

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, July 27, 2017**

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

ATTENDING: Janet Carter Bernardo, Stephen Farr, Peter Oehlkers, Alison Richardson, Debbie Anderson (Conservation Specialist), Matthew Varrell (Director of Conservation)

GUESTS: Dan Gordon, Rebecca McKevez, Elizabeth Mungovan, Thomas Mungovan

J. Carter Bernardo opened the public meeting at 7:35 p.m.

MISCELLANEOUS BUSINESS:

MEETING MINUTES:

Motion to approve the Meeting Minutes, as amended, of June 22, 2017 by P. Oehlkers, seconded by A. Richardson, approved 3-0-1, S. Farr abstained.

Motion to approve the Meeting Minutes, as amended, of Jul 13, 2017 by S. Farr, seconded by P. Oehlkers, approved 4-0-0.

ENFORCEMENT & VIOLATION UPDATES:

232 MAY STREET

The homeowners, Tom and Liz Mungovan, were present. M. Varrell explained that he had been conducting a site visit at an adjacent property, heard chainsaws coming from the 232 May Street property, and went to investigate. He found a tree removal company just finishing removing two (2) large trees including an oak tree and a pine tree, as well as, the removal of a large “snag” at the edge of a wetland. He asked the tree company to stop work and spoke with the homeowner, Mr. Mungovan and invited him to attend the Conservation Commission Meeting this evening to give his account of this violation. M. Varrell reminded the Commission that an Order of Conditions had been issued to Mr. Mungovan back in October that required building a temporary access road to reach a failing retaining wall, repair of the retaining wall, and re-building a garage.

The removal of the trees and snag were not approved under the existing Order of Conditions. The snag may have actually existed on Town-owned property. The owner explained that the large oak tree had rot at the base, was failing, and its condition has deteriorated recently. The owner stated they were no longer going to be doing the approved project because it was cost prohibitive. Mr. Mungovan apologized for not contacting the Conservation Department for permission to remove the trees. The owners contend that the snag they removed was beginning to lean towards the house which was why they had that removed as well. A pine tree was removed that would have come down as a result of the oak tree removal because they were close together.

M. Varrell stated that the tree removal company had dragged the tree branches down into the wetland for disposal. Mr. Mungovan stated that the company had been instructed to discard the branches on the hill. M. Varrell does not feel that the branches and portions of the trees deposited in the wetland need to be removed as they add habitat value. M. Varrell added that a

smaller pine tree was knocked over during the removal of the other trees. The Commission agreed that there was no reason to have the owners file for an after-the-fact permit to remove the trees. M. Varrell stated that had they contacted the Conservation Department prior to removing the trees, he could have most likely handled the approval administratively. The Commission discussed either issuing a fine or requiring re-planting trees. The Commission determined planting of four (4) new trees of at least 1-inch caliper in the Buffer Zone would be adequate mitigation. The owners are required to submit a letter by August 10, 2017 stating the proposed species of trees to be planted, for approval. Conservation staff will review and approve the re-planting plan once submitted. The trees must be installed by hand. The trees are to be installed by October 15, 2017 and the Conservation Department contacted to review the installed plantings.

Motion to require the owners of 232 May Street to plant a total of four (4) trees of at least 1-inch caliper, as approved by Conservation staff, within the 100-foot Buffer Zone by P. Oehlkers, seconded by S. Farr, approved 4-0-0.

HEARINGS

211 BRIDLE TRAIL ROAD – continued NOTICE OF INTENT (DEP FILE #234-789)

J. Carter Bernardo opened the continued public hearing at 8:00 p.m. J. Carter Bernardo has signed a Mullen Form. The Applicant's Representatives, Dan Gordon and Rebecca McKevitz of Dan Gordon Landscape Architects, were present. D. Gordon gave a brief overview of the proposed project. He explained that there is an existing retaining wall that delineates the parcel into developed and undeveloped (wetland) areas. The proposed project consists of the following:

- A small extension to the existing second story rear deck;
- In-ground swimming pool installation with associated paving surround and masonry fireplace;
- Modifications to the existing retaining wall;
- Installation of pool fencing, a storage shed, and stormwater infiltration system; and
- Tree removals, plantings and lawn restoration.

No work is proposed within the Bordering Vegetated Wetlands; however, work is proposed within the 25-foot Buffer Zone including portions of the impervious pool surround and removal of a large willow tree. The Applicant is proposing to reduce lawn area within the 100-foot Buffer Zone and to install restoration plantings. In addition, the Applicant is proposing to infiltrate the first half-inch of runoff over the entire existing and proposed roof area and the first one-inch of the new impervious area of the pool surround. A total of thirteen (13) trees are proposed for removal.

D. Gordon reviewed the Commissions comments from the previous meeting including:

- The existing conditions plan that was submitted included the proposed tree removal. The Commission asked that a revised plan showing only the existing conditions be submitted. The revised existing conditions and proposed conditions plans were revised and stamped copies submitted.
- Several comments by the Commission were addressed and the proposed conditions plan revised to incorporate these comments. D. Gordon stated that he understood from the

Commission's comments that their main concern with the project was proposed work in the 25-foot Buffer Zone. The Commission feels that the Waiver Request that was submitted for approval for work proposed within the 25-foot Buffer Zone, citing the "severe financial hardship greater in magnitude than the public interest to be served" clause does not compel them to make an exception to this policy and asked that they provide more detail and alternatives and then re-submit the Request. D. Gordon stated that they had re-worked the request and submitted it for review.

- The Commission had requested that an alternatives analysis to the proposed project be prepared. This was prepared and submitted. J. Carter Bernardo stated that the Commission does not feel that enough effort was put into looking at all the alternatives. The Commission does not want an increase in impervious area in the 25-foot Buffer Zone.
- D. Anderson had asked how the 200-foot Riverfront Area was determined from the perennial stream located off-site. Since the last meeting, D. Gordon stated they had their wetland scientist examine the stream and he had submitted documentation that the Mean Annual High Water (MAHW) line of the stream extended no more than 10-feet from the Bank of the stream. In addition, he noted that there was no running water in the stream channel during the inspection. The stream may not be perennial; however, the Applicant is not contesting that determination at this point as the 200-foot Riverfront Area is still well away from the proposed work.

J. Carter Bernardo expressed her concern about the expansive impervious area proposed around the proposed pool, including the 25-foot Buffer Zone. They need to look at alternatives to all the proposed impervious area. A. Richardson reiterated that they should not install Canadian Hemlocks as proposed because of the need for the use of dormant oil close to the wetland. Other potential plantings were discussed. A. Richardson proposed that they keep a coping around the pool but then use pervious pavers instead of concrete for the remaining pool surround.

M. Varrell explained that the Commission has historically not allowed new impervious surface in the 25-foot Buffer Zone. He also explained the level of mitigation required to allow work within the 25-foot Buffer Zone that doesn't include new impervious area. D. Gordon explained the reason for re-grading in order to use the existing wall as the pool enclosure without having to add more fencing. M. Varrell explained that the 50-foot Buffer Zone is an area to increase wildlife habitat through plantings, not an area to grade to prevent the need for "ugly" fencing. J. Carter Bernardo asked about the removal of two (2) trees to install a shed. The Commission discussed the proposed removal of the large Willow tree located in the 25-foot Buffer Zone. A. Richardson stated that the Willow would make having a pool in that area difficult. She suggested the Applicant remove the proposed Hemlocks from the plan and put a variety of native trees in the area. P. Oehlkers stated that as long as there is proper mitigation, he is okay with the removal of the Willow tree.

D. Gordon suggested he propose a plan with a pool coping but the impervious area will be revised to include pavers with joints between and larger rocks. The Commission stated they would like to see that change to the plans.

M. Varrell suggested that perhaps the Commission should schedule a site visit to see the site for themselves to get a better understanding of existing conditions. The Commission scheduled a site visit for Friday, July 28, 2017 at 6:00 p.m.

Motion to continue the public hearing for 211 Bridle Trail Road (DEP File #234-789), for submittal of additional information and a site visit by the Commission, to August 10, 2017 at 7:45 p.m. by S. Farr, seconded by P. Oehlkers, approved 4-0-0.

OTHER BUSINESS:

REQUEST FOR CERTIFICATE OF COMPLIANCE – 130 WINDING RIVER ROAD (DEP FILE #234-662)

D. Anderson explained that in reviewing the documents for the Request for Certificate of Compliance, she found that the required plant monitoring reports had not been submitted as per the Order of Conditions. She has informed the Applicant and suggested the Commission table the discussion until the required reports are received. The Commission agreed and the topic was tabled to a future meeting.

SIGNING OF THE OLIN WAY (BABSON COLLEGE ATHLETIC FIELDS) – REQUEST FOR DETERMINATION OF APPLICABILITY

M. Varrell explained that at the July 13, 2017 Conservation Commission Meeting, the Commission voted to issue the Applicant a Negative Determination of Applicability; however, several members of the Commission failed to sign the Determination. The missing signatures were obtained.

DISCUSSION ITEM: 61 PHEASANT LANE – CONSERVATION RESTRICTION & EXISTING DECK

M. Varrell stated that he had been contacted by Field Resources, Inc. regarding this property. It has an existing house and deck. The new owners could find no evidence that the deck had been permitted through either the Conservation Commission or the Building Department. The new owners would like to close in the deck and create a porch. Through researching the site, Field Resources had submitted a plan showing the site had a Conservation Restriction, within which a portion of the deck and a retaining wall had been constructed. M. Varrell had spoken to Town Counsel for clarification of the Commission's options to handle this issue. Town Counsel has stated that the Commission could require the owners to remove the deck completely, approve the proposed porch project or have the Applicant submit an after-the-fact filing to have the deck approved, but have their Attorney provide a legal document amending the Conservation Restriction to remove the area of the deck from the Restriction. The deck is located partially within the 25-foot Buffer Zone.

The Commission discussed the options and decided that the Applicant will need to file a request for an after-the-fact Permit through the Notice of Intent process to approve the existing deck and a retaining wall, along with the legal document revising the Conservation Easement line to remove the existing deck and retaining wall from the Restriction. M. Varrell stated he was told by the Applicant that a vernal pool is located within the wetland resource area. Per the Bylaw, no construction is permitted within 100 feet of a vernal pool.

DISCUSSION ITEM: OPEN SPACE AND RECREATION PLAN UPDATE

M. Varrell advised the Commission that the draft Open Space and Recreation Plan Update document is complete and available for review and comment. An agenda item will be created for the August 10th meeting to discuss the document.

Motion to adjourn the meeting by S. Farr, seconded by P. Oehlkers, approved 4-0-0.

The meeting was adjourned at 9:00 pm.

NEXT PUBLIC MEETING

Thursday, August 10, 2017 at 7:30 PM in the PSAB located at 500 Dedham Avenue, Charles River Room.