

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, February 9, 2012**

LOCATION: Public Services Administration Building, Charles River Room

ATTENDING: Paul Alpert (Acting Chair), Janet Bernardo, Carl Shapiro, Dawn Stolfi Stalenhoef, Patricia Barry (Agent), Debbie Anderson (Assistant)

GUESTS: John Carr, John Cutler, Benjamin Ewing, Jim Fuller, Matt Harkins, Susan Horne, Terry Horton, Kerry Hurwitch, Kathy Lewis, Barry Lydgate, Melanie Morgan, Warren Wells, Russell Wheatley

P. Alpert opened the public meeting at 7:35 pm.

MULLEN RULE CERTIFICATIONS

P. Alpert accepted the written certification from C. Shapiro that he missed no more than one single session of the hearings pertaining to 4 Ware Road (DEP File #234-622) Notice of Intent, and 685 & 689 Charles River Street (DEP File #234-636) Notice of Intent, and that he examined all evidence received at the missed session including a transcript of the meeting in accordance with MGL Chapter 39, Section 23 D Adjudicatory Hearings.

MINUTES

Motion to approve the minutes of January 26, 2012, as amended, by J. Bernardo, seconded by C. Shapiro, approved 4-0-0.

ENFORCEMENTS

350 CEDAR STREET

P. Barry advised the Commission that Mr. Petrucci, of Petrucci Construction Company had contacted Town Counsel, Dave Tobin after receiving the compliance letter sent regarding their responsibility to comply with the requirements of the Enforcement Order issued by the Commission. P. Barry also advised the Commission that Richland Tower Company, who was also sent the compliance letter from Town Counsel, has notified the Commission that they would like to schedule a meeting to discuss compliance with the Enforcement Order. **Motion to accept the compliance letter regarding the Cedar Street Enforcement Order sent by Town Counsel by J. Bernardo, seconded by C. Shapiro, approved 4-0-0.**

46 EDGEWATER DRIVE

P. Barry explained that the Needham Conservation Commission had issued a Negative Determination of Applicability in December of 2011 with regard to the removal of the existing greenhouse by hand and the demolition of the existing addition which was on a slab and reconstruction of a new addition and slab in the same footprint located at 46 Edgewater Drive. The Conservation Office was notified by the contractor that the construction of the addition required additional excavation of unstable organic material, approximately ten (10) plus feet under the existing addition, material stockpiling and dewatering. These activities were not permitted, as a Negative Determination of Applicability had been previously issued based on the application which did not contemplate this work. The homeowner, Kerry Hurwitch, presented revised foundation plans to the Commission. P. Barry explained that there is no permitting mechanism under both the Act and Bylaw that would allow the Commission to amend a project proposed within a Negative Determination of Applicability.

The Commission issued a verbal stop work order on site at 46 Edgewater Drive and required that a Notice of Intent application be submitted for the newly proposed work located within the 200-foot Riverfront Area to the Charles River and Alder Brook, associated Bordering Land Subject to Flooding and the 100-foot buffer zone to Bordering Vegetated Wetland. P. Barry noted that according to the December meeting minutes the Commission did not accept the wetland delineation as submitted in the Request for Determination of Applicability application and that a sufficient wetland delineation should be submitted with the Notice of Intent application. K. Hurwitch expressed her concern for the safety of her children and dog with respect to the open pit in her yard. The Commission authorized the filling of the hole back in and fencing the area off until the proper permit was secured.

HEARINGS

145 WINDING RIVER ROAD (DEP FILE #234-637) – NOTICE OF INTENT

P. Alpert opened the public hearing at 7:50 pm. The Applicant's Representative, Benjamin Ewing, provided proof of abutter notification to P. Barry and presented the project to the Commission. P. Barry explained that the Massachusetts Department of Environmental Protection (DEP) had not yet issued a file number for the project; therefore the hearing could not be closed. B. Ewing described the proposed project to clear all of the vegetation (including 25 trees) between the 50 foot and 100 foot buffer zone to bordering vegetated wetlands to create additional lawn associated with a single family home at 145 Winding River Road.

P. Alpert explained that the wetland delineation was not satisfactory as additional flags were necessary to adequately show the extent of the wetlands on the property and properly identify the buffer zone. D. Stolfi Stalenhoef questioned whether there may be an alternative to removing all of the trees and P. Alpert explained the functions and values associated with the forested buffer zone. B. Ewing reiterated that all of the trees are proposed to be removed. P. Alpert requested an updated plan be prepared and submitted to the Commission which identifies all of the trees proposed for removal, including their species and size. P. Alpert also mentioned the Needham Times letter that the Commission Chair had written describing in further detail the benefits of trees pertaining to the currently increasing clear cutting of lots in Needham. J. Bernardo asked if the trees proposed to be removed could be identified in the field with ribbon prior to the Commission's anticipated site visit. P. Barry questioned whether a permit would be necessary from the Planning Board and/or Zoning Board of Appeals as the work is proposed in an Aquifer Protection District. B. Ewing stated that no permit is required from the Planning Board or Board of Appeals because the proposed work does not exceed the thresholds within the Zoning Bylaw that would trigger a permit application.

The owner of the property, Matt Harkins, questioned whether there was any precedent set as far as permitting this type of project because he believed that the removal of all of the trees greater than 50-feet from the wetland would not be an issue. The Commission collectively responded that every project is reviewed and permitted to minimize impacts to the resource areas. J. Bernardo inquired as to why drywells were not proposed to infiltrate roof runoff. The hearing was continued for additional information, specifically updating the project plans to include the remaining wetland delineation, species and size of trees proposed to be removed and a site visit. **Motion to continue the public hearing (for DEP File# issuance, additional information and a site visit) for 145 Winding River Road to February 23, 2012 at 7:45 pm. by J. Bernardo, seconded by C. Shapiro, approved 4-0-0.**

685 & 689 CHARLES RIVER STREET (DEP FILE #234-636) – *continued* NOTICE OF INTENT

P. Alpert opened the public hearing at 8:15 pm. P. Alpert discussed the site visit that the Commission had conducted at the property. He stated that the Commission agreed with the wetland delineation in the field.

He further explained that the portion of the buffer zone located on the 689 Charles River Street parcel is generally undisturbed and well vegetated. Since this is the case, the 25 foot no disturbance portion of the 100 foot buffer to bordering vegetated wetlands would be extended to 50 feet. The Applicant was required to amend their waiver request to reflect this change. P. Alpert noted that the Applicant would not need to submit an additional wildlife habitat assessment. The Applicant will need to provide an updated mitigation plan removing the proposed excavation in the mitigation area from the project. The applicant's representative, Russell Wheatley, submitted the following at the public hearing to the Commission: a revised Notice of Intent application with all of the required signatures; a letter from Barbara Poggio, the property owner of 685 Charles River Street, stating the refusal to allow any movement of the easement or mitigation on their property associated with the proposed access way; revised project plans; and revised mitigation plan. R. Wheatley noted that the proposed water and utilities had been added to the plan as well to be installed under the existing access way. The Applicant proposed the removal of invasive species from the 689 Charles River Street property as part of the proposed mitigation plan.

P. Alpert opened the hearing to the public for comment. Warren Wells of 723 Charles River Street asked R. Wheatley if the Applicant had been granted use of the existing common driveway to access the site by the 685 Charles River Street driveway. R. Wheatley stated they would be able to use the common driveway. John Carr of 27 Locust Lane voiced his concern that any re-contouring of the land for the project would exacerbate the flooding problem on his land. P. Alpert stated that no re-contouring was proposed on the Plan for the gravel drive but that a large portion of the site is not in the jurisdiction of the Conservation Commission and any future plans to demolish the existing house would most likely not need to come before the Commission for a permit. Susan Horne, of 41 Locust Lane, also asked if the proposed mitigation area would make her flooding problems worse. P. Alpert explained that the additional plantings should improve the conditions. Terry Horton of 59 Locust Lane noted the steep slope from the house that the neighbors' properties were located. The Commission explained that the hearing could not be closed due to the submittal of new material. **Motion to continue the public hearing (due to additional information) for 685 & 689 Charles River Street (DEP File#234-636) to February 23, 2012 at 8:00 pm. in the PSAB – Charles River Room by J. Bernardo, seconded by D. Stolfi Stalenhoef, approved 4-0-0.**

OTHER BUSINESS

4 WARE ROAD (DEP FILE #234-635) – ISSUE ORDER OF CONDITIONS

The Commission reviewed the Order of Conditions. **Motion to issue the Order of Conditions for 4 Ware Road (DEP File# 234-635), as amended, by J. Bernardo, seconded by C. Shapiro, approved 4-0-0.**

130 CLARKE ROAD (DEP FILE #234-634) – BYLAW WAIVER FILING FEE

Motion to retroactively waive the bylaw waiver filing fee for mitigation work proposed within the 25-foot zone related to the Order of Conditions issued for 130 Clarke Road (DEP File# 234-634), by J. Bernardo, seconded by D. Stolfi Stalenhoef, approved 3-1-0.

Motion to adjourn by J. Bernardo, seconded by C. Shapiro, approved 4-0-0. The meeting was adjourned at 9:05 pm. Motion to reconvene the public meeting by J. Bernardo, seconded by D. Stolfi Stalenhoef. P. Alpert re-opened the public meeting at 9:10 pm. Motion to adjourn by J. Bernardo, seconded by C. Shapiro, approved 4-0-0. The meeting was adjourned at 9:15 pm.

NEXT PUBLIC HEARING

February 23, 2012 at 7:30 p.m. in the Public Services Administration Building, Charles River Room