

**TOWN OF NEEDHAM
CONSERVATION COMMISSION
MEETING MINUTES
Thursday, September 28, 2017**

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

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

GUESTS: Ellen Baker, Kristen Capodilupo, Larry Capodilupo, Patricia Carey, Tony DelGaizo, Craig Ellis, Jeremy Fennell, Joseph Freeman, Les Kalish, Jesse Menachem, Stephanie Menachem, Barry Noone, Verne Porter, John Rockwood, Larni Rosenlev, Richard Rosenlev, Diane Simonelli, Matt Snow, Andrea Talis, Mary Trudeau, John Whalen, Susan Whalen, Harvey Winchester.

J. Bernardo (Chair) opened the public meeting at 7:30 p.m.

MISCELLANEOUS BUSINESS:

J. Bernardo welcomed new member William Murphy to the Commission.

MEETING MINUTES:

Motion to approve the Meeting Minutes of August 24, 2017 by S. Farr, seconded by A. Richardson, approved 5-0-2. P. Oehlkers and W. Murphy abstained.

ENFORCEMENT AND VIOLATION UPDATES:

55 BRIARWOOD CIRCLE

John Rockwood from EcoTec represented the homeowner, Andrea Talis. The homeowner received an Enforcement Order. They have not been able to retain a surveyor at this time and thus, were not able to file a Notice of Intent. The Enforcement Order asked for a restoration plan with the hope of implementing the plan this fall. The owner went forward with the restoration plan, which can be implemented under the Enforcement Order without a Notice of Intent. Three piles of debris are to be removed. Currently, 1500 square feet of slope below the level of the wall is covered with wood chips for stabilization. Non-native plants that were in the area have been moved. The owner proposes to move the material off the property in containers. Some logs and leaves will be retained higher up on the slope for stabilization purposes.

The wetlands have been flagged. VHB has been retained to do a plan for the Notice of Intent. A compost sock goes around the limit of exposed soils. Mulch has been placed on exposed soils and is relatively stable. Erosion is being addressed and will be part of the Notice of Intent. They are proposing planting 60 native woody plants and 50 plugs that do well in poor soil to stabilize the slope. The homeowner plans to implement the planting as soon as possible. A Notice of Intent will follow.

Motion to approve the slope restoration plan by EcoTec, dated 9/14/17 related to the Enforcement Order on 55 Briarwood Circle by S. Farr, seconded by A. Crocker, approved 7-0-0.

1546 GREAT PLAIN AVENUE

John Rockwood from EcoTec represented the homeowner, Richard Feeley. John stated that it will take 6 to 8 weeks to submit a Notice of Intent due to the challenge in getting a surveyor. There is a 71' x 40' area of exposed earth that needs to be stabilized. He is proposing that the area be stabilized until the spring when the work can continue. He will submit an interim stabilization plan to the Commission and then prepare a restoration plan to be included with the Notice of Intent filing.

HEARINGS:

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

J. Bernardo opened the 7:45 p.m. public hearing. J. Bernardo stated that she has received a letter from Troy Wallace Associates on behalf of John & Susan Whalen, owners of properties at 297, 315 and 323 West Street regarding this project. Craig Ellis and Joe Freeman of BETA Group attended on behalf of the Town for the Rosemary Lake Dredging Project.

This project is part of the Stormwater Improvements going on throughout the Town to remove phosphorus from stormwater and is part of the EPA MS4 Stormwater Permit. The objective is to dredge out stormwater impacted sediment in Rosemary Lake, and remove areas of highest concentrations of phosphorus. Rosemary Lake flows into Rosemary Brook which flows into the Charles River.

BETA has done the MEPA filing and draft EIR and have obtained the final EIR Certificate. The area is heavily developed and there is little room to stockpile soil or sediments. There is approximately 30,000 cubic yards of sediment to be removed. They are proposing a drawdown of the lake water and then to use the lake bed to stockpile the sediment to dry it out. The dried sediment would then be taken away by truck. The entire lake bed does not need to be dredged. The areas with the highest concentrations of phosphorous will be dredged. This was determined by composite sampling though out the lake.

A 35-foot buffer from the bank will be staked out to protect the bank. The contractor will not work within that buffer. The trucks will be entering and exiting off the existing parking lot down into the lake where the stairs are located. The method being proposed is mechanical, using heavy equipment to move the material into stockpiles to drain sufficiently to be removed. The project will take approximately six to eight months.

The work is being done to satisfy the requirements of the EPA MS4 Stormwater Permit to remove phosphorous from stormwater before it reaches the Charles River. The contractor will be required to have a Relocation of Wildlife Plan in place and an area would be designated for relocation of wildlife. Removing the sediment will improve the water quality of the discharge into the Rosemary Brook and relieve the impairment the lake it is currently experiencing.

T. DelGaizo noted that all of the inlets to the lake have been cleaned up to improve the quality of water going into the lake. The contractor is required to have several plans in place, in addition to the Wildlife Relocation Plan, including a Dewatering Plan with turbidity monitoring. The turbidity reports are being sent to the Conservation Commission.

Concerns were raised regarding protecting the inlets, outlets and banks. The footprint of the lake is 8.1 acres and this work will have a significant but temporary impact, altering it but restoring it to a more natural state. It is expected that the wildlife will recolonize and stabilize over a period of time. The Bordering Vegetated Wetland (BVW) will not be disturbed. The contractor will control the stream channel as part of the Dewatering Plan. Silt curtains and filters will be installed at the outlet at the opening of the dam by the contractor.

The only bank area that will be disturbed is the bank off the parking lot where trucks will enter and exit the lake bed. The oak tree at that area will be protected although the roots may be impacted. BETA does not believe any trees will need to be removed.

The bank will be restored as it is. The Commission would like to see the steps replaced with a better material than the timbers. The Commission would like to see a detail of the steps, the proposed entrance and exit to the lake bed, and a plan to protect the trees along the parking lot bank. A restoration plan for that area is required. BETA will work with Park & Recreation on the restoration plan.

The flood plain of 106 feet will be maintained for this project and it has been added to the plan. No flood storage will be lost. BETA will be asking for a waiver to the by-law prohibiting work within 25-feet of the bank. The area will be restored at the end of the project. A no visible dust standard will be maintained on the project. The anticipated start date of the project is August of 2018. The funding will be requested at the May 2018 Annual Town Meeting.

BETA will need to submit to the Commission a restoration plan of the bank, a dewatering plan before work starts, an explanation of channel protection during a heavy water event, and a detail of the silt screen at the outlet so sediment will not be going down into the Rosemary Brook. There will be continued turbidity testing.

The project is under review by the DEP. The Commission will require an environmental monitor identified. The contractor will be required to put down materials like swamp mats or stone to prevent the trucks from sinking in the lake bed. There will be wording in the contract to this effect.

Harvey Winchester of Lake Drive asked whether there have been any measurements of phosphorous from Rosemary Lake discharging into the Charles River. T. DelGaizo indicated that the EPA calculated using theoretical GIS and land use maps for the Town to determine the phosphorous load and how much the Town would have to remove. The EPA indicated that 47% needs to be removed. This project is to achieve this goal. The sediment has a number of contaminants that will be removed with this project.

Les Kalish of Lake Drive asked for a clarification about the 35-foot buffer zone. It will be from the bank into the lake except for the 100-foot entry and exit point of the trucks. He also asked how the phosphorus got into the lake. It exists everywhere in soil, and cars, fertilizer and decayed leaves. It accumulates in the sediment.

Motion to continue the public hearing for 0 Rosemary Street (DEP File #234-793) to October 12, 2017 at 8:45 pm by S. Farr, seconded by A. Crocker, approved 7-0-0.

1548 GREAT PLAIN AVENUE – *Continued* NOTICE OF INTENT (DEP FILE #234-790)

J. Bernardo opened the 8:00 p.m. public hearing. D. Simonelli of Field Resources, Inc. represented the Applicant. The DEP File # number has been received and some modifications have been made. A site visit was made and the trees were reviewed. The Willow did not look like a hazard tree. The abutting property owner will be doing some restoration work and has moved material into the wetlands on their property. The Commission is hoping to have the invasive species removed by the abutter from the area and hopes that the two neighbors can work together.

The plans were discussed and the Willow tree will not be touched. The Commission felt that the Maple and Hemlock seem to be in bad shape and it would be reasonable to remove them. The plantings remain the same however, some of the species have been changed to more native species. The detail for the pervious patio has

been changed to reflect concerns. The Commission would like the proposed fire pit to be placed out of the 25-foot no disturb zone.

D. Anderson explained to the Commission that the existing driveway has been in place at least since 1990 as indicated from aerial photographs. It is an existing condition. She was not able to contact the abutter and ask if he knew when the driveway was installed.

D. Simonelli asked whether her client's Order will be conditional on the abutter at 1546 Great Plain Avenue satisfying his Enforcement Order. The Order will say they are to work with the abutter to benefit the wetlands. They will need to agree to 1546 Great Plain Avenue doing the work on 1548 Great Plain Avenue owner's property. J. Rockwood acknowledged that his client, the abutting homeowner, would have to file a Notice of Intent for both properties and that the owners of 1548 Great Plain Avenue, will sign the Notice of Intent for their property.

J. Bernardo read a second email received on September 22, 2017 received from Richard W. Feeley, owner of 1546 Great Plain Avenue, abutter to 1548 Great Plain Avenue, regarding the cleanup at 1546 Great Plain Avenue. Mr. Feeley is concerned that the new house would create more flooding in his basement. He opposes the project at 1548 Great Plain Avenue. He plans to attend the next hearing.

The proposed new basement floor will be a walk out on the back side and excavation will be into the uphill portion of the site and does not fall within the jurisdiction of the Commission. The homeowner is proposing an infiltration system for the roof runoff to the front of the property and should not cause an increase of water to the site. They are also installing a pervious paver patio and are decreasing impervious area on the site. Overall the current plan reduces the current existing foot-print into the 25-foot no disturb zone and reduces the impervious area. There is currently no recharge on the property. The bulk of the new house is outside of the Commission's jurisdiction.

A. Crocker is concerned about excavation into the 25-foot no disturb zone. The Commission discussed the location of the foundation right at the 25-foot no disturb zone. The Applicant will revise the house location and foundation to at least 25' 6" from the wetland.

J. Rockwood expressed concern about the wetland flagging and whether the Commission reviewed them. D. Anderson indicated that they had been reviewed and offered to walk the area with him. The wetland flags are being accepted as shown on the plan.

Motion to close the hearing for 1548 Great Plain Avenue (DEP File #234-790) by S. Farr, seconded by A. Crocker, approved 6-0-1. W. Murphy abstained.

Motion to approve a waiver to work within the 25-foot no disturb zone for 1548 Great Plain Avenue (DEP FILE # 234-790) by S. Farr, seconded by A. Crocker, approved 7-0-0.

Motion to deny the waiver fee for 1548 Great Plain Avenue (DEP FILE # 234-790) by S. Farr, seconded by A. Crocker, approved 7-0-0.

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

P. Oehlkers opened the 8:15 p.m. public hearing. J. Bernardo recused herself as she is an abutter. D. Simonelli of Field Resources, Inc. represented the Applicant. New material was received that may not have been reviewed. The Commission had met for a site walk on Sunday, September 24, 2017.

Since the last meeting some changes have been made to the proposed plans, now shown on the plans dated September 25, 2017. The boulder slope was removed. Some of the tree placement has changed. Eight trees are being removed and new trees will be replacing them.

Erosion controls are in the 50-foot buffer zone. Plantings near the erosion control can be done by hand. The bird houses have been kept on that line.

P. Oehlkers reported that there is a lot of debris on the site. D. Simonelli indicated that the debris will be removed. He also noted that there is a bit of an understory that will be removed.

A Richardson noted that some of the planting pot sizes need to be bigger according to regulation. D. Simonelli will check into this.

Abutters L. & R. Rosenlev at 54 Perry Drive are concerned with loss of the privacy screen from their property to the new house.

Abutter K. Capodilupo from 19 Colonial Road expressed concern about heavy equipment removing the designated trees and that they may damage more trees than intended. They are heartbroken that woods are being destroyed.

The builder originally was not going to remove many trees. Lawn will be installed where regrading is proposed. The Commission would like the lawn shown on the plan.

Motion to continue the hearing for 159 Marked Tree Road (DEP FILE #234-791) to October 12, 2017 at 9:00 p.m. by S. Farr, seconded by A. Crocker, approved 6-0-1. J. Bernardo abstained.

456 CHESTNUT STREET – Continued NOTICE OF INTENT (DEP FILE #234-792)

J. Bernardo opened the public hearing at 9:01 p.m. P. Oehlkers recused himself. The abutter notification was not sent out. Mary Trudeau attended representing Barry Noone, the property owner. The single family house will be replaced with a new house. There is a significant amount of pavement on the site. The property used to be a car repair business. There is an intermittent stream channel that runs in the back of the property. There is no bordering vegetative wetlands as the previous owners installed landscape fabric and mulch. There is bordering vegetative wetlands upstream.

The property owner proposes to erect a larger house and remove about 1300 square feet of impervious cover of the bituminous concrete driveway. With this plan there will be 7 percent more open space than existing conditions. The old driveway area is within the 25-foot buffer zone and will be restored to a vegetative condition.

The applicant has not been able to do a test pit to verify that an infiltration system can be installed. The improvements they presented are mitigation plantings even without an infiltration system. J. Bernardo suggested a rain garden within the 25-foot buffer zone.

The Commission does not want water running off property to Chestnut Street. The Commission would like to have more detail on erosion control, planting within the 25-foot buffer zone and how they intend to recharge the stormwater. The Commission requested that the erosion controls be included on the plans.

The Commission requested a construction schedule and a larger plan. The existing conditions plan needs to show more detail.

A waiver request is required to work within the 25-foot buffer zone. A test pit will be conducted.

Motion to continue the public hearing for 456 Chestnut Street (DEP File #234-792) to October 26, 2017 at 7:45 p.m. by S. Farr, seconded by A. Crocker, approved 6-0-1. P. Oehlkers abstained.

OTHER BUSINESS:

132 FOREST STREET DRAIN EASEMENT - DPW REPAIR/MAINTENANCE ACTIVITY NOTIFICATION (DEP FILE #234-630)

T. DelGaizo, Town Engineer, reviewed the maintenance issue. The property collects the drainage for Forest Street and goes thru a pipe to a stream in the back of 132 Forest Street. The pipe has partially collapsed, a sink hole (5 foot in diameter) has developed. DPW could not get a camera through to see the damage as dirt had filled in the hole. Both ends of the pipe have been located. The proposed fix for the issue is to leave the existing pipe in place and fill it with flowable fill. A new hole would be drilled and a new 18-inch pipe installed four inches directly above the old one. The water would exit in the same location. The area would be backfilled, the driveway would be replaced and the disturbed sod restored. The homeowner is agreeable to the work as proposed. The stream is being protected using wattles. Riprap to prevent erosion of the stream bank is desirable. The pipe can be shorted by three feet and 5 feet of riprap installed at the end.

Motion to issue the DPW approval for the drain easement culvert repair at 132 Forest Street by S. Farr, seconded by A. Crocker, approved 7-0-0.

55 BRIARWOOD CIRCLE – REVIEW OF SLOPE RESTORATION PLAN

See Enforcement and Violation Updates.

REQUEST FOR CERTIFICATE OF COMPLIANCE - 50 SUNSET ROAD (DEP FILE #234-779)

The plans which the owner submitted as As-Builts indicate everything is proposed. The Commission requested that two copies of the As-Builts (24"x 36") be delivered to the Conservation Department. D. Anderson has been to the site and is comfortable with the work that has been done. The Commission will vote on the Certificate of Compliance Request at the October 12, 2017 meeting upon receipt of revised plans.

REQUEST FOR EXTENSION PERMIT - 28 MARR DRIVE (DEP FILE #234-597)

REQUEST FOR CERTIFICATE OF COMPLIANCE - 28 MARR DRIVE (DEP FILE #234-597)

D. Anderson talked to Matt Varrell about the property. The Order of Conditions was issued in 2010. Plantings were installed this past August. Matt recommended that the owners extend the permit for monitoring purposes. The owners' request for the Certificate of Compliance would only allow for partial compliance since D. Anderson reported that almost all of the plants are dead. They were not watered and will need to be restored. The extension is for the monitoring.

Motion to issue the Extension Permit for 28 Marr Drive (DEP FILE # 234-597) to monitor plants by S. Farr, seconded by A. Crocker, approved 7-0-0.

Motion to issue the Partial Certificate of Compliance for 28 Marr Drive (DEP FILE # 234-597) by S. Farr, seconded by A. Crocker, approved 7-0-0.

REQUEST FOR MINOR MODIFICATION – EVERSOURCE EASEMENT, RIGHT-OF-WAY #3 (DEP FILE # 234-759)

Jeremy Fannell from Epsilon Associates represented the Applicant, Eversource. J. Fannell explained that Eversource has an open Order of Conditions for geotechnical borings in the area between Cutler Park and Valley Road. The route has been slightly modified and requires two (2) additional geotechnical borings within the 100-foot Buffer Zone to Bordering Vegetated Wetlands that would take place within the roadway. The Commission had no issues with the additional boring locations.

Motion to approve the Minor Modification for additional borings for Eversource Easement, Right-of-way (DEP FILE # 234-759) by P. Oehlkers, seconded by S. Barber, approved 7-0-0.

ADJOURN:

Motion to adjourn by P. Oehlkers, seconded by A. Crocker, approved 7-0-0. The meeting was adjourned at 10:45 p.m.

NEXT PUBLIC MEETING:

October 12, 2017 at 7:30 p.m. in the Public Services Administration Building, Charles River Room.