

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, October 14, 2010**

LOCATION: Town of Needham Public Services Administration Building, Charles River Room

ATTENDING: Lisa Standley (Chair), Paul Alpert, Janet Bernardo, Marsha Salett, Sharon Soltzberg, Patricia Barry (Agent), Debbie Anderson (Assistant)

GUESTS: Jerry Carr, B & C Foxman, Joyce Hastings, David Hawk, D. Janower, Kevin McQuin, Mukund Nathan, Greg Petrini, John Rockwood, Diane Simonelli, Ginny Stevens, Mike Sullivan, Mary Trudeau, Liem Vu

L. Standley opened the meeting at 7:32 p.m.

MINUTES

Motion to approve minutes of March 25, 2010 by P. Alpert, seconded by J. Bernardo, approved 4-0-1 (L. Standley abstained).

Motion to approve minutes of August 12, 2010, as amended, by S. Soltzberg, seconded by P. Alpert, approved 5-0-0.

Motion to approve minutes of August 26, 2010, as amended, by J. Bernardo, seconded by P. Alpert, approved 5-0-0.

Motion to approve minutes of September 23, 2010, as amended, by P. Alpert, seconded by S. Soltzberg, approved 5-0-0.

PUBLIC HEARINGS

112 EDGEWATER DRIVE (DEP FILE#234-534) – *Continued* REQUEST TO AMEND ORDER OF CONDITIONS

L. Standley opened the continued public hearing at 7:55 p.m. P. Barry explained that no Restoration Plan had been submitted as required. L. Standley suggested that an Amended Order of Conditions be issued that includes the required restoration plantings. **Motion to close the public hearing for DEP File#234-534 by P. Alpert, seconded by J. Bernardo, approved 5-0-0.** The public hearing was closed at 7:59 p.m. The Commission reviewed the amended draft Order of Conditions. The Commission did not approve the new limits of work identified by the erosion controls on the referenced plan and determined that no additional filling, loaming or vegetation clearing is allowed below elevation 201.62 other than removing fill, seeding and planting trees and shrubs. The Conservation Commission also required plantings within the hatched area on the approved plans below elevation 201.62 and the erosion control line to restore the Riverfront Area as follows: 3 red maples (*Acer rubrum*); 3 river birches (*Betula nigra*); 5 serviceberries (*Amelanchier Canadensis*); 5 mountain laurels (*Kalmia latifolia*) and 5 Rosebay rhododendrons (*Rhododendron maximum*). **Motion to issue an Amended Order of Conditions for 112 Edgewater Drive (DEP File #234-534) by P. Alpert, seconded by J. Bernardo, approved 5-0-0. Motion to Close the Public Hearing by M. Salett, seconded by P. Alpert, approved 5-0-0.**

28 MARR ROAD (DEP FILE #234-597 – *Continued* NOTICE OF INTENT

L. Standley opened the public hearing at 8:00 p.m. John Rockwood of Ecotech presented to the Commission the revised project plans. Mr. Rockwood explained that the purpose of the pathway, which

is located within the 100-foot buffer zone to a bordering vegetated wetland, was to access a portion of the property that is not easily accessible and create a lawn area outside of the 100-foot buffer zone. To mitigate for work proposed within the 100-foot buffer zone, the applicant has proposed an 800 square foot restoration area that is now located adjacent to the pathway outside of the private way to be planted with 4 saplings and 34 shrubs, as specified in the EcoTech report. **Motion to close the public hearing for 28 Marr Road (DEP File #234-597) by S. Soltzberg, seconded by P. Alpert, approved 5-0-0.** The public hearing was closed at 8:10 p.m. The Commission reviewed the draft Order of Conditions. **Motion to issue an Order of Conditions for 28 marr Road (DEP File #234-597) by M. Salett, seconded by P. Alpert, approved 5-0-0.**

80 NORTH HILL AVENUE – *continued* REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:15 p.m. L. Standley and J. Bernardo of the Commission conducted a site visit on October 10, 2010 at 80 North Hill Avenue to determine whether there were jurisdictional wetland resource areas on the property. L. Standley submitted a Memorandum for the record detailing the Commission's findings. L. Standley stated that the area in question is a vegetated wetland under the Town of Needham General Wetlands Protection Bylaw (Article 6). However, the area is not a jurisdictional wetland resource area in accordance with the Massachusetts Wetlands Protection Act (MGL Chapter 131 Section 40). During the site visit the Commission observed saturated soils, trees with buttressed root systems and several obligate wetland species including skunk cabbage (*Symplocarpus foetidus*) and fowl manna grass (*Glyceria striata*). Dr. Jerome Carr of Carr Research Laboratory represented the applicant and agreed with the Commission that the land is subject to flooding. He suggested using recharge galleys to put the water back into the ground. L. Standley stated that the primary function of this wetland is to hold stormwater.

The Commission discussed whether a Notice of Intent would be required for the proposed demolition of an existing single family dwelling and construction of a new single-family home with associated site work, driveway, stairs, porch, deck, and landscaping within the 100-foot buffer zone of a vegetated wetland. J. Bernardo questioned the grading in the rear of the property and stated that adding 2 feet of soil to an area of flood storage would not be a good idea. The Commission discussed with the applicant the watershed for the stormwater. The Commission determined that a Notice of Intent application was required for the proposed project for several reasons: the proposed project is not a minor activity because work is proposed within the 25-foot buffer zone which requires a waiver; greater than 500 square feet of impervious surface or new structures are proposed within the 100-foot buffer zone; an Order of Conditions allows enforceable conditions to ensure that no adverse impact occurs to the vegetated wetland and hence its flood control function.

L. Standley opened the hearing to public comment. Carol Foxman of 74 North Hill Avenue expressed concern regarding the proposed 2 feet of fill in the backyard and its impact to water displacement. Mike Sullivan of 99 Mackintosh Avenue informed the Commission that the drain pipe is not functioning and in the past spring there was 2.5 feet of water in the wetland with two ducks. **Motion to close the public hearing for 80 North Hill Avenue by J. Bernardo, seconded by M. Salett, approved 5-0-0.** The public hearing was closed at 8:29 p.m. **Motion to issue a Positive Determination of Applicability under the Needham Wetlands Protection Bylaw and a Negative Determination of Applicability in accordance with the MA Wetlands Protection Act by M. Salett, seconded by S. Soltzberg, approved 5-0-0.**

61 BRIARWOOD CIRCLE (DEP FILE #234-598) – *continued* NOTICE OF INTENT

L. Standley opened the public hearing at 8:30 p.m. The applicant's wetland consultant, Mary Trudeau, presented additional information and the revised plan as requested by the Commission that included (1) the demarcation of the existing lawn line; (2) clarification of grading adjacent to the proposed retaining

walls; (3) proposed landscaping along foundation; and (4) filing fee form revision. Approximately 2,400 square feet of indigenous vegetation will be removed as a result of the proposed project including one 42-inch diameter at breast height (dbh) red oak (*Quercus rubra*) and one 28-inch dbh red oak. The applicant agreed to protect four large red oak trees specifically the two 18-inch dbh oak trees, a 20-inch dbh oak tree and a 24-inch dbh oak tree. Tree wells were proposed to protect the trees as needed during and post construction. L. Standley questioned why the hay bale “limit of work” line was located past the 50-foot no disturb buffer zone line towards the wetland. L. Standley stated that the hay bale “limit of work” line should be at a minimum of 52 feet from the bordering vegetated wetland. **Motion to Close the public hearing for DEP File #234-598 by S. Soltzberg, seconded by J. Bernardo, approved 5-0-0.** The public hearing was closed at 8:39 p.m. The Commission reviewed the draft Order of Conditions. **Motion to issue an Order of Conditions for 61 Briarwood Circle (DEP File #234-598) by J. Bernardo, seconded by P. Alpert, approved 5-0-0.**

41 PINE STREET – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:40 p.m. P. Alpert recused himself as he is an abutter to Pine Street. Joyce Hastings of GLM Engineering, the applicant’s representative, presented the project before the Commission. The proposed project consists of the upgrade of an existing failed cesspool that is located outside of the 100-foot buffer zone of a bordering vegetated wetland and vernal pool. However, construction access to the project location will require use from an existing cart path located within the 100-foot buffer zone. Hay bales and silt fencing are proposed as erosion control measures along the access as the slope is relatively steep along the cart path. A shed appears to have been constructed within the 100-foot buffer zone without a permit from the Conservation Commission. Ms. Hastings said that this was a replacement of an old shed that had been in that location for years. L. Standley required that the landscaping debris deposited within the 25-foot no disturb buffer zone be removed. The applicant’s representative agreed that during the construction of the new septic system, the trucks would remove the landscaping debris. **Motion to close the public hearing and issue a Negative Determination of Applicability for 41 Pine Street by J. Bernardo, seconded by M. Salett, approved 4-0-0.** A letter shall be drafted by P. Barry to be sent to any future owners stating that no debris shall be deposited in the 100-foot buffer zone.

461 CHESTNUT STREET – REQUEST FOR DETERMINATION OF APPLICABILITY

J. Bernardo opened the public hearing at 8:50 p.m. L. Standley recused herself due to a conflict of interest. Kevin McQuinn of NSTAR Gas & Electric presented the proposed project to the Commission that included the installation of two new 4-inch electrical conduits at Substation 148 located in previously disturbed areas within the 100-foot buffer zone to a bordering vegetated wetland and inland bank. A 5-foot wide and 4-foot deep trench will be excavated, backfilled and restored to original ground elevations. Approximately 360 square feet of work is proposed within the buffer zone. Erosion controls consisting of hay bales and silt fencing will be installed at a minimum distance of 35 feet from the edge of bordering vegetated wetland. J. Bernardo opened the hearing to public comment. Mukund Nathan of 63 Gayland Road inquired about location of conservation land behind his home relevant to the proposed project. K. McQuinn explained that the proposed work is located on the other side of the railroad tracks from Gayland Road and the work will not impact the conservation land. **Motion to close the public hearing for 461 Chestnut Street by M. Salett, seconded by P. Alpert, approved 4-0-0.** The public hearing was closed at 8:58 p.m. **Motion to issue a Negative Determination of Applicability for 461 Chestnut Street by P. Alpert, seconded by S. Soltzberg, approved 4-0-1.**

COMMISSION ACTIONS

433 CHESTNUT STREET – RATIFY EMERGENCY CERTIFICATION

The Commission authorized bypass pumping of stormwater from a bordering vegetated wetland to an intermittent stream due to a collapsed MBTA box culvert to protect the health and safety of upstream and downstream property owners and the integrity of the sewer and stormwater systems during rain events. Erosion controls consisting of filter fabric and haybales were installed within the intermittent stream banks to prevent future erosion. The MBTA in coordination with the Town of Needham Engineering Department filed a Notice of Intent application to repair the culvert and stream drainage easement banks. **Motion to ratify the Emergency Certification for 433 Chestnut Street by J. Bernardo, seconded by P. Alpert, approved 5-0-0.**

1566 GREAT PLAIN AVENUE – RATIFY EMERGENCY CERTIFICATION

The Commission authorized limited vegetation clearing and excavation to contain hydraulic fluid spilled on an existing paved driveway within the 100-foot buffer zone to a bordering vegetated wetland. Hazardous material was released as a result of the breaking of the main hydraulic line of a Needham Fire Truck. Clean Harbors Environmental used a vacuum truck to remove the hazardous material and reseeded the disturbed area. **Motion to ratify Emergency Certification for 1566 Great Plain Avenue by J. Bernardo, seconded by M. Salett, approved 5-0-0.**

97 WAYNE ROAD (DEP FILE #234-568) – MINOR MODIFICATION REQUEST

P Barry conducted a site visit at 97 Wayne Road and observed that the pavers installed around the pool were not pervious as required by the Order of Conditions, thus increasing the amount of impervious area on the property. The applicant requested a minor modification to the existing Order of Conditions to permit the pavers and the installation of planting boxes. The property owner, Liem Vu, explained that the planter boxes do have bases and that between the pavers is settled sand. P. Barry stated that all the restoration in the 25-foot Buffer Zone Area has been completed and black fencing has been installed to demarcate the 25-foot Buffer Zone Area as required in the Order of Conditions. J. Bernardo voiced her concern over the additional increase in unauthorized impervious area. **Motion to issue an after-the-fact Minor Modification to the Order of Conditions for 97 Wayne Road (DEP File #234-568) by J. Bernardo, seconded by S. Soltzberg, approved 5-0-0.**

87 RIVERBEND LANE (DEP FILE #234-528) – PLANTING PLAN APPROVAL & MINOR MODIFICATION REQUEST

Dave Hawk of Hawk Design Landscape Architects, presented the proposed planting plan and revised project to the Commission that included the following changes: (1) The pool, pool deck, pool fencing and cabana were slightly realigned by 3-feet to make the sunnier side of the pool area larger and the cabana was moved further away from the pool. (2) A small stone patio was proposed off the rear of the main house. (3) The retaining wall adjacent to the garage was lengthened to provide visual relief to the garage. (4) A stone fire pit was proposed in the upper lawn. (5) Additional steps were added to the staircase to the lower lawn. L. Standley stated that the proposed planting plan species list was in accordance with the requirements of the Order. **Motion to approve the Planting Plan for 87 Riverbend Lane (DEP File #234-528) by P. Alpert, seconded by J. Bernardo, approved 5-0-0. Motion to approve Minor Modification to the Order of Conditions by P. Alpert, seconded by J. Bernardo, approved 5-0-0.**

Meeting was adjourned at 9:40 p.m.

NEXT PUBLIC HEARING

October 28, 2010 at 7:30pm in the Needham Public Services Administration Building – Charles River Room