

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, January 8, 2009**

LOCATION: Needham Public Library Community Room

ATTENDING: Lisa Standley, Janet Bernardo, Marsha Salett, Paul Alpert, Sharon Soltzberg, Dawn Stolfi Stalenhoef, Kristen Phelps (Agent), Amy Holland, Office Administrator

GUESTS: George Giunta, Jamie Walker, David Volante, Mary Trudeau, Steve Poole, Frank Utano

L. Standley opened the meeting at 8:00 p.m.

Minutes

Motion to approve the minutes of December 18, 2008 by Sharon Soltzberg, seconded by Janet Bernardo, approved 6-0-0.

PUBLIC HEARINGS

**ROUTE 128 TRANSPORTATION IMPROVEMENT PROJECT (DEP File # 234-5XX) –
NOTICE OF INTENT**

L. Standley opened the continued public hearing at 8:00 p.m. She stated that the Applicant had submitted a letter requesting a continuance until February 12, 2009. **Motion to continue the public hearing for the Route 128 Transportation Improvement Project to 8:15 p.m. on February 12, 2009, by Paul Alpert, seconded by Janet Bernardo, approved 5-0-0.**

LOT 1 OFF CAROL ROAD (DEP File # 234-551) – NOTICE OF INTENT

L. Standley opened the continued public hearing at 8:15 p.m. Property owner Dave Volante was accompanied by George Giunta and Jamie Walker. L. Standley stated that the Commission had conducted a site visit since the last hearing on this matter and the Commission concurred that the first 50 feet of undisturbed naturally vegetated buffer zone contributed to the interests of the Act and Bylaw. She then asked whether all abutters had been properly notified, as the Commission spoke with a neighbor who had not received the meeting notice. G. Giunta stated that he had hand-delivered the notices to the abutters and had provided an Affidavit of Service confirming that he had done so.

G. Giunta reviewed the changes to the plan that had been made since the last hearing, noting that the lawn on Lot 1 had been reduced to a 10-foot swath along the driveway and that the trees within the 25- to 50-foot buffer zone had been shown on the plan. In addition, the location of the driveway and house had been modified to reduce the amount of disturbance within the first 50 feet of the buffer zone. J. Bernardo stated that based on observations of standing water during the Commission's site visit, she was not optimistic that the proposed drywells would have adequate separation from groundwater. She informed the applicant that soil testing would need to be done to evaluate the whether the infiltration units could be installed as shown on the plan.

L. Standley pointed out that there was still significant work (grading and lawn) proposed within the naturally vegetated 50-foot buffer area and stated that the work on this lot required a waiver from strict compliance with the bylaw performance standards. She reviewed the circumstances under which the Commission could consider granting a waiver, and stated that she has not seen the required information to support the waiver request. In response to the Applicant's contention that their inability to construct

the project as proposed would constitute an economic hardship, L. Standley stated that the economic hardship argument is not about the total profit that can be made from the sale of a lot, but whether denying a certain use constitutes a taking. The Commission therefore needs relevant financial information in order to evaluate whether there is an economic hardship.

Discussion about the difference between the 25-foot no-disturb area and the restriction on work within the 25- to 50-foot naturally vegetated buffer zone followed. P. Alpert provided clarification as to when the expansion of the no-disturb area took effect and described the circumstances under which a waiver would be granted. L. Standley stated that a credible argument for constructing the proposed driveway could be made (for access purposes) and reminded the Applicant that the justification would need to be provided to the Commission in writing. She added that the Commission will need more information about why the house and landscaping cannot be moved farther from the resource area.

Further discussion about the requirements for a waiver followed. The Commission summarized that if the Applicant could make a viable case of economic hardship, they would then need to (1) look at the location of the house and lawn and explain why there are no practicable alternatives to the proposed layout and (2) address how the project minimizes impacts to the resource area. Additionally, the mitigation measures suggested in the initial wildlife habitat report would need to be taken from a conceptual level to a proposed plan.

Motion to continue the public hearing for DEP File # 234-551 to 7:45 p.m. on January 22, 2009, by Janet Bernardo, seconded by Marsha Salett, approved 6-0-0.

LOT 2 OFF BREWSTER DRIVE (DEP File # 234-550) – NOTICE OF INTENT

L. Standley opened the continued public hearing at 8:54 p.m. Property owner Dave Volante was accompanied by George Giunta and Jamie Walker. G. Giunta stated that the plan had been revised to show the trees within the 25- to 50-foot buffer area. He reiterated that the location of the house could not be modified due to zoning setback requirements. L. Standley asked for documentation confirming that the setback requirement was from the temporary turnaround. She added that it appears as though the house could be rotated or reconfigured to pull it out of the 50-foot buffer, and she asked that the Applicant look at this possibility. S. Soltzberg asked why the Applicant is not adapting the design of the house to fit more appropriately within the limitations of the lot. G. Giunta stated that the Applicant does not have a builder and that they are using a design that they have plans for and which has been constructed within the SRA zoning district in the recent past.

The Commission noted that the same issues with respect to the waiver request that were discussed with respect to Lot 1 Carol Road (demonstration of an economic hardship followed by a plan which evaluates alternatives, minimizes impacts, provides) pertained to this application and would need to be addressed in order for a waiver to be granted. With respect to the economic hardship argument, the Commission asked the Applicant to provide information about the change in value of the lots if they were to build the proposed houses versus something smaller that could comply with the Bylaw performance standards.

Motion to continue the public hearing for DEP File # 234-550 to 8:00 p.m. on January 22, 2009, by Marsha Salett, seconded by Sharon Soltzberg, approved 6-0-0.

342 CARTWRIGHT ROAD (DEP File # 234-549) – NOTICE OF INTENT

L. Standley opened the continued public hearing at 9:10 p.m. Mary Trudeau and Steve Poole were present on behalf of the Applicant. M. Trudeau reviewed the changes to the plan that had been

requested by the Commission at the last hearing including a proposed mitigation planting area and revised drainage calculations. J. Bernardo stated that she had reviewed the revised calculations for the proposed drywells and was satisfied with the design. **Motion to close the public hearing for DEP File # 234-549 by Paul Alpert, seconded by Janet Bernardo, approved 6-0-0.** The Commission reviewed the draft Order of Conditions. **Motion to issue the Order of Conditions for DEP File # 234-549 by Marsha Salett, seconded by Paul Alpert, approved 6-0-0.**

371 WEST STREET (DEP File # 234-552) – NOTICE OF INTENT

L. Standley opened the public hearing at 9:15 p.m. She noted that a DEP File number for this project has not been issued; therefore the hearing could not be closed. Frank Utano from Pinecone Construction was present. He explained the proposed redevelopment project which involves demolishing an existing single-family home and constructing a new house within the second 200 feet of the Riverfront Area. He added that the project will result in less impervious surface and will be farther from Rosemary Brook once constructed as a concrete walkway and patio and a concrete fish pond will be removed and replaced with lawn. L. Standley noted that while the plans reflected a percentage reduction in impervious, the application did not provide the reduction of impervious area in square footage. J. Bernardo requested that the Applicant provide soil test pit information for purposes of evaluating whether the proposed drywells would function as intended. The Applicant agreed to provide the requested information prior to the next hearing. **Motion to continue the public hearing for DEP File # 234-552 to 8:15 p.m. on January 22, 2009, by Janet Bernardo, seconded by Marsha Salett, approved 6-0-0.**

COMMISSION ACTIONS

FEE WAIVER GUIDELINES – Discussion / Adoption

The Commission reviewed the revised guidelines outlining the circumstances under which they would consider waiving the \$1000.00 fee associated with applications requiring a waiver from strict compliance with the Bylaw performance standards. The Commission agreed that the revised guidelines reflected their prior discussion of this matter. **Motion to adopt the Fee Waiver Guidelines as proposed by Paul Alpert, seconded by Janet Bernardo, approved 6-0-0.**

25 WARE ROAD (DEP File # 234-544) – Request for Certificate of Compliance

K. Phelps confirmed that all required information had been submitted and that the site had been stabilized. The as-built plan and letter from the P.E. confirm that the project was built in compliance with the Order of Conditions. **Motion to issue a Certificate of Compliance for DEP File # 234-544 by Janet Bernardo, seconded by Marsha Salett, approved 6-0-0.**

OTHER BUSINESS

FINANCE COMMITTEE MEETING – Update

L. Standley stated that the Finance Committee had met to discuss the Commission's budget on January 7, 2009. The focus of that discussion was on the Commission's request for additional hours for the Agent position and for a recording secretary. She stated that CPA funding requests were not discussed at length as the Community Preservation Committee has not made any decisions as of yet with respect to which applications they would be recommending. The CPA request for trail maintenance equipment, however, has been withdrawn as it is ineligible under the CPA rules. L. Standley added that the Finance Committee inquired about upcoming projects that may prove to be time consuming or controversial. She brought up the future use of and access to the Nike site (currently being explored by the Board of Selectmen) as a matter that will involve and be of interest to the Conservation Commission.

STATE STORMWATER REGULATIONS – Update

J. Bernardo stated that she had attended DEP’s informational session on the proposed State Stormwater regulations. She explained that sites in Needham with 2 or more acres of impervious surface will be required to obtain coverage under the proposed Stormwater General Permit and to comply with the associated regulations. The program will be administered by the State and does not change the way in which the Commission reviews projects for Stormwater Compliance under the Wetland Protection Regulations.

STATEMENT TO CONSULTANTS – Discussion

L. Standley read a statement from C. Shapiro addressing his expectations of consultant behavior and cooperation during the public hearing process. The Commission concurred that this type of statement should be included in the application package and on the Commission’s website.

Meeting was adjourned at 9:35 p.m.

Next Meeting: Thursday, January 22, 2009 at the Needham Public Library Community Room

Respectfully submitted,

Kristen Phelps