

TOWN OF NEEDHAM CONSERVATION COMMISSION MEETING MINUTES

Thursday, July 11, 2024

Under Governor Healey's Act "Extending Certain COVID-10 Measures Adopted During the State of Emergency", extending the "Executive Order Suspending Certain Provisions of the Open Meeting Law G.L. c. 30A, §20," issued March 2023, 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: Dave Herer (Chair), Sue Barber, Reade Everett, Bill Hebard, Fred Moder, Polina Safran, Deb Anderson (Director of Conservation), Clay Hutchinson (Conservation Specialist)

D. Herer opened the public meeting at 7:00 p.m.

MISCELLANEOUS BUSINESS –

1. Minutes

Motion to approve the meeting minutes of June 27, 2024, and October 28, 2021, as amended, by D. Herer, seconded by P. Safran, approved 6-0-0.

2. Enforcement Orders

The Commission noted that this would be discussed later in the meeting.

HEARINGS/APPOINTMENT

49 GREEN STREET (DEP FILE #234-911) – *continued* NOTICE OF INTENT

Motion to continue the hearing for 49 Green Street (DEP File #234-911), to July 25, 2024, by D. Herer, seconded by R. Everett, approved 6-0-0.

443 CENTRAL AVENUE (DEP FILE #234-929) – *continued* NOTICE OF INTENT

Motion to continue the hearing for 443 Central Avenue (DEP File #234-929), to July 25, 2024, by D. Herer, seconded by R. Everett, approved 6-0-0.

17 GEORGE AGGOTT ROAD (DEP FILE #234-930) – NOTICE OF INTENT

Susan McArthur, McArthur Environmental Consulting, explained that she delineated a stream on the property on May 30th. This is a 12,114 s.f. lot surrounded by single family homes. The lot is currently under construction. The structure itself is in place but remains gutted. Two trees have been cut down on the site. The brook on the property flows in a southeasterly direction into a culvert. There are no bordering vegetated wetlands associated with the stream in the vicinity of

the wetlands. A Notice of Intent (NOI), after the fact, was filed for cutting of the trees and digging of the propane trench. However, it appears a deck, porch, and front walkway are now proposed but were not originally on the plan. The NOI is also for this proposed work. The proposed construction of the back deck and front porch is on sonotubes.

D. Anderson noted that this work has already been completed on the site.

S. McArthur stated that the work at the front of the house will total approximately 270 s.f. of alteration and the back deck is approximately 190 s.f. The back deck is likely slatted, and so pervious surface, and the front porch is covered. Additionally, the applicant is proposing a dry well in the backyard and to plant two native trees near the back corner to replace the two removed.

D. Anderson stated that 2:1 mitigation will be required for the additional impervious square footage over what is allowed. The tree mitigation is also 2:1. There was a waiver submitted for work on the propane tank area within the 25' Zone, and this requires a waiver fee to be submitted.

R. Everett suggested treating the tree removed in the front as significant and requiring 3:1 mitigation.

S. Barber stated that she is against having the propane tank in the 25' Zone as it sets a bad precedence. She stated that diversity of plantings will be important for the site. She expressed concern regarding one dry well for the entire site.

D. Herer stated that the infiltration for the site needs to be revised. He noted that digging up the propane tank and moving it may create more of an environmental impact, though he agrees that it should not have been placed in the existing location. He asked the Commission to consider the consequences of this. The applicant has continued work on this site, after the Commission ordered work to be stopped. A fine could be levied for the propane tank work.

Mark and Irene Francesconi, 5 George Aggott Road, echoed the comments regarding work done without permission on the site and concerns with the propane tank location. The builder seems to be doing whatever they want to do on the site. The square footage of the property will almost double, though the footprint remains the same. There is a concern with how this project may effect flooding of the culvert and the local water table.

D. Herer noted that the Commission can fine the applicant up to \$200/day for the propane tank work. The Commission first heard about this issue May 16th, which could lead to a fine of \$12,000, or this could be considered from the date that the Commission stated that work should be stopped, which would lead to be fine of \$6,000. R. Everett stated that he believes the maximum fine can be up to \$300/day. The Commission should consider a significant fine to make sure this behavior is not incentivized in the future. S. Barber stated that nothing will change her mind that the propane tank should be moved from its current location.

B. Hebard noted that the applicant is requesting a waiver for work within the 25' Zone. D. Herer stated that, in terms of precedence, the Commission determines waivers on a case-by-case basis. If the reason for the waiver does not represent the public interest, he would tend not to grant it. The Commission will likely have to accept the waiver in this case, in order for the applicant to be able to keep the propane tank in the existing location. He does not believe that moving the tank 2'-3' away will make much of a difference, environmentally. S. Barber stated that she would like the Commission to deny the waiver. R. Everett stated that he believes placing the maximum amount of fines within the Town's coffers is more beneficial than moving the tank.

The Commission discussed continuing this hearing in order to determine an exact amount of fines that could be exacted and to consider the options at hand.

Motion to continue the hearing for 17 George Aggott Road (DEP File #234-930), to July 25, 2024, by D. Herer, seconded by P. Safran, approved 6-0-0.

OTHER BUSINESS

25 MALLARD ROAD (DEP FILE #234-909) – REQUEST FOR PARTIAL CERTIFICATE OF COMPLIANCE

D. Anderson stated that she met on the site with the current homeowner. This is a single-family house project, part of which is within the 200' riverfront area that received an Order of Conditions last July. Part of this project included mitigation plantings. A planting plan was submitted to the Commission showing three areas of proposed plantings. There was discussion regarding letting the planting area in front of the house naturalize. There were supposed to be demarcated borders on the side planting areas. Staff was recently contacted regarding moving the planting area on the right side of the house directly adjacent to the house. She asked that the continued naturalization of this area be recorded with the Registry of Deeds, which was completed. The request is for a partial Certificate of Compliance, as monitoring would be needed for two years. The As-Built plan was submitted to the Commission, showing seven planting areas. She visited the site and noted that the planting areas appear to be landscaped and mulched. The permanent demarcation is close to the ground, with plaques in the middle of the landscaped areas.

D. Herer stated that some attempt at compliance has been made, but plantings should not be directly adjacent to the home.

P. Safran stated that the boundary markers should be pulled to the edge of the mitigation areas. The planting areas should not be mulched or directly adjacent to the house. She is not comfortable issuing a partial certificate until these look like mitigation areas. R. Everett agreed that, as shown, this is not a compliant site. This is not serving the purpose of the regulations.

D. Anderson explained that there is not much other room on the property to place planting areas.

The Commission discussed options, as the project was previously approved. P. Safran stated that it does not appear that the site is compliant with what was approved. C. Hutchinson stated that

the order is still open and valid. This discussion should occur under an amended Order of Conditions. D. Anderson stated that she would recommend to the applicant to withdraw this request at this time and refile once the required items were completed.

ADJOURN:

Motion to adjourn the meeting, by F. Moder, seconded by P. Safran, approved 6-0-0.

The meeting was adjourned at 8:50 p.m.

NEXT PUBLIC MEETING:

July 25, 2024, at 7:00 p.m. location to be determined.

*Respectfully Submitted,
Kristan Patenaude*