

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, August 13, 2009**

LOCATION: Needham Public Library

ATTENDING: Lisa Standley, Carl Shapiro, Paul Alpert, Dawn Stolfi Stalenhoef, Kristen Phelps (Agent), Amy Holland (Administrator)

GUESTS: Bruce Dean, Brian Barron, Jim Duffy, Mark Allen, Jay Miller, Michele Peterruti, Mary Trudeau, Diane Simonelli, David Dilanian

L. Standley opened the meeting at 7:30 p.m.

PUBLIC HEARINGS

320 CEDAR STREET – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 7:45 p.m. Property owner Aaron Adler was present. He explained the project which involved constructing a shed within existing lawn to replace a dilapidated shed that had recently been removed from the same location. K. Phelps stated that she conducted a site visit and confirmed that the wetlands were off site at the base of a steep slope at least 30-40 feet from the existing fence at this property. **Motion to close the public hearing and issue a negative Determination of Applicability for the work at 320 Cedar Street by Paul Alpert, seconded by Carl Shapiro, approved 4-0-0.**

213 WASHINGTON AVENUE (DEP File #234-560) – NOTICE OF INTENT

L. Standley opened the continued public hearing at 7:50 p.m. Mark Allen of Allen Engineering was present on behalf of the Applicant. He explained the changes to the plan made in response to comments received at the last meeting, noting that the proposed grading had been pulled out of the 25-foot no-disturb area and the discharge pipe from the infiltration system had been removed. He confirmed that the 2 trees closest to the wetland resource area would not be cut. **Motion to close the public hearing for DEP File # 234-560 by Paul Alpert, seconded by Dawn Stolfi Stalenhoef, approved 4-0-0.** The Commission reviewed the draft Order of Conditions. **Motion to issue the Order of Conditions (as amended) for DEP File # 234-560 by Paul Alpert, seconded by Dawn Stolfi Stalenhoef, approved 4-0-0.**

0 SOUTH STREET (DEP File #234-561) – NOTICE OF INTENT

L. Standley opened the continued public hearing at 8:06 p.m. The applicant submitted a letter requesting a continuance until August 27, 2009 (while they determine if they can install a septic system). **Motion to continue the public hearing for DEP File # 234-561 (at applicant's request) to August 27, 2009 at 7:45 p.m. by Paul Alpert, seconded by Carl Shapiro, approved 4-0-0.**

109 CHARLES RIVER STREET – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:15 p.m. Property owner Michele Peterruti was accompanied by contractor Jay Miller. She explained the proposed project which involves constructing a 14' x 38' deck within existing lawn area. J. Miller stated that the deck will be at least 75 feet from the bordering vegetated wetland and will involve only minimal excavation to install six sonatubes. **Motion to close the public hearing and issue a negative Determination of Applicability for the proposed work at 109 Charles River Street by Paul Alpert, seconded by Carl Shapiro, approved 4-0-0.**

305 DEDHAM AVENUE (DEP File #234-56X) – NOTICE OF INTENT

L. Standley opened the public hearing at 8:25 p.m. The applicant submitted a letter requesting a continuance until August 27, 2009 (in order to properly notify abutters). **Motion to continue the public hearing for 305 Dedham Avenue (at applicant's request) to August 27, 2009 at 7:45 p.m. by Paul Alpert, seconded by Carl Shapiro, approved 4-0-0.**

COMMISSION ACTIONS

70 BRIARWOOD CIRCLE (DEP File # 234-515) – Request for Certificate of Compliance

K. Phelps stated that the only outstanding issue on this filing was verification of the restoration plantings that were installed. She conducted a site visit and found highbush blueberry and a variegated red twig dogwood. Locating the plantings was difficult due to the dense vegetation cover in the restoration planting area. She confirmed that the site was stabilized and that groundcover plantings (creeping juniper) had been installed on the slope. **Motion to issue a Certificate of Compliance for DEP File # 234-515 by Paul Alpert, seconded by Dawn Stolfi Stalenhof, approved 4-0-0.**

48 MEADOWBROOK ROAD (DEP File # 234-525) – Request for Certificate of Compliance

K. Phelps stated that the site was stabilized and the work was done in accordance with the Order of Conditions. **Motion to issue a Certificate of Compliance for DEP File # 234-525 by Paul Alpert, seconded by Dawn Stolfi Stalenhof, approved 4-0-0.**

427 SOUTH STREET – Request for exemption to prune tree limbs

The property owner submitted a request to prune limbs from several trees in close proximity to their house. K. Phelps conducted a site visit and reported that the trees to be trimmed are separated from the wetlands by Marr Road. **Motion to approve tree pruning as an exempt minor activity by Dawn Stolfi Stalenhof, seconded by Paul Alpert, approved 4-0-0.**

DPW GENERIC PERMIT (DEP File #234-356) – Request to remove fallen tree and vegetation from Alder Brook

K. Phelps stated that the Town received a call from a resident regarding a fallen tree that is impeding the flow of Alder Brook (behind 93 Canterbury Lane). The Parks & Forestry Department proposes to cut and remove tree limbs from the area and to cut and pile the majority of the trunk within the drainage easement. In addition, several of the shrubs which have grown into the stream channel will be removed. L. Standley stated that the proposed work is consistent with the generic permit. **Motion to approve the proposed tree work and vegetation removal under the DPW Generic Permit by Carl Shapiro, seconded by Paul Alpert, approved 4-0-0.**

112 EDGEWATER DRIVE (DEP File #234-543) – Non-criminal citation

K. Phelps notified the Applicant, Mr. Ralph Feinberg, that his amended Order of Conditions had been voted and processed and could be picked up when he paid the outstanding non-criminal citation (which had been issued for non-compliance with his permit). Mr. Feinberg asked to appear before the Commission to discuss the fine and was thereafter scheduled for a specific time on the August 13th meeting agenda. He was notified of the time and place of the meeting both in person and by e-mail; however, he was not present at the meeting. The Commission agreed that the Amended Order must be sent to the Applicant in order to comply with the statutory time frame for issuing decisions. They further agreed that the non-criminal citation matter should be handled separately, and voted unanimously to pursue a criminal complaint against the Applicant for payment of the fine. The Commission directed K. Phelps to include a boilerplate condition in future permits stating that no work may commence within jurisdictional areas until all outstanding fines have been paid.

OTHER BUSINESS

1885 CENTRAL AVENUE – Violation

K. Phelps stated that she had sent a letter to the property owner regarding the recent clearing on the bank of the Charles River at this site. The property owner, Mr. Brian Barron, responded to this correspondence and installed an erosion control blanket on the exposed slope per her direction. Mr. Barron was present and he submitted a written narrative explaining his actions. He noted that the stairs and platform pre-dated his purchase of the property and that he was not attempting to create a new access point. L. Standley stated that the work conducted on the bank and in Riverfront Area required a permit and the Commission agreed that Mr. Barron should submit an after-the-fact Notice of Intent by mid-September.

328 CEDAR STREET – Violation

K. Phelps reported that while conducting a site visit for the RDA at 320 Cedar Street, she observed what appeared to be relatively recent fill in the rear yard and down the slope at the rear property line. The Commission directed K. Phelps to send a letter to the property owners directing them to install erosion controls at the base of the fill and to file an NOI for the unauthorized work.

CPA SUMMIT – Discussion

K. Phelps stated that the Board of Selectmen was planning a Community Preservation Act “summit” meeting to be held on Tuesday, October 6, 2009. Town Manager Kate Fitzpatrick circulated an e-mail requesting the attendance of boards and committees who were involved with the CPA process.

673 CENTRAL AVENUE – Potential Violation

L. Standley stated that she had been notified of a potential violation (involving the expansion of lawn into BVW and Riverfront Area) at the above noted address. She noted that the Commission had permitted the removal of invasives from the rear yard under an old filing, however, the owners may have exceeded the limits established under that permit. The Commission directed K. Phelps to investigate and report her findings.

LOT 4 GREAT PLAIN AVENUE – Discussion

Property owner David Dilanian was accompanied by Mary Trudeau and Diane Simonelli. M. Trudeau stated that the owner was seeking feedback from the Commission prior to filing a Notice of Intent for work within buffer zone and Riverfront Area. She reviewed the project site and stated that the owner would like to construct a driveway along the property boundary closer to Rosemary Brook (which runs through armored banks in this area). She added that a five-foot pedestrian access easement crosses the lot in the same general area where the driveway is proposed and work would be occurring in this area in order to create the walkway to the Town-owned conservation land to the rear of the subject lot. L. Standley stated that the applicant would need to demonstrate compliance with the performance standards for the Riverfront Area. She noted that this includes the submission of an alternatives analysis contrasting various development scenarios. She suggested that the applicant develop plans showing the limits of clearing and grading for the preferred driveway location versus one at the maximum distance from the brook. She added that the application should evaluate whether there is a difference in the amount of disturbance between the two options and should include an economic analysis of the separate options. Given the characteristics of the resource area, applicant should also look at the presumptions of significance. Discussion about potential mitigation, including work to improve the access easement, followed. In response to an inquiry from D. Simonelli, the Commission reiterated that they would not consider tree removal on this lot, or on adjacent conservation land without a formal filing (either as part of a Notice of Intent for developing the lot or as a stand alone RDA).

ENFORCEMENT POLICY – Discussion

D. Stolfi Stalenhoef stated that she had been reviewing the matter of enforcement and considering the development of an enforcement policy. Based on her research, she recommended that the Commission not adopt a formal policy in order to maintain as much flexibility as possible. L. Standley stated that she would like a mechanism to ensure that violations are treated in a consistent manner. Further discussion about establishing principles and/or developing an enforcement log to track enforcement actions followed. K. Phelps stated that MACC's Fall Conference will focus on enforcement, including enforcement under local bylaws and non-criminal citations. D. Stolfi Stalenhoef suggested that the Commission take this matter up again following the Fall conference.

Meeting was adjourned at 9:17 p.m.

Next Meeting: Thursday, August 27, 2009 at the Needham Public Library Community Room

Respectfully submitted,

Kristen Phelps