

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, March 14, 2013**

LOCATION: Public Services Administration Building, Charles River Room

ATTENDING: Lisa Standley (Chair), Paul Alpert (Vice Chair), Stephen Farr, Dawn Stolfi Stalenhoef, Patricia Barry (Agent), Debbie Anderson (Assistant)

GUESTS: Jamie Fair, Hank Haff, Michael Leabman, John McCarthy, Rick Merson, Vincent Roy, Diane Simonelli, Steven Vommeer, Laurie Watt, Eric Weinstock, Lisa Zuckerman

L. Standley opened the public meeting at 7:45 p.m.

MULLEN RULE CERTIFICATIONS

P. Barry accepted the written certifications from L. Standley and S. Farr that they missed no more than one single session of the hearings pertaining to 17 Wayne Road (DEP File #234-659) Notice of Intent and 273 Nehoiden Street (DEP File #234-661) Notice of Intent, and from D. Stolfi Stalenhoef that she missed no more than one single session of the hearings pertaining to 1566 Great Plain Avenue (DEP File #234-658) Notice of Intent and that they examined all evidence received at the missed session including a transcript of the meeting in accordance with MGL Chapter 39, Section 23 D Adjudicatory Hearings.

MINUTES

Motion to approve the minutes of February 14, 2013, as amended, by P. Alpert, seconded by S. Farr, approved 4-0-0.

Motion to approve the minutes of February 28, 2013, as amended, by S. Farr, seconded by P. Alpert, approved 4-0-0.

ENFORCEMENTS

CEDAR STREET

P. Barry explained to the Commission members not at the last hearing that she had again spoken with Town Counsel, David Tobin, Esq. regarding the Cedar Street Enforcement issue. Attorney Tobin informed P. Barry that under state statute, the Conservation Commission cannot issue fines under the Bylaw more than 15 days after the date the violation occurred. Currently, Town Counsel is drafting a letter to send to Petrucci Construction Corporation and understands that the Conservation Commission would like to review the letter prior to its issuance. D. Stolfi Stalenhoef questioned the purpose of sending a letter if they could not be fined. P. Alpert and D. Stolfi Stalenhoef examined the statute and agreed with Attorney Tobin that the fining would have to take place within 15 days of the violation. The Commission discussed the original violation – the placement of the fill in isolated vegetated wetland and the 100-foot buffer zone to bordering vegetated wetland. They noted that the restoration of the property is almost completed and that P. Barry has a final inspection at the 350 Cedar Street property with Richland Tower Company scheduled for April 12, 2013 at 10:00 a.m. Richland Tower Company will be formally requesting dissolution of their portion of the Enforcement Order once the work is deemed complete at the final inspection.

The Commission decided to send a letter to Petrucci Construction and copy to other relevant Town Boards, including the Building Department. L. Standley suggested content for the letter to explain to Petrucci Construction the damage to the wetlands, the restoration of the property and indicating that the fill was placed by Petrucci Construction Corporation and identifying that these activities within wetland resource areas require permitting under the MA Wetlands Protection Act and the Needham Wetlands Protection Bylaw. P. Barry will draft the letter for P. Alpert and L. Standley to review and comment. D. Stolfi Stalenhoef would like to contact Dave Tobin to get a better understanding of the Commission's options in this case and asked P. Barry to forward the Enforcement documents.

36 PHEASANT LANDING ROAD

P. Barry met with the property owner, John Connolly. He informed her that he had been mowing the Spectra Energy right of way at Ridge Hill Reservation. He agreed to plant trees and/or shrubs along his property line located by the Engineering Department to demarcate the Ridge Hill Reservation boundaries for trail users. P. Barry explained to him that the plantings and/or fence installation could be approved under an exemption letter request. J. Connolly also asked if the Commission could install signage along the trail in this area. The Commission discussed, but felt that the new trail markers that were recently installed would sufficiently mark the trail for users. J. Connolly indicated that he would like to become a trail steward. P. Barry was directed to assist with drafting the exemption letter request since the plantings are requested by the Commission..

78 FREMONT STREET

P. Barry notified the Commission of a complaint she received regarding the Scanlon sanding operation and yard. The existing sand pile was stockpiled uncovered on-site and sand was observed directly running off into the catch basin at the end of the private road Fremont Street and directly into the Charles River. It also appears as though they are stockpiling snow at the edge of the drop-off to the river and pushing some of it into the river. S. Farr asked about the stockpiling of wood within the Resource Area as seen in the photos taken by P. Barry. The Commission discussed Scanlon's history with the operation and noted that the fencing located right along the top of the river's bank was installed because of a previous Enforcement Order. L. Standley explained that it is a landscaping business and had once had a fire at the site.

The Commission determined that issuance of an Enforcement Order was appropriate for two violations: an unauthorized sand pile within the 100-foot buffer zone to Bank and the 200-foot Riverfront Area, and sand which is eroding into the catch basin and into the Charles River as a result of the stockpile and poor general operation practices including sand spilling out of trucks and into the catch basin. L. requested that the Enforcement Order require the operator to cover the sand pile, clean up the pavement and sand, clean out the catch basin and install a silt sack in it. The silt sack must be maintained to clean and stabilize the site and to prevent sand eroding into the river.

The Commission also agreed to require a Notice of Intent application for the sanding operation. with one week from receiving the Enforcement Order to comply with the stabilization and 4 weeks to submit the Notice of Intent application (in time for the April 25, 2013 hearing). P. Barry will draft the Enforcement Order citing two violations (for unauthorized stockpiling of sand and discharging sediment into the river). As these two violations are in one resource area, the initial fine is \$400. They have one week to comply or be fined \$400/day in accordance with the Needham Wetlands Protection Bylaw. If the Notice of Intent application is not submitted for the April 25, 2013 hearing fines of \$200/day can be imposed.

CHARLES RIVER STREET/BELL LANE

P. Barry explained to the Commission that there was evidence of tree clearing within 100 feet of a vernal pool. She noted that she had contacted Spectra Energy, who stated that they had not cut trees within the easement. The Commission instructed P. Barry to send a letter to the homeowner requesting they attend the next meeting to discuss the violation.

HEARINGS

1566 GREAT PLAIN AVENUE (DEP FILE #234-658) – continued NOTICE OF INTENT

P. Barry noted that the Applicant has requested a continuation to gather additional information.

Motion to continue the public hearing (at the Applicant's request) for 1566 Great Plain Avenue (DEP File #234-658) to March 28, 2013 at 8:15 p.m. in the PSAB – Charles River Room by P. Alpert, seconded by S. Farr, approved 4-0-0.

1407 CENTRAL AVENUE (RTS SALTSHED WATERMAIN) – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:00 pm. Hank Haff and Vincent Roy from the Town of Needham DPW presented the project to the Commission. V. Roy explained that the work is in preparation for the relocation of the salt shed at the Recycling Transfer Station (RTS). They presented the proposed project to remove an existing water main and install a new water main outside of the 100-foot buffer, and to construct a temporary access along the existing partially-paved way. H. Haff discussed the construction access work and introduced Jamie Fair of Weston & Sampson to answer more technical questions. H. Haff explained that the salt shed will be constructed outside of the 100-foot buffer zone. L. Standley questioned why the erosion control line on the Plan does not extend along the entire access road. H. Haff explained that they ended the erosion controls at that point to stay out of the 25-foot no disturb buffer zone and agreed to revise the plans to reflect her concerns and extend the line the entire length of the access road. S. Farr asked if there was a specific reason that they needed the dual access instead of entering and going around the facility. H. Haff explained that they want to divert the construction traffic away from the RTS public access as much as possible and are trying to maintain the existing one-way traffic pattern.

John McCarthy of 1509 Central Avenue informed the Commission that he is opposed to the construction of the salt shed and the water main even though both will be outside of the 100-foot buffer. He feels that the work will greatly diminish the value of his property. L. Standley explained that this hearing was only to review impacts to protected wetland resource areas. J. McCarthy explained that he believed that the salt will run down into the wetlands adjacent to his property and will affect the local wildlife. The abutter at 1489 Central Street (F. Wasserman) asked where she could get copies of all the Plans, she has looked on-line. H. Haff offered that the Planning Board has a complete set. J. McCarthy submitted his concerns in writing. **Motion to close the public hearing for 1407 Central Avenue by S. Farr, seconded by P. Alpert, approved 4-0-0.** The hearing was closed at 8:15 p.m. **Motion to issue a Negative Determination of Applicability for 1407 Central Avenue, by P. Alpert, seconded by S. Farr, approved 4-0-0.**

LOT 48 WOODWORTH ROAD (DEP FILE #234-660) – NOTICE OF INTENT

The Notice of Intent application submitted for DEP File#234-660 was withdrawn by the applicant.

273 NEHOIDEN STREET (DEP FILE #234-661) – continued NOTICE OF INTENT

D. Simonelli of Field Resources Inc. represented the Applicant. She gave a brief overview of the project and explained the Applicant's proposal to replace the fence and the stairs and add pavement to a portion of

the driveway. Since the last hearing, the proposed changes to the work included; moving the haybales closer to the work limit, adding a drywell and replacing the fence along the driveway in addition to along the back of the property as originally proposed. L. Standley noted that she was unable to read the MassDEP BVW Field Delineation Forms in the filing as the ink was too light and that she noticed on the DEP Form that the box indicating there are two owners was checked. D. Simonelli gave submitted a clear BVW Field Delineation Form and clarified that there was only one owner of the property. **Motion to close the public hearing for 273 Nehoiden Street (DEP File #234-661) by S. Farr, seconded by P. Alpert, approved 4-0-0.** The hearing was closed at 8:40 p.m. **Motion to issue the Order of Conditions for 273 Nehoiden Street (DEP File #234-661), by D. Stolfi Stalenhof, seconded by S. Farr, approved 4-0-0.**

17 WAYNE ROAD (DEP FILE #234-659) – continued NOTICE OF INTENT

D. Simonelli represented the Applicant. She explained the proposed project would demolish and re-build the single family home similar in size but closer to the wetland. The Applicant has provided the Commission with the required drainage calculations and watershed maps. The Plans were revised to change the proposed plantings to arrowwood (*Viburnum dentatum*) in place of highbush blueberry (*Vaccinium corymbosum*). In addition, the pavers are now noted on the Plan as “pervious pavers” as requested. L. Standley asked if the backyard would be seeded or sodded. The Applicant replied they would sod. L. Standley asked why the NOI package indicated that the notification letter to abutters was “not applicable”. D. Simonelli explained to the Commission that the current wording of the Affidavit of Service requires the Applicant to sign that they notified the Abutters prior to actually mailing them. L. Standley informed her to ask for the date and time of the hearing prior to filing, since this is the Commission’s standard practice and consistent with the bylaw. P. Barry noted that J. Bernardo reviewed the drainage calculations and the watershed maps and provided comments. L. Standley explained that the overflow pipe would direct runoff to a depression on the neighboring property. The Commission required that the overflow be installed so that the site runoff would not impact the abutting property. The Commission will condition the Order to require that the Applicant revise the Plans to show the overflow pipe discharging on the property at 17 Wayne Road. The Commission explained the Inland Restricted Wetland. **Motion to close the public hearing for 17 Wayne Road (DEP File #234-659) by S. Farr, seconded by P. Alpert, approved 4-0-0.** The hearing was closed at 9:00 p.m.

OTHER BUSINESS

273 NEHOIDEN STREET (DEP FILE #234-423) – CERTIFICATE OF COMPLIANCE REQUEST

D. Simonelli asked if P. Alpert had found out if the Applicant was required to submit a recordable plan showing the limit of work or if the plan already submitted could be attached to the Certificate of Compliance. P. Alpert explained that while he was not on the Commission at the time the Order of Conditions was issued, he felt that the Commission must have had a good reason to require the submittal of the recordable plan. P. Alpert further explained that title examiners often do not look for a plan reference once they see that a Certificate of Compliance was issued. The Commission does require that a recordable plan be submitted. L. Standley noted that on page 1 of 2 of Form 8A that the Applicant must provide the Book and Page numbers on which the Order of Conditions was recorded. **Motion to issue a Certificate of Compliance for 273 Nehoiden Street (DEP File#234-423), upon proof of recording the recordable plan showing the fence as the limit of work by P. Alpert, seconded by S. Farr, approved 4-0-0.**

56 ELDER ROAD – FENCE EXEMPTION LETTER REQUEST

The homeowner, Lisa Zuckerman, presented the project to the Commission. She explained that she had just purchased the property and wanted to fence in the backyard to keep her dog and child in the yard.

The perennial stream was delineated and the homeowner would like to place the fence 22 feet from the Bank of the stream in order to protect a large rhododendron. The proposed fencing is a 6-foot privacy fence with no gap at the bottom. **Motion to accept the placement of the fence 22-feet from the Bank of Hurd Brook as an exempt activity at 56 Elder Road by P. Alpert, seconded by S. Farr, approved 4-0-0.**

CONFLICT OF INTEREST LAW FOR MUNICIPAL EMPLOYEES (M.G.L. CHAPTER 268A) – ON-LINE QUIZ APRIL 5, 2013 DEADLINE

S. Farr asked if the quiz he took around 6 months ago when he was appointed to the Commission is still valid. S. Farr said that the proof should be at Town Hall in the Clerk's office. P. Barry clarified that all Commissioners must take the on-line training, since the previous training has expired. L. Standley presented her receipt showing she received the Conflict of Interest package.

Motion to adjourn by P. Alpert, seconded by S. Farr. The meeting adjourned at 10:00 p.m.

NEXT PUBLIC HEARING

March 28, 2013 at 7:30 p.m. in the Public Services Administration Building, Charles River Room