

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, November 9, 2017**

LOCATION: Public Services Administration Building (PSAB), Charles River Room

ATTENDING: Sue Barber, Artie Crocker, Stephen Farr, Bill Murphy, Peter Oehlkers, Alison Richardson, Debbie Anderson (Conservation Specialist), Kathryn Copley (minutes)

ABSENT: Janet Carter Bernardo

GUESTS: Larry Capodilupo, Patricia Carey, Craig Ellis, Joseph Freeman, Greg Hochmuth, Jiangtau Liu, Larni Rosenlev, Richard Rosenlev, Tom Ryder, Deb Spelman, Brian Whalen, John Whalen, Susan Whalen, Dan Woo

P. Oehlkers (vice-chair) opened the public meeting at 7:30 p.m.

MEETING MINUTES:

Motion to approve the minutes from the September 14, September 28 and October 16 meetings, by S. Farr, seconded by A. Richardson, approved 6-0-0.

ENFORCEMENT AND VIOLATION UPDATES:

250 STRATFORD ROAD

The Building Commissioner while on a site visit for a building permit violation had noticed that several trees had been taken down in the wetland area and informed D. Anderson. D. Anderson met with the builder and visited the site. As the homeowner, Jiangtau Liu, speaks limited English and there is a language barrier, a friend of the family, Dan Woo, was at the site to help translate. D. Anderson explained the problem to him. The homeowner indicated that one of the trees had come down in a recent windstorm. A previous owner had a filing for construction of a deck very close to the 25-foot buffer zone was supposed to be demarcated. The demarcation markers could not be found. Several wetland flags were found and the homeowner was roughly shown the location of the wetland resources. When purchasing the property the homeowner was unaware of the wetlands restrictions.

Dan Woo attended the hearing and represented the homeowner. After last week's windstorm a tree came down as well as several branches from other trees. The owner requested that the contractor working on the deck remove some of the trees. The homeowner was under the impression that the contractor had a building permit for the deck work and had checked to make sure the trees could be removed. Five trees were cut down. The owners have a small child and were concerned her safety. Snakes were found at the base of one of the trees. A fence along the backyard was also planned. All work has been stopped.

An enforcement letter will be drafted that outlines the steps that will need to be taken to remedy the violation. Two trees will have to be planted (in the spring) for each tree that was taken down from a list of approved plantings. Installing a fence may be allowed under certain conditions but would need to allow wildlife (including snakes) to go through.

The homeowner is looking into hiring a surveyor but was told they would not be able to come to the site for several weeks. Apparently more branches have fallen in the yard. The Commission advised the homeowner to hire a certified arborist to check the trees on the property. Trees that are dead or damaged may come down and/or left as snags. The trees that were taken down should be left in place to rot.

The Enforcement Order will include replacing the trees, delineating the wetlands, placing four permanent markers at the 25-foot no disturb zone, submitting a planting plan, and checking-in with the Commission in a month for a status update.

Due to this being the first offense for the owner there will be no fine, however future violations will carry a fine.

Motion to issue an Enforcement Order for 250 Stratford Road as described above, by S. Farr, seconded by A. Crocker, approved 6-0-0.

HEARING:

147 OXBOW ROAD – NOTICE OF INTENT (DEP FILE #234-7XX)

P. Oehlkers opened the public hearing at 7:53 p.m.

Greg Hochmuth from Williams & Sparages represented the owner. W&S were hired to permit an in-ground pool, a pool house, enlarge the patio and a seasonal float/dock in the Charles River. There are multiple resource areas as the property borders the Charles River, has bordering vegetative wetlands (BVW) and bordering land subject to flooding (BLSF). There is a drain and sewer easement on the property and also a sewer easement that runs parallel to the river. There is a large area of lawn behind the house and a thin vegetative buffer between the lawn and the river. A small opening in the vegetative buffer exists that allows access to the river. That area is the proposed location of the seasonal float/dock.

The pool and patio design is as tight to the house as possible. It is 50 feet from one of the BVW and 89 feet from the other BVW. No trees are coming down. The existing lawn is not changing. The proposed erosion control is going up high onto the property outside of the 25-foot line. The pool will have a non-backwash filtration system and no water will be pumped into the BVW or the river. The pool house will be 95 feet away from the BVW.

The proposal for the seasonal float includes installing two sonotubes one foot above-grade, close to the bank and attached the walkway. The float portion would be secured by eight inch helical anchors screwed into the river bottom. The dock would be secured by crisscross elastic rods to the anchors. Off season the float and anchors will be removed and stored. The storage area has

not been determined. Compensatory flood storage could be provided by contouring the yard a bit.

The project needs to be presented to the Commission before the application to the State can be sent. Ultimately the seasonal float will have to be permitted by the State. The float is 264 square feet.

The proposed pavers for the patio are impervious. A small stone trench to provide some infiltration around the perimeter of the patio is being proposed. Runoff from the pool house roof has not been detailed. An infiltration trench may be considered. Details regarding dewatering and pool utilities have yet to be submitted.

Deb Spelman, the next door neighbor is concerned about how the construction vehicles will access the backyard. There are wetlands between the two houses and she is concerned about damage to the wetlands. If they follow the plan and stay outside of the 25-foot no disturb zone there should be no damage. The batting cage currently located in the access area will be removed.

Motion to continue the hearing for 147 Oxbow Road (DEP FILE #234-7XX) to November 30, 2017 at 7:45 pm by S. Farr, seconded by S. Barber, approved 6-0-0.

0 ROSEMARY STREET – *Continued* NOTICE OF INTENT (DEP FILE #234-793)

P. Oehlkers opened the 8:14 p.m. public hearing. Craig Ellis and Joseph Freeman of BETA Group gave an update. Additional information on the restoration plan was provided. Details on the ramp removal and replacement of the stairs with 8-foot wide precast concrete steps (with metal hand railings on both sides) were provided. The parking area will be dense graded with crushed gravel. It will not be a paved surface.

One concern was whether the area needs to be ADA compliant. BETA indicated that it would not trigger ADA compliance requirements.

A letter from the Whalen's (abutters) and their wetland scientist and the responses to the letter were received. BETA noted that they have responded multiple times to some of the same questions.

A quarter of an acre area at the outlet of the lake, which is a natural low spot, will be a fish relocation refuge area. There should be 2 to 3 feet of water. It will be mapped out for the contractor. BETA suggested that the Order include wording that the area be reviewed and monitored by a qualified wildlife biologist. The area would be marked by a visual cue.

One of the concerns voiced is the flow rate. There have been seasonal flow rates in the past of 1 cfs and 10 cfs. BETA suggested that readings be taken now until construction begins to determine a baseline reading. They recommend not exceeding the maximum flow rate.

If permitting is needed the contractor will apply and obtain the necessary permits with the Town as a cosignatory. Turbidity will be monitored and a filter trap will be installed by the outlet. Maintenance will be done on the filter trap. BETA will be monitoring the Contractor to ensure the Order is being followed. If turbidity rates are exceeded the Contractor will have to stop work and remedy the issue. Seasonal turbidity rates should also be taken with the flow rate monitoring to see what they are over the period before construction starts. The drawdown of the water will be taking place during a typically low ground water level period of the year (fall). Drawdowns to allow pool maintenance historically took place in the spring when ground water levels would be higher.

An email was received from Massachusetts Fisheries and Wildlife indicating that Rosemary Lake was probably not a good candidate for fish restocking. It is a shallow lake with warmer temperatures.

Susan Whalen, a West Street resident, had sent photos to the Commission of sediment build up along Rosemary Brook over the last 5 years. It is a continual problem and happens every year.

John Whalen, of West Street, noted that his family has a long history in that area since the 1890's. He has lived on West Street since 1973. At that time he was able to canoe the full length of Rosemary Brook through a meadow. Now it is clogged up. Every draw down of Rosemary Lake since the pool was constructed has damaged the embankment, brought sediment and caused trees to fall. The drawdowns were done in a three day period. He is concerned that the contractor will not be diligent in following the Order of Conditions and conditions will worsen. He would like the contractor to be monitored closely.

BETA will be addressing these concerns by monitoring and metering the flow rate. They will be monitoring the contractor who will provide for filtration of the discharge from the lake to trap as much sediment as possible. There will be a detailed dewatering plan from the contractor. The drawdown is anticipated to take about two weeks not three days. This drawdown will be the last time it will happen under a careful procedure.

The driving force behind this project is the Town is being mandated by the EPA to reduce phosphorous in the waters flowing to the Charles River.

Motion to close the hearing for 0 Rosemary Street (DEP File #234-793) by S. Farr, seconded by A. Crocker, approved 6-0-0.

159 MARKED TREE ROAD – *Continued* NOTICE OF INTENT (DEP FILE #234-791)

P. Oehlkers opened the public hearing at 8:52 pm.

The applicant had requested the hearing be continued at the October 26th meeting. Recently a tree was knocked down during removal of debris. The applicant needs to resubmit a planting plan to include two more trees.

Rich Rosenlev, an abutter, attended the meeting. He has concerns regarding water flowing swiftly down the hill and ponding in his yard. He is concerned with the removal of trees and the planting of grass allowing more water to flow down the hill. He suggested the owner of 159 Marked Tree Road have an analysis done showing the potential effects to his property.

The Commission noted that most of the Rosenlev backyard is located in the wetlands. That is where the water naturally flows. The Commission has a history of allowing grass outside of the 50-foot buffer. There is no way to know if more water will flow onto the property than does now. Even with a study done by an engineer, the Commission is not convinced that this could be determined without doubt.

D. Anderson indicated that the applicant is proposing to install 8 trees and 16 shrubs. The Norway Maple which came down will be replaced with two trees. The applicant is requesting the tree removal be included in the Order of Conditions in case a buyer offers to purchase some of the property and requests a larger lawn. The Commission has approved similar conditions in the past. Bird boxes will be required to be installed along the 50-foot buffer.

The Commission informed Mr. Rosenlev that there is a process which he can follow if he wishes to appeal to the DEP.

Motion to close the public hearing for 159 Marked Tree Road (DEP File #234-791) by S. Farr, seconded by B. Murphy, approved 6-0-0.

Motion to issue the Order of Conditions for 159 Marked Tree Road (DEP FILE #234-791), by S. Farr, seconded by B. Murphy, approved 6-0-0.

OTHER BUSINESS:

REQUEST FOR CERTIFICATE OF COMPLIANCE - 31 WALKER LANE (DEP FILE #324-571)

The homeowner is selling the property and had yet to close the Order of Conditions. The project involved the addition of an attached garage, re-grading the driveway and redoing some walkways. All work done was in compliance with the Order and documents submitted supported this. D. Anderson conducted a site visit and confirmed the work done. There are no ongoing conditions.

Motion to issue the Certificate of Compliance for 31 Walker Lane (DEP FILE #234-571) by S. Farr, seconded by S. Barber, approved 6-0-0.

ISSUE ORDER OF CONDITIONS - 61 PHEASANT LANDING ROAD (DEP FILE #234-796)

The hearing had been closed for this property at the October 26th meeting. The Commission reviewed the draft of the Order of Conditions.

Motion to issue the Order of Conditions for 61 Pheasant Landing Road (DEP FILE #234-796), by S. Farr, seconded by A. Crocker, approved 5-0-1, P. Oehlkers abstained.

ISSUE ORDER OF CONDITIONS - SOUTHFIELD COURT POND (DEP FILE #234-795)

The hearing was closed at the October 26th meeting. The Commission reviewed the draft of the Order of Conditions. The Order of Conditions will permit, after-the-fact, the use of the aerator placed in the pond.

Motion to issue the Order of Conditions for Southfield Court Pond (DEP File #234-795) by S. Farr, seconded by A. Crocker, approved 5-0-1, P. Oehlkers abstained.

NEEDHAM ACCESSIBLE RESERVOIR TRAIL (NART)

D. Anderson has been attending the meetings with the contractor. The erosion controls have not been holding up. She has brought this issue to Cataldo multiple times at these meetings and nothing has been done. Mary Rimmer is the environmental monitor and she visited the site recently. She neglected to send four monitoring reports which are required by this permit to those involved with the project until just recently. The contractor was not aware of her recommendations.

The contractor brought the Port-a-dam equipment to the site on Monday and started installing it. D. Anderson contacted Mary Rimmer and told her to be on site when they started dewatering after the dam installation. Yesterday dewatering was to start and Mary Rimmer was on site early in the day. D. Anderson asked her to notify her when the dewatering started. At 3:30pm D. Anderson noticed that dewatering was in process and was told the water level was already down by one foot. Mary Rimmer was not on site and she had not notified D. Anderson that it had started. The contractor had been sending M. Rimmer pictures. D. Anderson informed the contractor that she would shut down the work if M. Rimmer did not get back to the site. When M. Rimmer returned to the site she noted that the pipe was too large and that the force was too strong for the area, and cloudy silty water was being discharged. However the work could not be stopped at that time or the wall would collapse.

Matt Varrell spoke to M. Rimmer last night and she emailed her recommendations to which he agreed. She then relayed that information to the contractor. Today there is a frac tank at the site into which water is being pumped. The pier is expected on November 20th and dewatering will be ongoing until it is installed.

D. Anderson asked the contractor to put up caution tape to protect the public from the work site. The question was raised why BETA Group's engineer was not more involved in monitoring this

process. It is unclear whether BETA was engaged to also do construction administration on the project.

2018 MEETING SCHEDULE

The proposed meeting schedule for the first part of 2018 was distributed to the Commission for review.

ADJOURN:

Motion to adjourn by S. Farr, seconded by A. Crocker, approved 6-0-0. The meeting was adjourned at 9:55 p.m.

NEXT PUBLIC MEETING:

November 30, 2017 at 7:30 p.m. in the Public Services Administration Building, Charles River Room.