

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, June 27, 2013**

LOCATION: Public Services Administration Building, Charles River Room

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

GUESTS: Wayne Balyosian, Terry Collin, Pam Fury, Mitch Hallal, Quinn Lyzun, John McCarthy, Susan Mitchell, Brian Nelson, Peter Oehlkers

L. Standley opened the public meeting at 7:33 p.m.

MINUTES

Motion to approve the minutes of May 24, 2013, as amended, including S. Soltzberg's edits, by J. Carter Bernardo, seconded by S. Soltzberg, approved 5-0-0.

Motion to approve the minutes of June 13, 2013, as amended, by S. Soltzberg, seconded by S. Farr, approved 5-0-0.

ENFORCEMENTS

1509 CENTRAL AVENUE

P. Barry explained that the Commission had received a request from the homeowner, John McCarthy, to relocate the Koi pond from its current unpermitted location in the buffer zone to an existing patio adjacent to the house. The Commission agreed that they could accept the relocation as a minor modification. The homeowner addressed the Commission regarding a letter he had submitted to the Commission. The letter asked that the Commission reduce the amount of the Enforcement fine due to the fact that he was not aware of the Conservation Restriction located on a portion of the property. Mr. McCarthy added that the area in which the Koi pond was installed was previously disturbed by the builder and he was trying to complete work on the Order of Conditions that the builder failed to finish. L. Standley questioned why his lawyers did not turn up the open Order of Conditions on the property prior to the closing. P. Alpert recalled the deed did reference the restriction and the lawyer should have pointed it out to the McCarthy's at the closing. The Commission discussed reducing the Enforcement Fine.

Motion to reduce the Enforcement Fine for violations at 1509 Central Avenue from \$1200 to \$600 by P. Alpert, seconded by S. Farr, approved 6-0-0

1516 CENTRAL AVENUE

L. Standley stated that at the June 13, 2013 Conservation Commission meeting, the Commission voted to issue the Enforcement Order and fine for mowing violations. P. Barry drafted the Enforcement Order cover letter, L. Standley and P. Alpert reviewed and approved the letter. L. Standley summarized the letter, which states that the current mowing plan is not working and requires that the property owner, Woody Tanger, submit a revised mowing plan that addresses the Commission's requirement that all 1516 Central Avenue landscapers sign a form stating that they have been informed of and understand the approved revised mowing plan. No mowing is permitted until the revised mowing plan is submitted to the Commission for review and approval. P. Barry will work with the new property manager, once he is identified, to replace the missing/damaged posts.

585 CENTRAL AVENUE – OWEN’S FARM

L. Standley explained the prior enforcement action at the Farm. Recently, L. Standley observed piles of material being stockpiled in the buffer zone and requested that P. Barry visit the site. P. Barry spoke to Don Owen at the site. Don Owen explained that he was not in charge and referred her to his brother Doug Owen. He noted that Doug Owen only works on Saturdays. Don Owen did explain that the stockpiled material is sold to contractors. P. Barry will pull the files on the property and contact Doug Owen to discuss whether the activity requires a Permit or whether they can move the piles outside the buffer.

HEARINGS

649 SOUTH STREET (DEP FILE #234-667) – NOTICE OF INTENT

The hearing opened at 7:50 pm. The homeowner, Susan Mitchell was in attendance. Brian Nelson of MetroWest Consulting represented the Applicant. The installer, Terry Collins was also present. B. Nelson gave an overview of the proposed construction of a sports court. He explained that the dimensions of the proposed court are 40-feet by 80-feet and the project would increase impervious area in the buffer zone by 2,340 square feet. The proposed project includes construction of a small patio and shed adjacent to the court. Two trench drains are proposed to mitigate runoff through a 10-year storm. The calculations show a reduction in runoff rates and volumes except for the 100-year storm which is +2%.

As part of the project, the Applicant is proposing to plant 18 Arborvitae trees to buffer the abutters. The Plan calls for the removal of 4 trees, however the only tree located in the buffer is a 12-inch dbh white pine. He stated that the Applicant hopes to retain the 28-inch dbh red oak located outside the 100-foot buffer. The Plan shows a proposed invasive species removal area. The current project has been revised to be located 50-feet from the edge of the wetland boundary. The grading will remain the same as on the original plan.

L. Standley questioned what species the proposed “giant Arborvitae” are. Mr. Collins responded that they were western red cedar trees. L. Standley noted that they grow quite large. L. Standley noted that some grading would be taking place within the 50-foot buffer zone. She questioned whether alternative locations had been considered for the project outside of the buffer zone. Mr. Nelson explained that the reason for the proposed location was its proximity to the existing house and patio and the topography of the property. Mr. Nelson reviewed the invasive species removal plan which includes hand-removal of Japanese knotweed and oriental bittersweet in an area of lawn. They would like to maintain the lawn but treat the invasive species. J. Carter Bernardo asked if the proposed court is on top of the sewer easement. Mr. Nelson replied that it was located 5 feet away from the easement. J. Carter Bernardo noted that the proposed infiltration system should not be located in the 50-foot buffer but the stormwater report appears reasonable. S. Farr asked where the construction access would be located. Mr. Nelson replied it would be down the driveway then through the back. J. Carter Bernardo inquired whether the homeowner would be receptive to adding wetland plantings as mitigation. Mrs. Mitchell replied that she would.

P. Barry noted that some of the wetland flags were missing and the homeowner stated her children may have removed them. Mr. Nelson suggested that the wetland could be reflagged. P. Barry explained that she had evaluated the soils and confirmed that hydric soils were present and the area would qualify as bordering vegetated wetland.

An abutter, Pam Fury of 631 South Street, stated that the whole area that the proposed sports court is to be installed is currently forest and is wildlife habitat. She questioned the proposed Arborvitae plantings and asked why a more natural barrier could be installed that wouldn’t so drastically alter the character of the area.

The Commission discussed continuing the hearing to schedule a site visit and requested that any trees proposed for removal are marked, the resources re-flagged and the corners of the court staked prior to the scheduled site visit. In addition, the Commission is requiring the submittal of revised plans, a written invasive species removal and restoration plan and a written alternatives analysis. The Applicant asked if she could add a proposed fence to this filing that had not been installed although permitted previously.

L. Standley explained that if the previous permit had not expired, the Applicant could install the permitted fence, and then request a Certificate of Compliance for the prior Order.

Motion to continue the public hearing (for a site visit and submittal of additional material) for 649 South Street (DEP File #234-667) to July 25, 2013 at 7:45 p.m. in the PSAB – Charles River Room by J. Carter Bernardo, seconded by P. Alpert, approved 6-0-0.

308 CEDAR STREET (DEP FILE #234-668) – ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION

The owner, Wayne Balyosian, explained that his Representative could not attend the hearing at the last minute but he would do his best to address any questions the Commission may have. P. Barry reported that she had visited the site and reviewed the wetland delineation flags. She found the delineation to be accurate. She noted that the vegetated wetlands contain a potential vernal pool that had no obvious inlet or outlet and contained fairy shrimp. Based on these observations, the wetland would be considered a vernal pool under the Wetlands Bylaw. L. Standley noted that vernal pools are not certified on private property. P. Barry explained that the area may be classified as Isolated Land Subject to Flooding.

Motion to close the public hearing for 308 Cedar Street (DEP File #234-668) by J. Carter Bernardo, seconded by S. Soltzberg, approved 6-0-0. The hearing was closed at 8:10 p.m.

Motion to issue an Order of Resource Area Delineation for 308 Cedar Street (DEP File #234-668) by P. Alpert, seconded by S. Soltzberg, approved 6-0-0.

59 PERSHING ROAD (DEP FILE #234-666) – NOTICE OF INTENT

Motion to continue the public hearing (at the Applicant's request) for 59 Pershing Road (DEP File #234-666) to July 11, 2013 at 8:00 p.m. in the PSAB – Charles River Room by J. Carter Bernardo, seconded by P. Alpert, approved 6-0-0.

OTHER BUSINESS

91 STRATFORD STREET – FENCE EXEMPTION REQUEST

The homeowner, Quinn Lyzun, explained that he was requesting a fence exemption because he has two small children. The fence would be located 3 feet inside the property line to allow the homeowner access to the outside of the fence for maintenance. P. Barry explained that the proposed fence is not shown on the submitted Plot Plan. P. Barry had visited the site and noted that at its closest point, the fence is located 23 feet from the wetland at the corner and 78 feet from the wetland along the back section. P. Barry provided photographs and explained that the blue flags depicted the proposed fence line. She confirmed that the proposed fence would be within existing lawn. One spruce (*Picea sp.*) tree will need to be removed but will be replaced with a native tree. **Motion to approve the fence installation at 91 Stratford Street as an exempt activity by P. Alpert, seconded by J. Carter Bernardo, approved 6-0-0.**

1509 CENTRAL AVENUE – DEAD TREE REMOVAL EXEMPTION REQUEST

The homeowner, John McCarthy, explained that he is requesting permission to remove three (3) dead eastern white pine trees adjacent to Central Avenue. He expressed concern that if they fall, they will take down power lines or damage property. L. Standley requested that a minimum of a 6-foot snag be retained when the trees are cut per the Town's Tree Removal Guidelines. Mr. McCarthy agreed to this stipulation.

Motion to approve the hazard trees removals at 1509 Central Avenue as an exempt minor activity conditioned upon retention of 6-foot snags, by P. Alpert, seconded by S. Farr, approved 5-0-0.

38 TAYLOR STREET (DEP FILE #234-535) – CERTIFICATE OF COMPLIANCE

The homeowner, Mitch Hallal was present. P. Barry stated that she had visited the site and the granite bounds had been installed to mark the permanent limit of disturbance as required per the Order of Conditions and noted on the As-Built Plan submitted. L. Standley noted that the deviations from the approved Plan were minor. P. Alpert requested that the owner point out the on-going Conditions to the Buyer and noted that the closing Attorney should have a copy of the Certificate of Compliance.

Motion to issue a Certificate of Compliance for 38 Taylor Street (DEP File #234-535), by J. Carter Bernardo, seconded by P. Alpert, approved 6-0-0.

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

The Commission agreed to table the Certificate of Compliance request until the Koi pond is moved, a final Restoration Report is submitted verifying a 100% survival rate of the restoration plantings as per the Order of Conditions and that a revised As-Built Plan is submitted with the addition of a note stating that the 30-foot portion of the retaining wall has been removed even though it is still shown on the As-Built Plan.

1509 CENTRAL AVENUE (DEP FILE #234-503) – MINOR MODIFICATION REQUEST

The Applicant is requesting a minor modification to relocate the Koi pond from its current unpermitted location in the buffer zone to the existing patio. No excavation will be required as the pond will sit on top of the patio.

Motion to accept the relocation of the Koi pond to the patio at 1509 Central Avenue (DEP File #234-503) as a minor modification not requiring an Amendment to the Order of Conditions by J. Carter Bernardo, seconded by P. Alpert, approved 6-0-0.

CONSERVATION COMMISSION TRUST FUND (CHAPTER 40 §8C) – RIDGE HILL RESERVATION FUND USE APPROVAL

P. Barry reported that she had received an acceptable bid for the stone wall repair at Ridge Hill Reservation. The total bid was \$5,360, which is slightly higher than the earlier estimate due to prevailing wage. **Motion to accept the use of \$5,360 from the Conservation Commission Trust Fund (Chapter 40 §8C) for stone wall repair at 463 Charles River Street (Ridge Hill Reservation) by J. Carter Bernardo, seconded by S. Soltzberg, approved 6-0-0.**

P. Barry reported that the proposed fence installation along the drive at Ridge Hill Reservation will have to go out to bid because the total will be more than \$10,000.

MARY CHILTON POND

At the Commission's request, P. Barry reported that she had visited the pond and had not observed a sheen of any kind on the surface of the pond.

RIDGE HILL RESERVATION TRAILS

L. Standley reported that she, P. Barry and J. Carter Bernardo had mapped the proposed loop trail extension of the Esker Trail. The trail would only require slight clearing. P. Barry noted that CPC finds have already been allocated for the project design and permitting, including a new bridge across a small stream. L. Standley would like to schedule a work day in November or December to build the trail.

Motion to adjourn the meeting by D. Stolfi Stalenhoef, seconded by J. Bernardo, approved 6-0-0.

The meeting adjourned at 8:55 p.m.

NEXT PUBLIC HEARING

June 11, 2013 at 7:30 p.m. in the Public Services Administration Building, Charles River Room