

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, April 11, 2013**

LOCATION: Public Services Administration Building, Charles River Room

ATTENDING: Lisa Standley, Paul Alpert, Janet Carter Bernardo, Stephen Farr, Marsha Salett, Sharon Soltzberg, Dawn Stolfi Stalenhoeft, Patricia Barry (Agent), Debbie Anderson (Assistant)

GUESTS: Marc Bellard, Bill Gallagher, Jack Gallagher, Jake Grossman, Brad Holmes, Michael Lenahan, Ron Lopez, Jack Sullivan

L. Standley opened the public meeting at 7:37 p.m.

MINUTES

Motion to approve the minutes of March 28, 2013, as amended, by J. Carter Bernardo, seconded by S. Farr, approved 6-0-1 (D. Stolfi Stalenhoeft abstained).

MULLEN RULE CERTIFICATIONS

P. Barry accepted the written certification from D. Stolfi Stalenhoeft 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 she 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.

ENFORCEMENTS

78 FREMONT STREET

P. Barry informed the Commission that Betty Scanlon paid the Enforcement Order (EO) fine of \$400 and has written a letter regarding her concerns with the EO requirements particularly concerning filing a Notice of Intent application for existing and on-going yard operations. B. Scanlon asked P. Barry if a Notice of Intent was required for the existing stockpiled materials that the Commission would grant an extension on the Notice of Intent application deadline because she was going to be out of town for the next couple weeks and it would be difficult to coordinate in time. L. Standley directed P. Barry to review the previous Order of Conditions for 78 Fremont Street and identify what activities have been permitted. S. Farr asked if the area had been swept and P. Barry confirmed that the area had been cleaned up, but the siltation control had not been installed yet in the adjacent catch basin grate. L. Standley recommended that the sedimentation needs to be addressed immediately.

1560, 1566 & 1584 GREAT PLAIN AVENUE

L. Standley discussed the enforcement issues at 1566, 1560 and 1584 Great Plain Avenue noted at the Commission's site visit to No. 1566. She reported that unauthorized work on 1566 Great Plain Avenue included cutting at least 4 small (4-6 inch) trees, deep tire ruts in the wetland, and vegetation (brush) removal in the 100-foot buffer zone to bordering vegetated wetlands. She explained that 1560 Great Plain Avenue also had vegetation removal and exposed dirt from recent earthwork, however she did not have property owner permission to access the property, therefore she could not characterize the unauthorized work completely. Additionally, at the gas station located at 1584 Great Plain Avenue, the Commission members noted that mature pine trees (*Pinus strobus*) were removed and substantial

dumping of brush was observed at the edge of the wetland. Mark Wambolt, the property owner of 1566 Great Plain Avenue was present and stated that he did authorize the cutting of the trees on and adjacent to the property in the winter not realizing that this area was a wetland or that the work was a violation of state and local wetland laws.

P. Barry reviewed the potential enforcement action options regarding all three properties. After discussion, the Commission determined that: (1) **1566 Great Plain Avenue** – An enforcement order should be issued to the property owner of 1566 Great Plain Avenue along with an associated fine for each tree removed. P. Barry will conduct an additional site visit to determine the number of trees stumps observed and hence the appropriate fine. Property owner will be required to replant trees in accordance with the Commission’s Guidelines for Tree Removal Projects. (2) **1560 & 1584 Great Plain Avenue** – P. Barry will write a letter to the property owners identifying the unauthorized work completed in violation of state and local wetland protection laws and respectfully requesting the property owner representation at the April 25, 2013 public meeting to discuss the violations. (3) The Conservation Department will write a neighborhood yard waste letter to abutters of 1584 Great Plain Avenue. **Motion to have P. Barry draft the Enforcement Order including the issuance of the relevant fine determined by the number of trees removed by D. Stolfi Stalenhoeft, seconded by J. Carter Bernardo, approved 7-0-0.**

21 ARMEN WAY (formerly 198-200 Nehoiden Street)

The contractor, Michael Lenahan, informed the Commission that he had met with the Parks & Recreation Department and received permission to remove several trees on Parks & Recreation town-owned land adjacent to 21 Armen Way and outside of the 200-foot Riverfront Area. He stated that the soil disturbance was the result of installing a new sprinkler system, and that no heavy equipment had operated over the drywell. The lawn will be sodded. During this work, he also “squared off” the lawn. P. Barry explained that the town’s Engineering Department was going to survey the property line to determine if the unauthorized work occurred on town owned property. She noted that the boulders installed around the perimeter of the property were not shown on the As-Built Plan submitted. In accordance with a Final Order of Conditions issued by the MA Department of Environmental Protection (DEP File#234-472) a mitigation planting area had been installed in the Riverfront Area where the unauthorized work had taken place. M. Lenahan stated that he had removed these plantings and temporarily installed them on his own property while completing the work and intended to replant them on-site.

L. Standley stated that the unauthorized work took place in a previously altered area and that erosion was not of particular concern due to the topography of this site and the distance from a resource area. She recommended that the owners of the property be required to replace the two (2) trees that were removed without authorization from the Riverfront Area with four (4) trees per the Guidelines for Tree Removal Projects. The Commission determined that a \$400 fine be issued, in addition to the replacement of the trees. The Commission instructed P. Barry to draft the Enforcement Order. **Motion to have P. Barry draft the Enforcement Order including the issuance of the \$400 fine by J. Carter Bernardo, seconded by Stephen Farr, approved 7-0-0.**

HEARINGS

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

L. Standley opened the public hearing at 8:17 p.m. L. Standley explained that she and S. Soltzberg had walked the site and agreed with the wetland delineation. J. Bernardo had reviewed the stormwater information submitted and determined that it was adequate. Based on the specific site conditions, J. Carter Bernardo suggested that the Order of Conditions require the Applicant to submit the test pit data for their review prior to installation. L. Standley noted that old construction debris had been deposited in the

wetland recommended that the Order of Conditions require its removal. **Motion to close the public hearing for 1566 Great Plain Avenue (DEP File #234-658) by M. Salett, seconded by S. Soltzberg, approved 7-0-0.** The hearing was closed at 8:22 p.m.

42-44 BIRCH STREET (DEP FILE #234-6XX) – NOTICE OF INTENT

L. Standley opened the public hearing at 8:23 p.m. The Applicant, Ron Lopez was present at the hearing. The Applicant's Engineer, Jack Sullivan presented the project. The site presently contains a two-family home. The proposed project is to demolish the existing two-family home and construct a new two-family home. J. Sullivan explained that approximately half the property lies in the 100-foot buffer zone to bordering vegetated wetlands and the bank of an intermittent stream. Norse Environmental delineated the boundaries of the wetland resource areas. He clarified that the plans show all of the five lots because the Applicant is required to comply with the NPDES General Permit for Construction Activities, as the overall project covers 5 lots and is greater than one acre of land disturbance. The Wetlands application is only for the 42-44 Birch Street property that is located within the 100-foot buffer zone to bordering vegetated wetland. J. Sullivan gave an overview of the SWPPP for the entire project. He stated that the drainage system has been designed with an 8-minutes per inch percolation rate based on test boring data. Because Rosemary Brook is an impaired waterway, and a portion of the project is located within the 100-foot buffer zone to the adjacent wetland, all stormwater systems have been designed for the 100-year storm. He stated that the property is previously disturbed and the current paved driveway will be removed and seeded. The proposed drive is located outside of the 100-foot buffer zone. Silt sacks and haybales will protect the 2 catch basins in the vicinity of the project. No work is proposed in the 25-foot buffer zone. One 20-inch dbh tree in the 100-foot buffer zone is proposed to be removed. R. Lopez added that the wetland delineation was done in mid-February. No DEP Field Data Forms were included with the filing as topography and vegetation were used to determine the wetland boundary. R. Lopez stated that DEP has not issued a file number because of a dispute over the fee category. He will submit the appropriate fee to the Town but requests that the Conservation Department hold the check until he has a chance to contact Pam Merrill at DEP to discuss said fees.

L. Standley stated that the project appears straight forward, however, because of the fee issue with DEP, there has been no DEP File number issued and the Commission cannot close the hearing. . J. Bernardo noted that the stormwater calculations seemed appropriate

In addition to a DEP file number, the Commission requested submittal of DEP Field Data Forms and a revised plan showing the types and proposed locations for the installation of the two (2) replacement trees proposed for the one (1) tree to be removed. . **Motion to continue the public hearing (for issuance of the DEP File number and submittal of additional information) for 42-44 Birch Street (DEP File #234-6XX) to April 25, 2013 at 8:15 p.m. in the PSAB – Charles River Room by P. Alpert, seconded by M. Salett, approved 7-0-0.**

461 CHESTNUT STREET (NSTAR) – REQUEST FOR DETERMINATION OF APPLICABILITY

P. Alpert opened the public hearing at 8:34 p.m. L. Standley and S. Farr recused themselves from the hearing. The Applicant's consultant, Brad Holmes, presented the project. B. Holmes reminded the Commission that NSTAR filed for a Permit on the same property last year. The proposed work is the installation of utilities within an existing paved driveway. J. Carter Bernardo noted that the haybales must still be in place from the previous work. This project is more of a minor modification of the existing plan but it is not possible to issue a minor modification to the existing Negative Determination of Applicability (NDA). P. Alpert explained that this work would be subject to the same conditions as the existing NDA. B. Holmes confirmed no trees are proposed for removal. **Motion to close the public hearing for 461 Chestnut Street (NSTAR) by J. Carter Bernardo, seconded by S. Soltzberg, approved 5-0-2, L.**

Standley and S. Farr abstained. The hearing was closed at 8:40 p.m. **Motion to issue a Negative Determination of Applicability for 461 Chestnut Street (NSTAR), by J. Carter Bernardo, seconded by M. Salett, approved 5-0-2, L. Standley and S. Farr abstained.**

463 CHARLES RIVER STREET (RIDGE HILL RESERVATION SWAMP TRAIL) – REQUEST FOR DETERMINATION OF APPLICABILITY

L. Standley opened the public hearing at 8:40 p.m. P. Alpert recused himself from the hearing. P. Barry explained that the design of the boardwalk requires geotechnical borings to determine whether the substrate can support helical pilings. Three borings are proposed to be performed using a tripod system. P. Barry will be present during the sampling. L. Standley noted that this would be an exempt minor activity if performed in the buffer zone; however, this sampling will take place in the wetland. **Motion to close the public hearing for 463 Charles River Street (Ridge Hill Reservation Swamp Trail) by M. Salett, seconded by S. Farr, approved 6-0-1, P. Alpert abstained.** The hearing was closed at 8:45 p.m. **Motion to issue a Negative Determination of Applicability for 463 Charles River Street (Ridge Hill Reservation Swamp Trail), by S. Farr, seconded by S. Soltzberg, approved 6-0-1, P. Alpert abstained.**

OTHER BUSINESS

SABRINA LAKE (DEP FILE # 234-529) – MINOR MODIFICATION REQUEST

Mark Bellard of Aquatic Control Technology presented the request. Aquatic Control Technology has been managing Sabrina Lake for over 20 years. Over the past 10 years they have been more actively trying to improve the water quality. The main stress on the system at this point appears to be excessive phosphorus causing nuisance algae growth. They have been trying to manage the algae blooms but the phosphorus level is too high. In order to lower the phosphorus level, a reducing treatment of alum sulfate as a phosphorus binder is proposed. The binder will prevent the phosphorus from resurfacing from the sediment at the bottom. One preferred binder chemical is called Phoslock but it is not yet registered in Massachusetts. There is a new herbicide/algaecide called Seeclear that will also remove the phosphorus and is more environmentally friendly.

D. Stolfi Stalenhoef questioned the application of a blanket of alum and its effect on bottom dwelling creatures in the lake. M. Bellard assured that any effect is temporary and many studies have been done. It has been used in areas containing rare mussels with no ill effect. The biggest risk is a possible acidic change in PH. If this occurs, they will treat the water with soda ash until the PH normalizes. J. Carter Bernardo asked about the water testing schedule. M. Bellard explained that they normally test 3x a year. They would test the PH, temperature and dissolved oxygen before, during and after the alum is added. If the PH is off, they would treat with the buffer. S. Soltzberg asked if there was anything the lake's abutters could do to help. M. Bellard stated that they meet with the abutters annually and feel they are doing everything they can. He explained that the watershed is 10x the size of the lake, and that the abutters cannot control phosphate use throughout the watershed. J. Carter Bernardo asked about the location of inflows to the lake. M. Bellard stated there is one primary inflow at the northern end and there is not enough room to install a settling basin at that location. **Motion to accept the change in treatment to Sabrina Lake including the addition of alum sulfate as a minor modification not requiring an Amendment to the Order of Conditions by J. Carter Bernardo, seconded by M. Salett, approved 7-0-0.**

CHESTNUT TRAIL & SWAMP TRAIL (RIDGE HILL RESERVATION) – TRAIL MAINTENANCE ACTIVITY NOTIFICATION FORM

P. Barry explained that the proposed trail maintenance on April 20, 2013 from 9:00 am to 12:00 pm will help the contractor access the area with the tripods for the borings. Right now there are six people

confirmed to participate. **Motion to approve the Chestnut Trail and Swamp Trail (Ridge Hill Reservation) maintenance under the Generic Trail Maintenance Determination of Applicability by J. Carter Bernardo, seconded by M. Salett, approved 7-0-0.**

GREENDALE AVENUE TRAIL – TRAIL MAINTENANCE ACTIVITY NOTIFICATION FORM

P. Barry explained that the proposed trail maintenance on April 27, 2013 beginning at 9:00 am would be directed by Karen Peirce of the Town's Parks & Recreation Department. Some of the work is located in the buffer zone. **Motion to approve the Greendale Avenue Trail maintenance under the Generic Trail Maintenance Determination of Applicability by J. Carter Bernardo, seconded by M. Salett, approved 7-0-0.**

MITCHELL WOODS – EAGLE SCOUT PROJECT – TRAIL MAINTENANCE ACTIVITY NOTIFICATION FORM

Eagle Scout Jack Gallagher presented his proposed project. The original proposal included installation of bog bridges and benches. L. Standley noted that there was definitely a need for bog bridges in Mitchell Woods but thought that the installation of an informative kiosk to educate the public about the importance of conservation land might be more useful than benches. J. Gallagher explained his reasoning for proposing installation of a bench in area #3, as shown on the schematic, was the drop-off in this area affords a beautiful sunset vista. He noted that the English ivy in the area would eventually overtake the bench.

P. Barry explained that the Town's Parks & Forestry Division could make the benches and kiosk and J. Gallagher could raise money for the materials to be used. J. Carter Bernardo added that area Trail Steward could use help installing trail markers in Mitchell Woods if J. Gallagher would be interested. K. Peirce of the Town's Parks & Recreation Department could coordinate. L. Standley approved the proposal to mark the edge of the trail with logs. She instructed J. Gallagher to leave logs already settled on the ground in the woods as wildlife habitat but he was free to use "widowmakers" and to prune the shrubs overhanging the trail. J. Gallagher must meet with P. Barry onsite to confirm the work. The current timeline is to begin the projects in late May once J. Gallagher receives project approval from the Boy Scouts organization. **Motion to approve the Mitchell Woods maintenance under the Generic Trail Maintenance Determination of Applicability by D. Stolfi Stalenhoef, seconded by S. Soltzberg, approved 7-0-0.**

1362 GREAT PLAIN AVENUE (DEP FILE #234-633) – CERTIFICATE OF COMPLIANCE REQUEST

D. Anderson explained that the only deviations from the proposed project were a slight reduction in impervious area in the buffer zone. The impervious area calculations were reduced due to the installation of pervious pavers for the patios and walkways and slight reductions in the sizes of the buildings per the As-Built Plan. **Motion to issue a Certificate of Compliance for 1362 Great Plain Avenue (DEP File#234-633), by J. Carter Bernardo, seconded by P. Alpert, approved 7-0-0.**

FY 2014 CONSERVATION COMMISSION PUBLIC HEARING SCHEDULE – APPROVE

Motion to approve the FY 2014 Conservation Commission Public Hearing Schedule by J. Carter Bernardo, seconded by S. Farr, approved 7-0-0.

P. Barry informed the Commission that the annual Rosemary Lake drainage was due to begin on April 16, 2013.

D. Stolfi Stalenhoef informed the Commission that she would not be reaching out to Town Counsel, David Tobin regarding the Cedar Street Enforcement issue.

The Commission discussed the letter from the Registry of Deeds. P. Alpert explained that “acknowledged” means “notarized”, and he interpreted the letter as stating that, since DEP no longer requires that Orders be notarized, the Norfolk County Registry is requiring printed names.

Motion to adjourn by P. Alpert, seconded by J. Carter Bernardo, approved 7-0-0. The meeting adjourned at 9:27 p.m.

NEXT PUBLIC HEARING

May 9, 2013 at 7:30 p.m. in the Public Services Administration Building, Charles River Room