

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, October 28, 2010**

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

ATTENDING: Dawn Stolfi Stalenhoef (Vice Chair), Janet Bernardo, Marsha Salett, Sharon Soltzberg, Patricia Barry (Agent), Elisa Litchman (Assistant)

GUESTS: Danny Capasso Jr., Carol Concannon, David Conway, Anthony DelGaizo, John Duffield, Otto Gonzalez, Hank Haff, Samantha Hord, Marcia & Howard Kalman, Cynthia Landau, Sylvia Leung, Bob Lewis, Rick Merson, Steve Popper, Tom Ryder, Peter Sugaridis, Patty Sum, Yui Sum, Ed Tavernier, Debbie & David Winnick.

D. Stolfi Stalenhoef opened the meeting at 7:40 p.m.

PUBLIC HEARINGS

1155 CENTRAL AVENUE (DEP FILE #234-60X) – NOTICE OF INTENT

D. Stolfi Stalenhoef opened the public hearing at 7:50 p.m. A DEP File# has not been issued for the proposed project. Hank Haff from the Town of Needham Public Facilities Department described to the Commission the proposed project to provide improvements to the Newman School interior that requires installation of temporary modular classrooms and parking area improvements. Dave Conway from Nitsch Engineering discussed the work proposed within the 100-foot buffer zone to bordering vegetated wetlands. The Commission requested that the plans and waiver request be revised to clarify the specific work proposed within the 25-foot no disturb buffer zone and the 100-foot buffer zone of bordering vegetated wetlands. The waiver request should include an analysis of alternatives considered in accordance with the Needham Wetlands Protection Bylaw Regulations (Section 6). Additionally, the vernal pool and associated 100-foot buffer zone identified in the Wetland Report should be demarcated on the plans. D. Stolfi-Stalenhoef requested that the Notice of Intent be revised as no work will occur within Bordering Land Subject to Flooding as indicated on the application form. J. Bernardo also requested that the proposed plan show additional stormwater site improvements (i.e. rain garden, bio-retention swale, stormceptors etc...) to satisfy the maximum extent practicable standard applied to redevelopment projects. D. Conway agreed to provide more stormwater design alternatives for the project.

D. Stolfi Stalenhoef opened the hearing to public comment. Cindy Landau of 1476 Great Plain Avenue voiced concern regarding the infiltration system. She explained that the ball field beyond the tennis courts gets flooded during heavy rains. D. Stolfi Stalenhoef requested that the plans by Nitsch Engineering be consolidated for the Commission's review. **Motion to continue the 1155 Central Avenue Notice of Intent public hearing (for additional information) to Thursday, November 18, 2010 at 7:45 p.m. at the Needham Public Library – Community Room by J. Bernardo, seconded by M. Salett, approved 4-0-0.**

**12, 20, 26 MALLARD ROAD & 98 HANCOCK ROAD (DEP FILE # 234-599) -
NOTICE OF INTENT**

D. Stolfi Stalenhoef opened the public hearing at 8:27 p.m. Anthony DelGaizo, Town of Needham Engineer, presented to the Commission the proposed drainage easement project to repair the collapsed stone wall of Rosemary Brook and remove accumulated sediment by hand within the Brook bottom. He

explained that the town currently has funding to repair 125-feet of the wall and drainage easement; however the Engineering Department would like to permit the entire 350 feet of wall repair under this Notice of Intent application. He proposed that the work would be conducted between Dec. 1st and March 15th to avoid impacts to wildlife and fisheries. Haybales would be installed in the stream in 50-foot work section to divert flowing water within the proposed work area. The Commission required the submittal of an in-stream diversion method detail for review and approval. M. Salett asked whether the Town could let the area naturally re-vegetate and continue on its own course without repairing the stone wall banks. A. DelGaizo stated that the brook and crumbling wall is eroding away the residents properties within close vicinity of the Brook and that there is too much water flowing and the town has an obligation to keep the brook confined to avoid property damage. The Commission required the following additional information to be submitted (1) revised plans to include the entire 350-feet of proposed bank repair; (2) impact number changes on narrative Table 1; (3) in-stream coffer dam detail; and (4) wetland seed mix change.

D. Stolfi Stalenhoef opened the hearing to public comment. Debbie Winnick of 12 Mallard Road informed the Commission that she and her husband David have been dealing with the erosion and flooding problem for about 8 years. She explained how they have lost a significant portion of their property and trees, and would like the problem fixed. They would like their property returned to what it was including the fences and landscaping. Peter Sugaridis represented his father-in-law at 98 Hancock Road. He explained that there is an outflow pipe on his father-in-law's property that connects to Rosemary Brook and has a significant amount of erosion at the outlet. He asked how the outflow could be protected. Marsha Kalman of 20 Mallard Road stated that a portion of her yard had been washed away. She also noted that children play in the brook which is unsafe and challenges the integrity of the wall. **Motion to continue the 12, 20, 26 MALLARD ROAD & 98 HANCOCK ROAD (DEP File #234-599) public hearing (for revised plans) to November 18, 2010 at 8:00 p.m. in the Needham Public Library - Community Room by J. Bernardo, seconded by S. Soltzberg, approved 4-0-0.**

196 & 198 MAPLE STREET, MBTA RAILROAD EASEMENT & 433 CHESTNUT STREET (DEP FILE # 234-600) – NOTICE OF INTENT

D. Stolfi Stalenhoef opened the public hearing at 9:11 p.m. A. DelGaizo, the Town of Needham Engineer represented both the Town and the MBTA for the proposed MBTA Culvert Replacement and Drainage Easement repair project. T. DelGaizo explained the history of the area to the Commission and the Emergency Certification issued for the bypass pumping required after the 2010 flooding events. A. Del Gaizo described the proposed project to replace about half of the collapsed box culvert and install a control structure fitted with orifices in order to maintain flow downstream and upstream. The Commission confirmed that a small portion of the proposed work would disturb bordering vegetated wetland and therefore required the restoration of the disturbed area. A. DelGaizo stated that the existing pump would be used to divert water from the upstream wetland to the stream during construction and that construction would require about 5 days to excavate and rebuild. Project alternatives were presented to the Commission. This application would permit about half of the box culvert replacement and about 20-feet of intermittent stream bank repair. However, the applicant notified the Commission that the MBTA would like to replace the entire box culvert and may be submitting shortly a request to amend this permit application proposal to replace the entire culvert.

D. Stolfi Stalenhoef opened the hearing to public comment. Patty Sum represented Yui Sum and Sylvia Leung of 198 Maple Street and asked when the town would be repairing the collapsed brook wall on their property. A. DelGaizo stated that the wall would be repaired immediately following the culvert work which is anticipated to be completed by end of December of 2010. Edmund Tavernier of the MBTA stated that they have already initiated the search for a contractor for the culvert repair project. The Needham Engineering Department will be responsible for repairing the Brook wall and the MBTA will be

responsible for the culvert replacement. John Duffield of 196 Maple Street inquired whether there were calculations of the volume of water running through the pipe. A. DelGaizo responded that he submitted draft calculations to the Commission this evening and that the Town will submit a detailed drainage analysis in the request to amend this project proposal. **Motion to close the public hearing for DEP File #234-600 by J. Bernardo, seconded by M. Salett, approved 4-0-0.** The public hearing was closed at 9:47 p.m. The Commission reviewed the Order of Conditions. **Motion to issue an Order of Conditions for DEP File #234-600 by M. Salett, seconded by J. Bernardo, approved 4-0-0.**

COMMISSION ACTIONS

77 SYLVAN ROAD (DEP FILE # 234-518) – REQUEST FOR PERMIT EXTENSION

Town of Needham Permanent Public Building Committee requested a 3-year permit extension for the 77 Sylvan Road – High Rock School (DEP File #234-518) Order of Conditions that was issued on December 6, 2007 and will expire on December 6, 2010. A three year extension was requested in order to complete the required monitoring of mitigation plantings and to work on invasive species control as per Special Conditions #9 & #36 of the Order of Conditions. **Motion to issue a 3-year extension permit for 77 Sylvan Road (DEP FILE # 234-518) by M. Salett, seconded by J. Bernardo, approved 4-0-0.**

OTHER BUSINESS

1509 CENTRAL AVENUE (DEP FILE #234-503) – PERMIT EXTENSION REQUEST & CERTIFICATE OF COMPLIANCE REQUEST

D. Stolfi Stalenhoef stated that two requests were submitted for 1509 Central Avenue as follows: (1) a permit extension request; and (2) a certificate of compliance request. The Order of Conditions for DEP File#234-503 expired May 25, 2010. In accordance with the Order of Conditions permit extension requests must be made 30 days prior to the permit expiration date and no permit extensions may be issued for requests made after the permit has expired. However, the MA Permit Extension Act (Section 173 of Chapter 240 of the Acts of 2010) may automatically extend the permit for two years. D. Stolfi Stalenhoef stated that because the Commission has not yet taken a position on the applicability of this Act to its local wetland permits, and because the Commission could not have extended the permit because it had expired before he made his extension request, D. Stolfi Stalenhoef advised D. Capasso that he would need to take his own counsel at this point on whether the MA Permit Extension act extends his permit.

P. Barry conducted a site visit and provided the Commission with the following comments. The stone wall is located 3+-feet closer to the bordering vegetated wetland within the 25-foot no-disturb buffer zone than was approved in the Order. Additionally, a new deck, porch, patio, stairs, irrigation system, AC condensers and bituminous pathway were constructed within the 100-foot buffer zone without a permit. The wetland restoration area appeared to be restored and planted as required. Additionally, no deed restriction approval was submitted to the Commission in accordance with Condition #22. D. Stolfi Stalenhoef suggested to D. Capasso to request an amendment to the permit for the unpermitted work if it is determined that the permit has been extended. M. Salett added that specific work needs a variance request for the work proposed within the 25-foot no disturb buffer zone. Due to the lack of as-built drawings and permits the Commission could not act on either request. Stated for the record, the work was not completed according to the Order of Conditions. **Motion to deny the issuance of a Certificate of Compliance for 1509 Central Avenue (DEP File#234-503) due to insufficient information and lack of compliance with the issued Order of Conditions by S. Soltzberg, seconded by J. Bernardo, all in favor 4-0-0.**

Meeting was adjourned at 10:07 p.m.

NEXT PUBLIC HEARING

November 18, 2010 at 7:30pm at the Needham Public Library – Community Room.