

**TOWN OF NEEDHAM  
CONSERVATION COMMISSION  
MEETING MINUTES  
Thursday, July 22, 2010**

LOCATION: Town of Needham Public Services Administration Building, Charles River Room

ATTENDING: Lisa Standley (Chair), Paul Alpert, Janet Bernardo, Dawn Stolfi Stalenhoef, Sharon Soltzberg, Patricia Barry (Agent), Elisa Litchman (Assistant)

GUESTS: Lauren Anzalone, Patricia Carey, Bob Cohen, Ned Cooley, Glayton Da Cruz, James Duffy, Joe Fiorentino, Joseph Geisberg, Cory Halaby, Kevin Hollenbeck, Tom Jacob, Miriam Jost, Stuart Kliman, Ardi Rrapi, Nick Santaniello, Beth Shulman, Diane Simonelli, Andy & Sally Smith, Bruce Wilson, Lisa Zappala, Jonathan Zappala.

L. Standley opened the meeting at 7:35 p.m.

**MINUTES**

The Commission reviewed the meeting minutes of June 24, 2010. **Motion to approve minutes as amended by P. Alpert, seconded by J. Bernardo, approved 5-0-0.**

**PUBLIC HEARINGS**

**216 WASHINGTON STREET (DEP FILE #234-592) – NOTICE OF INTENT**

L. Standley opened the public hearing at 7:45 p.m. P. Barry stated that the Notice of Intent application was revised and re-submitted in accordance with the Conservation Commission requested changes at the July 8, 2010 public hearing. D. Simonelli submitted a copy of the required abutters list and proof of notification. She also presented the revised plans that included the planting of creeping juniper (*Juniperus horizontalis*) within the 25-foot buffer zone and calculations for the proposed drywell installations. D. Simonelli stated that about 277 square feet of land will be restored within the 25-foot buffer zone where the driveway is proposed to be removed. L. Standley asked J. Bernardo if she was comfortable with the dry well design and supporting calculations. J. Bernardo stated that the proposed drywells should function properly based on the calculations submitted by the applicant. L. Standley mentioned that on the check list the Proof of Notifications was not checked off. P. Barry commented that she received necessary paperwork this evening providing proof of abutter notification. D. Simonelli requested that a waiver be granted for both the work proposed within the 25-foot buffer zone and the associated filing fee as the existing driveway area will be replaced with loam, seed and plantings within the 25-foot buffer zone and will significantly improve the existing site conditions. Additionally, the applicant will be adding a small walkway to the backyard. **Motion to waive the Bylaw filing fee of \$1,000 for work proposed within the 25-foot buffer zone by J. Bernardo, seconded by D. Stolfi Stalenhoef, approved 5-0-0. Motion to close the public hearing for DEP File#234-592 by P. Alpert, seconded by J. Bernardo, approved 5-0-0.** The public hearing was closed at 7:54 p.m.

**380 DEDHAM AVENUE, (ASA SMALL BALL FIELD), PARK & RECREATION – REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the public hearing at 8:00 p.m. Patricia Carey, Director of the Needham Park & Recreation Department, explained that the town is proposing to construct a new batting cage at the Asa Small Field in DeFazio Park. She stated that the Little League of Needham is donating dugouts to the

field and one of the dugouts will have an attached batting cage with netting. P. Carey explained that the project will require installation of a batting cage, consisting of fencing and minor grading within the 100-foot buffer zone to a bordering vegetated wetland. L. Standley commented that the detail on the plans shows about 25-feet of work will be located within the buffer zone and about 75-feet away from the wetland. J. Bernardo added that the silt fence should be installed prior to the start of grading work. L. Standley stated that her only concern is that there is an outstanding enforcement associated with the DeFazio Field Project permitted under DEP File#234-522. J. Bernardo asked if any large construction equipment would be used. P. Carey said that this would be necessary due to the grading to be completed and further stated that the ground is relatively flat and the proposed grading is minimal. **Motion to close the public hearing by P. Alpert, seconded by D. Stolfi Stalenhoeff, approved 5-0-0.** The public hearing was closed at 8:04 p.m. **Motion to issue a Negative Determination of Applicability for the Asa Small batting cage project by P. Alpert, seconded by D. Stolfi Stalenhoeff, approved 5-0-0.**

### **52 WILLIAM STREET – (DEP FILE # 234-5XX) - NOTICE OF INTENT**

L. Standley opened the public hearing at 8:15 p.m. She stated that there are some procedural issues associated with this notice of intent filing. No DEP File# was issued for the project because the filing fee was incorrectly classified as a Category 1 activity although the activity was clearly a Category 2 activity in accordance with the Wetlands Protection Act Regulations. In addition, the MA DEP did not receive plans with the Notice of Intent application. Glayton Da Cruz, the applicant's representative, explained that he delivered the plans to the MA DEP by hand today and sent via certified mail the additional \$195 filing fee check to the MA DEP. He also stated that he expects to have a DEP File# issued sometime during the middle of next week. G. Da Cruz explained the proposed drywells for the new single family home to infiltrate roof runoff. J. Bernardo wanted to know the depth to ground water on-site. G. Da Cruz explained that it is far down and there is a steep slope on the property before the drainage ditch. After communicating with the manufacturer, G. Da Cruz determined that all the roof ground water would go to one drywell of a 500 gallon capacity. G. Da Cruz handed in the list of abutters and the certified mailing green cards. P. Barry explained that she needs a check for \$150.00 for the town portion of the WPA filing fee.

G. Da Cruz asked the Commission if there is any part of the project which can be started without an Order of Conditions. Joseph Geisberg, the owner of the property, explained the urgency and time constraints to re-build the burned down single family home. L. Standley stated that the Commission would have been able to issue the Order of Conditions if the application was accurately filed and completed on time, but unfortunately there were administrative issues associated with the proper filing of the Notice of Intent and therefore the Commission can not legally issue an Order of Conditions without a DEP File#. After an involved discussion the Commission authorized P. Barry to inform the Building Inspector in writing that the demolition of the house ONLY could be completed prior to the issuance of an Order of Conditions provided absolutely NO excavation work including the foundation removal took place within the 100-foot buffer zone, erosion controls were installed at the limit of work and the house demolition was located greater than 80-feet from the bordering vegetated wetland. **Motion to authorize P. Barry to submit a partial Demolition Permit Clearance to the Building Inspector for 52 William Street by J. Bernardo, seconded by P. Alpert approved 4-0-1 (D.S.S. abstained). Motion to continue the public hearing to August 12, 2010 at 7:45 p.m. in the PSAB Charles River Room by P. Alpert, seconded by J. Bernardo, approved 5-0-0.**

### **0 HIGHLAND AVENUE (TRAIL BETWEEN NEEDHAM & KENDRICK STREETS) — REQUEST FOR DETERMINATION FOR APPLICABILITY**

L. Standley opened the public hearing at 8:42 p.m. Kevin Hollenbeck from the MA DCR presented to the Commission the proposed boardwalk installation along the existing trail off of Kendrick Street where the area adjacent to the Charles River is periodically inundated. The DCR suggested that the best proposal

was to install a 60-foot by 8-foot wide board walk between Kendrick and Highland Avenue at the southern end. L. Standley commented that the trail had recently been cleared by hand. The DCR explained that most of the people who walk the trail are employees from the industrial park (and that they walk in work clothes) and that the boardwalk should be wide enough for a small tractor to clear the trails. He stated that a 4-foot wide trail allows for single file walking and a 5.5 foot wide trail allows access for a small tractor.

L. Standley opened the public hearing to public comment. Miriam Jost, an abutter from the town of Newton located within 300-feet of the proposed project, noted that the Charles River can rise about 6 to 8-feet high in that area. K. Hollenbeck stated that the boardwalk will be anchored to allow it to float up or down with the rise or fall of the Charles River. He also noted that the trail offers pedestrian access to the condo apartments in the area and that this project should improve access to the trails. M. Jost asked what the maintenance plan for the trail is since she notices trash that accumulates on the trail. K. Hollenbeck stated that they coordinate with the City of Newton to implement a Riverwide clean-up annually which has about 3,000 volunteers helping clean the trails. In addition, the DCR also has regular clean-up crews. He mentioned that a good amount of trash blows over from Highland Avenue. P. Alpert asked for clarification of the area on the trail which is a proposed boardwalk. **Motion to close the public hearing by J. Bernardo, seconded by P. Alpert, approved 5-0-0.** The hearing was closed at 8:52 p.m. **Motion to issue a Negative Determination of Applicability for the 0 Highland Avenue Boardwalk Project off of Kendrick Street by J. Bernardo, seconded by P. Alpert approved 5-0-0.**

#### **367 CARTWRIGHT ROAD – REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the public hearing at 8:53 p.m. Corey Halaby, the owner, explained that they wanted to expand the existing deck by removing the wood at the top of the deck and moving the stairs. The existing deck is 76-feet away from the wetlands. Abutters have been notified and green certified mailing cards were submitted. P. Barry noted that she spoke to Dr. Walter Hewitson who conducted the wetland delineation, and confirmed that the stream in the back of 367 Cartwright Road was a perennial stream as identified on the USGS map and that the proposed work would also be located within the 200-foot Riverfront Area. **Motion to close the public hearing by J. Bernardo, seconded by P. Alpert, approved 5-0-0.** The hearing was closed at 8:56 pm. **Motion to issue a Negative Determination of Applicability for the 367 Cartwright Road project by J. Bernardo, seconded by P. Alpert, approved 5-0-0.**

#### **11 MARY CHILTON ROAD – REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the public hearing at 9:00 p.m. Bruce Wilson of G. W. Site Solutions represented the applicant and explained to the Commission that the owners are proposing to take the existing deck down and install a new deck with a paver stone patio underneath the deck. The project would take between 3 to 4 days. They propose to install silt fencing along the tree line within the 25-foot buffer zone and remove the top soil at the basement walkout where the paver stones would be installed. B. Wilson stated that this will be minimal excavation. Furthermore, he stated that the deck will be 9-foot by 9-foot. Proof of abutter notification was provided to P. Barry. Both L. Standley and J. Bernardo remarked that the silt fence is preferable along the tree line. **Motion to close the public hearing by P. Alpert, seconded by J. Bernardo, approved 5-0-0.** The hearing was closed at 9:05 p.m. **Motion to issue a Negative Determination of Applicability for the 11 Mary Chilton Road project by P. Alpert, seconded by D. Stolfi Stalenhoef, approved 5-0-0.**

#### **2 BRIDLE TRAIL ROAD – REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the public hearing at 9:15 p.m. Diane Simonelli represented the applicant and explained to the Commission the proposed project to reconfigure the deck off the back of the existing single family house and install a new screened in porch. The proposed deck is 729 square feet and the

screened in porch would be 254 square feet. The project would require new sonitubes installation but no large equipment would be utilized during construction. L. Standley asked for clarification regarding the existing deck where D. Simonelli explained that the existing deck will be demolished and the new deck will be installed in the same location as the existing deck with additional increase in square footage. L. Standley expressed concern with the drainage swale at the back of the property and stated the swale is a jurisdictional resource area under the Needham Wetlands Protection Bylaw and must be shown on future plans presented to the Commission. She further stated, that although the proposed project should have been filed under a Notice of Intent application in accordance with the Bylaw because work is proposed within the 25-foot no disturb buffer zone and the proposed work is greater than 500 square feet, the Commission determined that the project impacts on previously disturbed lawn (i.e. sonatube installation) were minimal and would not adversely impact the resource areas; therefore the project could be permitted under a negative determination of applicability and a waiver issued for work within the 25-foot buffer zone. P. Alpert abstained from the decision to grant a fee waiver for work within the 25-foot buffer zone; however all other members were in favor of the filing fee waiver. **Motion to close the public hearing by P. Alpert seconded by J. Bernardo, approved 5-0-0.** The public hearing was closed at 9:25 p.m. **Motion to grant a waiver and issue a Negative Determination of Applicability by S. Soltzberg, seconded by P. Alpert, approved 5-0-0.**

### **312 ROSEMARY STREET – REQUEST FOR DETERMINATION OF APPLICABILITY**

L. Standley opened the hearing at 9:30 pm. Ardi Rrapi, the applicant's representative, submitted the abutter notification proof and pictures of the property. He explained that the owner's daughter is disabled and the owner would like to make the backyard accessible and would like to demolish the existing deck and replace it with a porch in the same foot print as the deck. He also explained the proposed plantings to mitigate for work in wetland resource areas and associated protection zones. **Motion to close the public hearing by P. Alpert, seconded by J. Bernardo, approved 5-0-0.** The public hearing was closed at 9:39 p.m. **Motion by to issue a Negative Determination of Applicability for the 312 Rosemary Street project by P. Alpert, seconded by J. Bernardo, approved 5-0-0.**

### **COMMISSION ACTIONS**

#### **TRAIL MAINTENANCE NOTIFICATION FORMS – RIDGE HILL RESERVATION**

Three Ridge Hill Reservation trail maintenance projects were presented to the Commission under the general Determination of Applicability. Girl Scout Lauren Anzalone updated the Commission and informed them that the Hornbeam Trail has already been cleared and that during the clearing she noticed a 70-foot area that was wet and difficult to pass. She presented to the Commission a proposal to construct a boardwalk in twelve six-foot sections. L. Standley commented on the detail submitted to the Commission that a 2-foot wide boardwalk seemed a little narrow. L. Standley agreed that a two foot bridge in this section would be acceptable. **Motion to approve the Hornbeam Trail boardwalk and sign the Trail Maintenance Notification Form by D. Stolfi Stalenhoeft seconded by J. Bernardo, approved 5-0-0.**

Boy Scout Ned Cooley presented to the Commission a project to clear the Muir and Field View Trails in Ridge Hill Reservation and that this will occur in the early spring of 2011. J. Bernardo commented that there won't be as much growth at that time of year. S. Soltzberg asked whether he intends to clear tree seedlings. P. Barry clarified that all woody vegetation will be cleared within 5-feet on each side of the trail. **Motion to approve the Muir and Field View Trails and sign the Trail Maintenance Notification Form by D. Stolfi Stalenhoeft seconded by J. Bernardo, approved 5-0-0.**

Jonathan Zappala presented to the Commission the proposal to clear the Meadow and Fit Trails at Ridge Hill Reservation during late summer and early fall of 2010. **Motion to approve the Muir and Field View Trails and sign the Trail Maintenance Notification Form by D. Stolfi Stalenhoeft seconded by J. Bernardo, approved 5-0-0.**

## **11 BRENTWOOD CIRCLE (NGWP#13) – NOTICE OF INTENT**

The Commission reviewed the draft Order of Conditions. **Motion to issue the Order of Conditions for NGWP #13 by D. Stolfi Stalenhoeft, seconded by P. Alpert, approved 5-0-0.**

## **24 FISHER ROAD (DEP FILE #234-338) – CERTIFICATE OF COMPLIANCE REQUEST**

L. Standley commented that a letter from the Professional Engineer noted a few minor differences between the proposed plan and actual work conducted. P. Barry stated that there was no requirement for an as-built plan within the Order of Conditions issued in 2002. Sally Smith, the owner, informed the Conservation Commission that the foundation wall was repaired. J. Bernardo asked about a drain. Sally Smith indicated that the drain was composed of compressed cardboard and after the purchase of the house it collapsed; and therefore the owner also replaced the drain. P. Barry noted that there is a compost pile close to the wetland that should be moved. S. Smith stated that she would move the compost pile. P. Alpert explained that the compost pile must be greater than 25-feet away from the wetland boundary. **Motion to issue a Certificate of Compliance for DEP File#234-338 by J. Bernardo, seconded by P. Alpert, approved 5-0-0.**

## **OTHER BUSINESS**

### **INVASIVE SPECIES KUDZU**

P. Barry stated that the MA DCR reported to her a sighting in Needham of the invasive vine population of kudzu (*Pueraria montana var. lobata*) on private property located at the end of Ledge Street abutting the Hemlock Gorge State Reservation. She further elaborated that according to DCR this was only the second population in the state and it appears that it is the only flowering population. The DCR approached P. Barry asking for support from the Conservation Commission to assist with coordinating the Kudzu eradication that is located about 500 to 600 feet or more away from the Charles River. The area is private property and members of the Commission thought DCR should send a letter to the owners. P. Alpert stated that P. Barry could make a friendly phone call to the property owner. D. Stolfi Stalenhoeft asked if the Kudzu threatens something in our control. P. Barry and L. Standley said it is a significant ecological threat. L. Standley suggested that it would be appropriate for P. Barry to let K. Fitzpatrick know about the situation. P. Alpert agreed that there should be a discussion between P. Barry and K. Fitzpatrick before making any phone calls to the property owner.

## **112 EDGEWATER DRIVE – ENFORCEMENT ORDER**

Ralph Feinberg, property owner of 112 Edgewater Drive attended the Conservation Commission public hearing as required by an enforcement order issued on July 1, 2010. R. Feinberg stated that he did not know what he was doing at the public hearing. L. Standley explained that he had been issued an Enforcement Order because the work on the property was not conducted in accordance with the Order of Conditions issued for the project. She elaborated that the work has caused damage to the wetland resource areas and that additional work was completed that was not permitted in the original permit which are direct violations of the MA Wetlands Protection Act and the Needham Wetlands Protection Bylaw and therefore, an Enforcement Order was issued.

R. Feinberg explained to the Commission that in December of 2009 he was informed by the Building Department about the Town of Needham's zoning ordinance that if the building is new and not 50% below ground, they count it as the first floor. In order for the basement to comply, there would need to be fill installed around the house. R. Feinberg stated that he brought about 100 truckloads of dirt and fill onto the property to meet the Building Department requirement and then the Building Department stopped the job. At that time of year it was impossible to fill the rest of the area. R. Feinberg said that the extra dirt was put in a temporary place, not for final grading. R. Feinberg maintained that the Building

Department gave him the directive to bring in the dirt to fill the rear and sides of the house but the Enforcement Officer told the Building Department that he shouldn't be doing that. He also mentioned that in order for him to get his Certificate of Compliance he needs to comply with Conservation Commission.

L. Standley stated that the Order of Conditions specifies what temporary and permanent work is permitted. It also explicitly states that any changes to the plans approved under the Order of Conditions should be submitted to the Conservation Commission for review and approval. This situation could have been avoided if the permit was read carefully and abided by. R. Feinberg asked why the job has been shut down. The Commission stated that the job was likely stopped by the Building Department because he had illegally filled and installed a retaining wall in the Town of Needham Flood Plain District without a permit from the Board of Appeals. The work outside of the home was stopped by the Conservation Commission due to the lack of compliance with the currently issued Order of Conditions.

The Conservation Commission required the following:

- All unpermitted fill and structures (i.e. retaining wall) placed within the Town of Needham Floodplain and the FEMA 100- year flood plain must be removed and all elevations need to be restored pre-existing conditions.
- Erosion controls must be installed at the limits of disturbance before any fill or structure removal may take place and must be approved by P. Barry prior to work commencement.
- The Request to Amend the Order of Conditions submitted at the public hearing must be revised to include additional unpermitted structures (i.e. deck, stairs) and a restoration planting plan for the area disturbed within the FEMA 100-year flood plain. Plans must be submitted to the Commission by August 5, 2010 to be heard at the August 12, 2010 public hearing.
- The Conservation Commission requested that all fines associated with the past three enforcement orders be paid.

George Collins, the applicant's surveyor, stated that he would notify the abutters by August 5, 2010 as required and would submit nine copies of the revised plan and narrative to the Commission by the specified deadline. He also informed the Commission that he would make sure that the erosion controls were installed properly.

Meeting was adjourned at 10:30 p.m.

### **NEXT PUBLIC HEARING**

*August 12, 2010 at 7:30 pm in the Needham Public Services Administration Building – Charles River Room*

Respectfully submitted,

Patricia Barry  
Conservation Agent

Elisa Litchman  
Conservation Assistant