

**PARKS AND SHADE TREE COMMISSION
CITY OF REHOBOTH BEACH**

April 27, 2015

The Parks and Shade Tree Commission Meeting was called to order at 2:02 p.m. by Chair Priscilla Smith on Monday, April 27, 2015 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

Present: Ms. Marcia Maldeis
Chair Priscilla Smith
Ms. Anne Hubbard

Absent: Ms. Jane Wyatt
Mr. Ned Kesmodel

Also present: City Solicitor Glenn Mandalas
Building Inspector Terri Sullivan
Walter Onizuk, City Arborist

A quorum was present.

Ms. Maldeis noted that her husband, Mr. Stan Mills, sits on the Board of Commissioners, and she would not be influenced by that in making her decisions.

CORRESPONDENCE

Letter received March 27, 2015 from Jeffrey Varone, 602 Bayard Avenue, noted that (19) trees are being planted on the property. He is seeking relief from the City as to the remaining (21) trees which cannot fit on the property.

APPROVAL OF MINUTES

No Minutes were available for approval.

OLD BUSINESS

There was none.

NEW BUSINESS

The purpose of this meeting was to conduct an administrative appeal hearing pursuant to the Comprehensive Tree Ordinance (Chapter 253 of the Municipal Code of the City of Rehoboth Beach).

Appeal Hearing No. 0315-01 was requested by Jeff & Trina Varone, owners of the property located at 602 Bayard Avenue pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, and pertains to determination of a mitigation fee in lieu of and/or a reduction of mitigation based on the survey.

City Solicitor Mandalas noted the procedure for the hearing.

Building Inspector Terri Sullivan read her report which had been distributed with exhibits prior to the meeting. (Copies attached.) On September 27, 2013, a tree removal permit was issued to remove four trees that are in the footprint of a new home. The caliper of trees removed equals 120 inches. The total mitigation for this property is (40) three inch caliper trees. The plan submitted at the time state there would be (6) three inch caliper trees onsite and (35) three inch caliper trees to be planted offsite. The applicant since brought in a plan to plant (19) trees onsite which totals 57 inches caliper that the applicant is able to plant onsite, leaving 65 inches to either be planted on City property or the Commission authorize a fee in lieu of mitigation. Based on Section 253-36(C), the Parks & Shade Tree Commission is the body having authority to authorize a fee in lieu of mitigation. Ms. Sullivan noted that Mr. Walter Onizuk, City Arborist, did not have an issue with any of the trees being proposed to be planted on the property. She did not know if the trees are native trees.

Mr. Jeff Varone provided testimony in support of the appeal. Mr. Varone has met with the landscaping company, Bella Terra Landscapes. The property will be well manicured and well landscaped. He has spent a huge investment in making sure that what is put back will be reasonably accepted by everyone involved. Mr. Varone's dilemma is that the required number of trees cannot be put back on the property. He requested that the Parks & Shade Tree Commission consider his appeal and grant relief through mediation.

Mr. Jeff Meredith of Sussex Tree Company said that 90% of the trees being proposed to be planted on the property are native.

Public Comment:

1. Mr. Lawrence Freedman, address unknown, said that it would be onerous for an owner to plant six inch caliper trees. He was in attendance at the meeting to try to understand the expectations of the City and how the process works. Mr. Freedman thought it would be better to come before the Parks & Shade Tree Commission before a house is built and say upfront that having to plant trees would be difficult in order to meet the required caliper that was removed.
2. Ms. Patricia Freedman, address unknown, suggested that the process should be revised in order to make it more difficult to remove trees.
3. Mr. David McCarthy, builder of Applicant's house, said that it is difficult with some lots to save trees especially when the trees are located in the footprint of the proposed house. Any of the trees that could have been saved, would have been saved.

Mr. Michael Schimmel of Bella Terra Landscapes requested that three additional Hornbeam trees be planted City property between the curb and sidewalk on New Castle Street.

Ms. Maldeis noted that the total number of additional trees to be planted would be five.

Chair Smith closed the public portion of the hearing and called for discussion among the members of the Parks and Shade Tree Commission.

City Solicitor Mandalas noted that in Section 253-36, a fee in lieu of mitigation will be acceptable as determined by the City only through the appeals process. The Applicant shall demonstrate that the replacement of trees on the project site is not a viable option for the reasons that meeting the requirements set forth herein will result in undue hardship, that all reasonable alternatives pertinent to the protection and mitigation have been exhausted, and that granting a fee in lieu of mitigation will not adversely impact the intent and purposes of these regulations.

The members of the Commission were satisfied that the Applicants have demonstrated that replacement trees are not a viable option on their property and would provide undue hardship.

Ms. Maldeis made a motion, seconded by Ms. Anne Hubbard, that the owners of the property pay \$2,500.00 as a fee in lieu of mitigation and plant three street trees on City property on New Castle Street.

Mr. Michael Schimmel said that the Applicants would like to plant trees on the property if additional room can be found instead of paying the \$500.00 per tree mitigation fee.

Ms. Maldeis amended the motion, seconded by Ms. Hubbard, that the owners of the property pay \$2,500.00 as a fee in lieu of mitigation and plant three street trees on City property on New Castle Street. To the extent that the homeowner is able to revise the tree planting plan to provide for more three inch caliper native trees, the fee in lieu of mitigation would be reduced by \$500.00 for each additional tree that is on the property, and the Parks & Shade Tree Commission authorizes the building official to reduce that fee based upon the revised plan.

City Solicitor Mandalas noted that three street trees will be required to be planted on the City property in front of their property along New Castle Street. There are five more trees to mitigate. Those trees would be mitigated at \$500.00 per tree to the extent that they revise the tree plan to provide for more specimen trees at three inch caliper on their property, the building official will be authorized to reduce the fee by \$500.00 for each of those additional trees. Ms. Sullivan said that the fee would need to be paid prior to the Certificate of Occupancy.

(Marcia – aye, Smith – aye, Hubbard – aye.) Motion carried unanimously.

OTHER BUSINESS

There was none.

The May meeting will be held on May 18, 2015 at 2:00 p.m.

There being no further business Chair Smith adjourned the meeting at 2:46 p.m.

MINUTES APPROVED ON
AUGUST 24, 2015

Respectfully submitted,

(Priscilla Smith, Chair)

(Ann M. Womack, City Secretary)