 12 to 18 inch gulley along the trail; and (2) near the entrance to the pool where a double catchbasin is completely full of sediment and the runoff in this area has caused dirt and debris to accumulate on and above the existing chain link fence. The Commission agreed that the Town will need to address these ongoing erosion problems, and they directed K. Phelps to notify and work with the appropriate departments towards a solution that could be brought to the Commission for review.

MA HIGHWAY ADD-A-LANE (DEP File # 234-553) – Peer Review Report

K. Phelps stated that the project proponent was seeking feedback from the Commission as to whether any further changes to the wetland delineation would be required as a result of the peer review report submitted by Mr. Steve Ivas. The Commission agreed to postpone discussion of this issue until their next meeting.

LAND MANAGEMENT – Discussion

K. Phelps stated that during a recent meeting with the Assistant Town Manager, the topic of replacement land for the 3.02 acres of Ridge Hill which was transferred to the Board of Selectmen was raised. In the event that a suitable parcel could not be purchased by the December 2010 deadline, the Commission's input on land that might be transferred from another Town Department was requested. The Commission concurred that the Nike Site would be an acceptable parcel and agreed to give the matter further consideration.

Meeting was adjourned at 9:18 p.m.

Next Meeting: Thursday, April 30, 2009 at the Needham Public Library Community Room

Respectfully submitted,

Kristen Phelps