

**TOWN OF NEEDHAM  
CONSERVATION COMMISSION  
MEETING MINUTES  
Thursday, January 9, 2014**

LOCATION: Public Services Administration Building, Charles River Room

ATTENDING: Lisa Standley, Paul Alpert, Artie Crocker, Peter Oehlkers, Sharon Soltzberg, Janet Carter Bernardo, Stephen Farr, Kristen Phelps (Acting Agent)

GUESTS: Gene Glekel, Joyce Hastings, Ron Lopez, Lee Newman, John Rockwood, Diane Simonelli, Courtney Sodano, Jack Sullivan, Matt Varrell

L. Standley opened the public meeting at 7:23 p.m.

**DEPARTMENTAL STAFFING**

Lee Newman, Director of Planning and Community Development was present to introduce Matt Varrell, candidate for the open position of Conservation Director. L. Standley and P. Alpert stated that they had both met with Mr. Varrell during the interview process. Lee Newman explained that the Town needed a vote of recommendation from the Conservation Commission in order to appoint Mr. Varrell to the position. Mr. Varrell introduced himself and reviewed his background, including 20 years of consulting experience, with the Commission. The Commission asked Mr. Varrell about his approach to administration and enforcement of the Wetlands Protection statutes. M. Varrell replied that he has interest in consistent application of the regulations and education of the public. The group then discussed the Commission's priorities with respect to land management, noting upcoming projects such as the Open Space & Recreation Plan Update and the Master Trails Plan Update.

**Motion to recommend Mr. Matt Varrell for the position of Conservation Director by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**MINUTES**

The Commission reviewed the draft minutes of November 21, 2013 and edits proposed by L. Standley and P. Alpert. **Motion to approve the Minutes of November 21, 2013 (as amended) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

The Commission reviewed the draft minutes of December 12, 2013 and edits proposed by L. Standley and P. Alpert. **Motion to approve the Minutes of December 12, 2013 (as amended) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**ENFORCEMENT & VIOLATION UPDATES**

**BIRCH STREET LOTS - UNAUTHORIZED STOCKPILING IN BUFFER ZONE**

K. Phelps stated that during a site visit conducted on January 8, 2014, she observed stockpiling of snow, soil, trees, construction materials and construction equipment within the buffer zone to bordering vegetated wetland to the rear of the properties between 15-17 and 33-35 Birch Street (each of these lots is currently before the Commission with NOIs for demolition). Erosion controls have been installed in a few places along an existing chainlink fence which is approximately five feet from the edge of BVW. L. Standley recommended issuing Enforcement

Orders for each of the four lots requiring the property owner to remove all material from the buffer zone and to relocate and/or install erosion controls at a minimum distance of 25 feet from the edge of the wetland resource area. She further suggested issuing non-criminal penalties of \$200 per site. S. Farr asked whether the violation would prevent the Commission from opening the public hearings on the NOI applications currently before them. L. Standley explained that the violations must be dealt with separately; however, the Commission can condition proposed work to require compliance with the Enforcement Orders. A. Crocker asked whether the Commission should specify a timeframe for compliance and the Commission agreed to allow two weeks for the owner to remove all materials after which a fine of \$200/day for each lot would be imposed.

**Motion to issue an Enforcement Order (one per site) requiring removal of stockpiles and installation of erosion controls at least 25-feet from the edge of BVW for 15-17 Birch Street, 21-23 Birch Street, 27-29 Birch Street and 33-35 Birch Street by P. Oehlkers, seconded by S. Farr, approved 7-0-0. Motion to issue non-criminal penalties in the amount of \$200 per lot per day for 15-17 Birch Street, 21-23 Birch Street, 27-29 Birch Street and 33-35 Birch Street, if not in compliance by January 23, by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

## **HEARINGS**

### **914 SOUTH STREET (DEP FILE # 234-691) - continued NOTICE OF INTENT**

L. Standley opened the public hearing at 7:55 p.m. She stated that the hearing had been continued for proper notification and to allow time for the Commission to review revised plans and information that was submitted at the last hearing. Joyce Hastings of GLM Engineering was present on behalf of the Applicant. She confirmed that the abutters in Dover had been notified. She added that the waiver request (which had originally been submitted with the argument that there was no feasible alternative to the proposed project) had been revised at the Commission's suggestion to reflect that the proposed work area within the buffer zone (the gravel and lawn area next to existing driveway) did not contribute to the interests of the Bylaw. The Commission agreed that no further information was required.

**Motion to close the public hearing for 914 SOUTH STREET (DEP FILE # 234-691) by P. Oehlkers, seconded by S. Farr, approved 7-0-0. The Commission reviewed the draft Order of Conditions. Motion to issue the Order of Conditions (as amended) for 914 SOUTH STREET (DEP FILE # 234-691) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

### **LOT 48 WOODWORTH ROAD (DEP FILE #234-692) – continued NOTICE OF INTENT**

L. Standley opened the public hearing at 8:02 p.m. and noted that the hearing had been continued for submission of revised plans. She added that the Commission had confirmed that the BVW was not a vernal pool, based on a file memo dated April of 1999 from former Commission member Marsha Salett noted the absence of vernal pool species during several site visits conducted in the spring of that year. Diane Simonelli of Field Resources was present on behalf of the Applicant. She reviewed the changes to the proposed project which include: (1) relocating mitigation plantings; (2) adding shrubs to the proposed planting plan; (3) moving the corner of the proposed garage by approximately 1.5 feet to a distance of approximately 3 feet from the 50-foot buffer zone line; and (4) adding a fence to mark the permanent limit of work at the 50-foot buffer zone line. L. Standley noted that several of the proposed plantings were not acceptable

buffer zone species (specifically Blue spruce and Norway maple) and others seemed to be mislabeled. A. Crocker observed that the prior plan proposed plantings both within and outside the 100-foot buffer zone at a ratio of 2 new trees for each tree removed. The new plan indicates a replacement ratio of 1:1 within the buffer zone, which does not meet the Commission's guidelines for tree replacement. D. Simonelli replied that they added shrubs in an effort to improve habitat diversity and that for each tree being removed they were adding one tree and one shrub. The Commission agreed that no further information was required.

**Motion to close the public hearing for LOT 48 WOODWORTH ROAD (DEP FILE # 234-692) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.** The Commission reviewed the draft Order of Conditions. Discussion regarding the proposed planting plan followed and the Commission agreed that the Applicant should be required to submit a revised plan showing replacement trees at a ratio of 1.5:1. They further agreed that trees should be planted on a minimum of 5-foot centers. L. Standley suggested that orange construction fence be added to the erosion control/limit of work line. Lastly, the Commission added a condition requiring that the proposed fence be maintained as the permanent limit of work. **Motion to issue the Order of Conditions (as amended) for LOT 48 WOODWORTH ROAD (DEP FILE # 234-692) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

#### **1560 GREAT PLAIN AVENUE - continued REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the continued public hearing at 8:15 p.m. and stated that the hearing had been continued for proper notification of abutters. Property owner Courtney Sodano was present and confirmed that the abutters had been notified and that she had spoken with the concerned neighbors after the last hearing.

**Motion to close the public hearing for 1560 GREAT PLAIN AVENUE by P. Oehlkers, seconded by S. Farr, approved 7-0-0. Motion to issue a Negative Determination of Applicability for installation of the proposed chicken coop by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

#### **1133 SOUTH STREET (DEP FILE # 234-688) - continued NOTICE OF INTENT**

L. Standley opened the continued public hearing at 8:30 p.m. The Applicant requested another continuance as they have not finalized plans for the location of the septic system. L. Standley stated that this hearing has been continued multiple times and suggested that the Commission continue the hearing to a date uncertain with a requirement that the Applicant re-notify abutters when the plan is submitted.

**Motion to continue the public hearing for 1133 SOUTH STREET (DEP FILE # 234-688) to a date uncertain (with re-notification requirement) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

#### **220 WEST STREET (DEP FILE # 234-697) - NOTICE OF INTENT**

L. Standley opened the public hearing at 8:47 p.m. Property owner Ron Lopez was accompanied by his representative Jack Sullivan of Sullivan Engineering. J. Sullivan explained the proposed project which involves demolishing an existing dwelling and constructing a new two-family dwelling with associated driveways, landscaping and utilities. The portions of the existing structure that fall within the 100-foot buffer zone include a small deck and porch. Proposed work which is jurisdictional includes two new driveways and walkways fronting on Birch Street

as well as underground utilities, minor grading and landscaping. An existing tree on the lot will be removed and replaced with two (2) red maples. L. Standley asked the Applicant to explain why the reference plan showed erosion controls on both sides of Birch Street and stated that the Commission prefers erosion controls be installed in a manner which keeps sediment on the subject lot. J. Sullivan stated that erosion controls proposed on the Town-owned land are back up as the controls on the subject site will need to be moved periodically to install the driveways and walkways. He agreed to keep erosion controls in both locations and to modify the plan to note that erosion controls can be moved to pave; however, they must be put back in place at the end of each work day. J. Carter Bernardo stated that she would prefer to see a straw wattle on the Town-owned parcel and asked if there were any proposed infiltration measures on the property. J. Sullivan replied that driveway runoff would be directed to a 500-gallon drywell with catchbasin grate and that the first inch of roof runoff would be infiltrated in a 1000-gallon drywell in the rear yard. He agreed to show both features on the revised plans. J. Carter Bernardo noted that given the extent of the project as a whole, future filings will have to comply with Massachusetts Stormwater Policy Standards.

**Motion to close the public hearing for 220 WEST STREET (DEP FILE # 234-697) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.** The Commission reviewed the draft Order of Conditions. **Motion to issue the Order of Conditions (as amended) for 220 WEST STREET (DEP FILE # 234-697) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**15-17 BIRCH STREET (DEP FILE # 234-696) - NOTICE OF INTENT**

**21-23 BIRCH STREET (DEP FILE # 234-695) - NOTICE OF INTENT**

**27-29 BIRCH STREET (DEP FILE # 234-694) - NOTICE OF INTENT**

**33-35 BIRCH STREET (DEP FILE # 234-693) - NOTICE OF INTENT**

L. Standley opened the public hearings (concurrently) for the applications on these four contiguous lots at 9:00 p.m. Property owner Ron Lopez was accompanied by his representative Jack Sullivan of Sullivan Engineering. L. Standley informed Mr. Lopez that the Commission had taken enforcement measures earlier in the meeting after finding unauthorized stockpiles on the lots currently being reviewed under these NOIs. She reviewed the requirements specified in the Enforcement Orders and informed Mr. Lopez that non-criminal penalties of \$200 per lot had been imposed. Mr. Lopez agreed to comply with the enforcement orders. J. Sullivan explained the proposed work which involves demolishing the existing two-family dwellings on each of the lots, disconnecting utilities, filling the old foundations and temporarily stabilizing the properties by spreading hay mulch. Each site is expected to be completed in a single day, and there would be no on-site stockpiling of materials. He noted that the wetland delineation was confirmed under a previous filing (by the same Applicant) for on the lots on the opposite side of Birch Street. The applications were submitted for demolition only as they would like to get started with the site work this winter; however, the design plans for the new dwellings are not complete as of yet. All proposed erosion controls will be more than 25 feet from the edge of wetland. J. Sullivan confirmed that a NPDES NOI will be filed for all of the Birch Street lots. In response to a question, he stated that the entrenched silt fence erosion controls can be installed in frozen soil. The Commission agreed that no further information was required.

**Motion to close the public hearings for 15-17 BIRCH STREET (DEP FILE # 234-696); 21-23 BIRCH STREET (DEP FILE # 234-695); 27-29 BIRCH STREET (DEP FILE # 234-694) & 33-35 BIRCH STREET (DEP FILE # 234-693) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.** The Commission reviewed the draft Orders of Conditions. **Motion to issue**

**the Order of Conditions (as amended) for 15-17 BIRCH STREET (DEP FILE # 234-696); 21-23 BIRCH STREET (DEP FILE # 234-695); 27-29 BIRCH STREET (DEP FILE # 234-694) & 33-35 BIRCH STREET (DEP FILE # 234-693) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

## **OTHER BUSINESS**

### **470-500 SOUTH STREET**

Several Needham residents received abutter notification letters indicating that there was to be a hearing with respect to property at 470-500 South Street at the Commission's January 9, 2013 meeting. The residents submitted a copy of the abutter notification letter. The Commission stated that they had no application before them for this property and that no hearing pertaining to this property would be held during this meeting. The Commission assured the abutters that they would be notified again when/if an application for work at this address was brought before the Commission. The Commission directed K. Phelps to look into the matter and to share any resulting information with the abutters.

### **59 PERSHING ROAD (DEP FILE # 234-666) - MINOR MODIFICATION REQUEST**

Property owner Gene Glekel was present. He explained that they had encountered groundwater while excavating for the foundation of his house. He is seeking permission to raise the proposed building and grading grade by approximately two feet (on the left side of the proposed dwelling) in order to keep the basement floor above the groundwater table. The limit of work will not change and the resulting slope will not be excessively steep (2-foot rise over a 10-foot run).

**Motion to accept the proposed change in grading as a minor modification to the Order of Conditions by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

### **0 CHARLES RIVER STREET (NGWP #12) - DISCUSSION**

John Rockwood was present on behalf of the Applicant. He stated that the Applicant would like to finalize language for the three off-site mitigation programs required by the permit. The mitigation projects include (1) certification of two vernal pools; (2) removal/control of invasive species; and (3) production and installation of road signs noting that this area is a vernal pool crossing. J. Rockwood reviewed the language proposed in his memo dated December 27, 2013. The Commission discussed the proposed sign condition and agreed that folding signs which can be opened seasonally would be the most effective. Exact wording will need to be finalized and the Applicant agreed to assist in the sign review process.

**Motion to approve the mitigation programs (as discussed) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

### **1065 SOUTH STREET (DEP FILE #234-684) - MINOR MODIFICATION REQUEST**

L. Standley stated that the Applicant is seeking permission to relocate the sewer hookup. The proposed change is farther from the resource area..

**Motion to accept the proposed change to the location of the sewer hookup as a minor modification to the Order of Conditions by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**465 GROVE STREET (DEP FILE # 234-562) - CERTIFICATE OF COMPLIANCE**

K. Phelps stated that the project permitted under this permit involved demolishing an existing pool, patio and retaining wall and minor regrading in the vicinity of the old retaining wall. An existing dwelling (outside the 100-foot buffer zone) was also demolished. All work has been completed in accordance with the OOC plans and the site has been stabilized.

**Motion to issue a Certificate of Compliance for 465 GROVE STREET (DEP FILE # 234-562) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**84 GLENDALE ROAD (DEP FILE # 234-620) - CERTIFICATE OF COMPLIANCE**

D. Simonelli was present on behalf of the Applicant. L. Standley asked her to elaborate on the discrepancies noted in the letter submitted with the Certificate of Compliance request. D. Simonelli pointed out the changes on the as-built plan and stated that (1) the new fence differs from the proposed condition in that it is closer to the wetland in some areas, but farther in others; (2) the retaining wall is longer than proposed; (3) plantings are closer together; and (4) the driveway is larger than proposed. D. Simonelli stated that the fence was recently moved as it was originally installed closer to the stream. L. Standley stated that the enlarged driveway was within the footprint of the old garage, thus did not appear to represent new impervious area within the buffer zone. K. Phelps stated that the site is stabilized and with the exception of the deviations noted, all work was done in accordance with the Order of Conditions.

**Motion to issue a Certificate of Compliance for 84 GLENDALE ROAD (DEP FILE # 234-620) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**1509 CENTRAL AVENUE - REQUEST FOR EXEMPTION FOR TREE REMOVAL**

K. Phelps stated that the property owner had been before the Commission this past summer requesting permission to remove two dead trees in his side yard. He is now seeking permission to remove two additional dead trees closer to Central Avenue. His original request did not include these trees as they are sufficiently far from his house; however, they are in close proximity to overhead utility lines and NSTAR has agreed to remove the trees if the Commission grants permission.

**Motion to approve the request to remove the two dead trees as an exempt minor activity by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

**161-163 HIGHLAND AVENUE (DEP FILE # 234-308) - REQUEST TO REISSUE CERTIFICATE OF COMPLIANCE**

K. Phelps stated that a representative of the current owner had contacted the Conservation office with a request to issue a second Certificate of Compliance for this filing. The original owner filed the Order of Conditions at the Registry of Deeds on two separate occasions (resulting in reference to the Order in two separate book/pages). The original Certificate of Compliance noted the first book/page reference; however, the attorney for a potential buyer is concerned that there is no corresponding Certificate for the second book/page reference. As this is a purely administrative matter, the Commission agreed to sign the duplicate Certificate of Compliance.

**25 MARR ROAD (DEP FILE # 234-685) - REQUEST TO WAIVE NON-CRIMINAL PENALTY**

Property owner David Bamel submitted a letter requesting that the Commission consider waiving the non-criminal penalty issued for unauthorized work (installing a fence and peastone parking

area) in the buffer zone. The Commission discussed the request, noting that Mr. Bamel had cooperated fully; filed a Notice of Intent; and completed or agreed to complete all mitigation required by the Commission. Based on these findings the Commission agreed that rescinding the fine was an appropriate action.

**Motion to waive the non-criminal penalty (issued in July of 2013 for \$1500) by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

#### **RIDGE HILL TRAILS - ACTION PLAN**

L. Standley stated that the first walk at Ridge Hill was held in December and was led by Janet Carter Bernardo. J. Bernardo stated that 17 hikers joined her for the two hour walk despite the temperature. She will be leading the next walk in February; former Commission member Marsha Salett agreed to lead the March walk; and L. Standley will lead the April tour. P. Oehlkers confirmed that he will write an article about renaming the Swamp Trail as the Fuller Trail for an upcoming edition of the Needham Times.

#### **FACILITIES WORKING GROUP**

A. Crocker stated that he attended the first meeting of the Facilities Working Group as the Commission's designee to that Committee. Multiple projects/sites were discussed including the Ridge Hill buildings, the Nike site and the old DPW Building (470 Dedham Avenue). The group will be meeting approximately once per month over the coming year.

#### **DISCUSSION ITEMS FOR JANUARY 23, 2014 MEETING**

P. Alpert requested that the Commission take up the matter of non-criminal penalties at the next meeting. Specifically, he would like the Commission to consider whether they should ask Town Counsel, Dave Tobin, to pursue unpaid fines.

**Motion to adjourn at 9:55 p.m. by P. Oehlkers, seconded by S. Farr, approved 7-0-0.**

#### **NEXT PUBLIC HEARING**

*January 23, 2014 at 7:30 PM in the Public Service Administration Building, Charles River Room*