

TOWN OF NEEDHAM CONSERVATION COMMISSION MEETING MINUTES

Thursday, November 18, 2021

Under Governor Baker's emergency "Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, S20," issued March 12, 2020 and in effect until termination of the emergency, meeting of public bodies may be conducted virtually provided that adequate access is provided to the public.

LOCATION: Zoom Virtual Platform – the meeting was held virtually per Governor Baker's Emergency Order.

ATTENDING: Janet Carter Bernardo (Chair), Peter Oehlkers (Vice Chair), Artie Crocker, Stephen Farr, William Murphy, Allison Richardson, Deb Anderson (Director of Conservation), Clay Hutchinson (Conservation Specialist).

J. Carter Bernardo opened the public meeting at 7:00 p.m.

HEARINGS/APPOINTMENTS

631 SOUTH STREET (DEP FILE #234-872) – *continued* NOTICE OF INTENT

Brian Nelson, MetroWest Engineering, stated that the two properties, 631 and 649 South Street, are adjoining properties. The applicant came before the Commission to request the removal of seven trees located within a bordering vegetated wetland. Commissioners have since visited the site. The proposed trees to be removed are in poor shape. A licensed arborist took an inventory of the trees that he feels are hazardous. B. Nelson asked if there is any interest in a site visit with the arborist to review each tree. The plan shows the seven trees, their heights, their location, and a potential fall arc for each hazardous tree. One of the proposed trees is located within the BVW and is likely a nonstarter. One of the trees located near the house at 649 South Street has the potential to fall very close to the house. The applicant is willing to complete restorative planting on the site, such as six new trees and some 20" shrubs.

A. Richardson asked about snagging some of the trees proposed to be removed.

A. Crocker stated that the existing lawn on this property is within a wetland. The lawn does not need to be in this location for the easement to exist. None of the trees proposed to be removed are actually hazardous, as they will not fall onto the house. The Commission does not remove trees located within a wetland.

S. Farr agreed that there is one tree located outside of the wetland, within the 25' buffer, that could be okay to remove. The rest of the trees are located within a wetland. Categorizing this area as lawn seems slightly inappropriate, as it is only lawn because it continues to be mowed. This area should be allowed to naturally revegetate as a wetland.

B. Murphy stated that he would like to see written documentation as to if any of these trees are actually hazardous to the residents and/or home.

P. Oehlkers stated that tree #1 does seem to present a danger, and tree #6 is presented to become a snag. These are the only trees he would deem to be potentially appropriate.

Susan Mitchell, owner, stated that a recent tree fell in her yard and crushed the trampoline. It would have harmed her children, if they had been on it at the time. She has four children and is concerned for their safety. These trees are a hazard for all those who live on these properties. She thought that she was supposed to continue to mow the lawn area, as the Town has an easement there. Trees will continue to fall in this area as they are dead, and it is important to remove them for safety.

J. Carter Bernardo stated that Mass DEP has stated that trees should not be removed within wetland resource areas. She would be willing to conduct another site visit with the arborist and owner. This type of tree removal has not been permitted anywhere else in Needham.

B. Nelson stated that the intention would be to create a restoration planting plan for any trees removed from the property.

A. Richardson asked about the problem with snagging the trees instead of removing them. J. Carter Bernardo explained that the bylaw states that there should not be anything done to trees located in a wetland resource area. Some of these trees likely could not be snagged.

The Commission agreed to hold a site walk on Tuesday at 8am.

Motion to continue the hearing for 631 South Street (DEP File #234-872), and 649 South Street (DEP File #234-874) to December 2, 2021, by P. Oehlkers, seconded by S. Farr, approved 6-0-0.

649 SOUTH STREET (DEP FILE #234-874) – continued NOTICE OF INTENT

This item was discussed as part of the previous agenda item.

12 & 18 BROOKSIDE ROAD (DEP FILE #234-844) – continued REQUEST TO AMEND ORDER OF CONDITIONS

John Glossa, Glossa Engineering, explained that a soil test was completed at the site of the proposed infiltration chambers. The gravel under this area acts almost as a pipe and works well.

There were no Commissioner questions or comments at this time.

Motion to close the hearing for 12 & 18 Brookside Road (DEP File #234-844), by A. Crocker, seconded by S. Farr, approved 6-0-0.

Motion to issue an amended Order of Conditions, referencing the revised plan set, for 12 & 18 Brookside Road (DEP File #234-844), by A. Crocker, seconded by S. Farr, approved 6-0-0.

53 WAYNE ROAD (DEP FILE #234-881) – continued NOTICE OF INTENT

C. Hutchinson reviewed the revised plan. He explained that a patio was added to the plan based on the discussion at the last meeting.

Dan Memont, Design Dynamics, explained that the owners will likely only build a small patio to the side of the house, but a larger area is shown on the plan just in case. A final design can be submitted regarding this item in the spring. J. Carter Bernardo stated that this should be made a permeable paver patio.

There was no public comment at this time.

Motion to close the hearing for 53 Wayne Road (DEP File #234-881), by A. Crocker, seconded by S. Farr, approved 6-0-0.

144 BROOKSIDE ROAD (DEP FILE #234-879) – continued NOTICE OF INTENT

Ardi Rrapi, Cheney Engineering, explained that two test pits were installed where the proposed drainage area is located on the site. These found the soils to be suitable. Two trees have been shown on the plan within the 100' buffer to mitigate for the one tree proposed to be removed.

There were no Commissioner questions or comments at this time.

There was no public comment at this time.

Motion to close the hearing for 144 Brookside Road (DEP File #234-879), by A. Crocker, seconded by S. Farr, approved 6-0-0.

78 ELDER ROAD (DEP FILE #234-880) – continued NOTICE OF INTENT

Diane Simonelli, Field Resources, explained that the test pits are shown on the plan. A DEP file number has been received. The infiltration system has been accurately reflected on the plan.

There were no Commissioner questions or comments at this time.

There was no public comment at this time.

Motion to close the hearing for 78 Elder Road (DEP File #234-880), by A. Crocker, seconded by S. Farr, approved 6-0-0.

463 SOUTH STREET – REQUEST FOR DETERMINATION OF APPLICABILITY

Tom Schutz, Goddard Consulting, stated that there is a non-jurisdictional ditch that runs through the backyard. This was previously flagged as a jurisdictional ditch, an intermittent stream, and as hydrologically connected to a large BVW system. The applicant is proposing to raze and rebuild an existing single-family home. A siltation fence is proposed to prevent any erosion or silt from entering the large BVW system, located over 250' away from the house. There are no perennial

streams located within 200' of the locust. The house itself is outside of the 100' buffer zone. The jurisdictional ditch in question runs through the backyard of 449 South Street. The forest area on the site is dominated by white pines. The ditch appears to be hand dug to convey stormwater off South Street. There is a storm drain that drains from the roof of the house under the ground and into the forest. The culvert in this area has a higher grade and is essentially useless for any hydrologic connection. The request is for a negative Determination of Applicability showing that the ditch is not an intermittent stream.

D. Anderson explained that the wetlands were flagged in 2000 and there is a wetland on the property next door that connects to this ditch. There are conservation restrictions based on this ditch being jurisdictional. It is unclear if the ditch conveys water to another resource area. If it does not, this would be an isolated wetland and the project is more than 100' away from it. The vegetation in this area shows that there is a wetland. It is unclear if the wetland is isolated or bordering. She contacted DEP for a clarification and would like to see this hearing continued to obtain additional information.

J. Carter Bernardo stated that she believes there are a lot of wetlands within this vicinity. T. Schutz stated that he completed soil samples that only showed upland soils on this property. D. Anderson stated that there is a wetland on the property with the ditch.

There was no public comment at this time.

Motion to continue the hearing for 463 South Street, to December 2, 2021 by S. Farr, seconded by A. Crocker, approved 6-0-0.

OTHER BUSINESS:

21 CEDAR SPRINGS LANE (DEP FILE #234-259) – REQUEST FOR CERTIFICATE OF COMPLIANCE

Ardi Rrapi, Cheney Engineering, explained that the new owners did not realize there were conditions from a previous Order of Conditions for the site. There are some changes that have already occurred on the property, but most of these are outside of the 100' buffer. There was a concern regarding the requirement for four bounds set at the limit of work. The erosion control barrier was installed at the property line. A sewer has been installed past the property line onto a Town property and the lawn of the property has extended to this point. The Order of Conditions does not specify where the bounds have to be set. The proposal is for a partial Certificate of Compliance which would allow the new owners to purchase the property and install 1-2 bounds on this site.

J. Carter Bernardo stated that all four properties involved would need to agree and sign, with markers along the entire limit of work for the four properties. The Commission would like the bounds set at the two back property corners for this site. A. Rrapi stated that he will submit an as-built plan showing the bounds as set prior to the Commission's next meeting, if a partial Certificate is issued.

C. Hutchinson stated that it is up to the Commission's discretion to issue a partial Certificate, contingent on installation of the bounds, in order to allow the closing to move forward. J. Carter Bernardo explained that she is concerned this would finish the project for this lot without actual installation of the markers. In 1996, two of the other lots requested partial Certificates from the Commission but were denied.

Amy Weil, real estate attorney representing the sellers, stated that the closing has already been delayed on this property. She asked if an amount of money could be held back in escrow as promise of the bounds to be installed in order for this closing to move forward on Monday.

Jon Dubois, current owners of the property, stated that he was blindsided by this situation. The intention was to give the proposed buyers the piece of mind that the sale will go through.

Nicole Pinkos, buyer's attorney, stated that her client would be willing to agree to the contingency proposal to hold an amount in escrow at the time of closing. The buyer would like to make sure the property deal is protected at closing.

Motion to issue a partial Certificate of Compliance for 21 Cedar Springs Lane (DEP File #234-259), which will only be given in hard copy form contingent on the monuments being placed in the ground, by A. Crocker, seconded by B. Murphy, approved 6-0-0.

135 MAPLE STREET (DEP FILE #234-781) – REQUEST FOR CERTIFICATE OF COMPLIANCE

Jamie Iannelli, consultant, explained that the second annual monitoring of this site took place on September 18th. At the first annual monitoring, last October, 18 trees and eight shrubs were planted. The Order of Conditions specified 16 trees and 16 native shrubs. There are currently 19 trees and eight shrubs on the site. Last year, it was requested that the three additional trees planted be considered as appropriate for the eight shrubs that were not planted, and she believes this request was granted. During the most recent monitoring, it was clear that all of the plantings met or exceeded the 75% survival rate.

D. Anderson stated that a complete Certificate can be issued at this time. The permanent demarcation goes almost up to the building and the plantings were supposed to go in this area.

There was no public comment at this time.

Motion to issue a Certificate of Compliance for 135 Maple Street (DEP File #234-781), by A. Crocker, seconded by S. Farr, approved 6-0-0.

28 MARR ROAD (DEP FILE #234-554) – COMPLIANCE DISCUSSION

John Rockwood, EcoTec, Inc., explained that most of the Orders of Conditions for this property have been closed. There is one open order. In 2009, a Notice of Intent to remove trees behind the property was filed. It was determined that five trees had been removed from the site, where only four were allowed. One, which was supposed to be pruned, was instead removed. Eight 6'-8' tall

saplings were originally proposed for mitigation, but none were found on site. These will be planted, and the current proposal is also for four 1.5” caliper trees to be planted for the tree removed without permission. These will be monitored for two full growing seasons, until 2023 with 100% survival expected, and a Certificate of Compliance will be sought after that time. The locations will be determined and approved by Staff in the field.

A. Richardson stated that the proposal is to accommodate the original Order of Conditions, but the plantings should likely have to follow the existing current requirements. B. Murphy agreed that larger caliper trees should likely be planted. D. Anderson stated that she does not believe more trees are needed for this mitigation proposal.

J. Rockwood stated that the one tree that was removed without permission was a two stem, 28” pine. He suggested that 12 1.5” caliper trees be installed on the site. The Commission agreed.

MISCELLANEOUS BUSINESS –

1. Minutes

Motion to approve the meeting minutes of January 7, 2021, by S. Farr, seconded by A. Crocker, approved 6-0-0.

Motion to approve the meeting minutes of July 8, 2021, by S. Farr, seconded by A. Crocker, approved 6-0-0.

2. Enforcement & Violation Updates

None at this time.

The Commission discussed a revised FY22 calendar of meetings.

Motion to approve the FY22 meeting schedule, by S. Farr, seconded by A. Crocker, approved 6-0-0.

D. Anderson explained that the Town is setting up a Climate Action Plan Committee. The Commission can choose a member to sit on the Committee. A. Crocker volunteered.

The Commission reviewed the draft Order of Conditions for 144 Brookside Road (DEP FILE #234-879).

Motion to approve the Order of Conditions for 144 Brookside Road (DEP FILE #234-879), by S. Farr, seconded by A. Crocker, approved 6-0-0.

The Commission reviewed the draft Order of Conditions for 78 Elder Road (DEP FILE #234-880).

Motion to approve the Order of Conditions for 78 Elder Road (DEP FILE #234-880), by S. Farr, seconded by A. Crocker, approved 6-0-0.

The Commission reviewed the draft Order of Conditions for 53 Wayne Road (DEP FILE #234-881).

Motion to approve the Order of Conditions for 53 Wayne Road (DEP FILE #234-881), by S. Farr, seconded by A. Crocker, approved 6-0-0.

ADJOURN:

Motion to adjourn, by A. Crocker, seconded by S. Farr, approved 6-0-0.

The meeting was adjourned at 9:21 p.m.

NEXT PUBLIC MEETING:

December 2, 2021, at 7:00 p.m. location to be determined.

*Respectfully Submitted,
Kristan Patenaude*