

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

**October 27, 2014**

The Parks and Shade Tree Commission Meeting was called to order at 2:00 p.m. by Chair Priscilla Smith on Monday, October 27, 2014 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

Present: Ms. Marcia Maldeis  
Chair Priscilla Smith  
Ms. Jane Wyatt  
Ms. Anne Hubbard  
Mr. Ned Kesmodel

Also present: City Solicitor Glenn Mandalas  
Building Inspector Terri Sullivan

Absent: 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**

Email received October 23, 2014 from Timothy Spies, 53 Columbia Avenue, noted that the appellants of 116 St. Lawrence Street have no standing and should be estopped.

**APPROVAL OF MINUTES**

Minutes of the July 28, 2014 Parks and Shade Tree Commission Meeting were distributed prior to the meeting.

Ms. Marcia Maldeis made a motion, seconded by Mr. Ned Kesmodel, to approve the minutes of the July 28, 2014 Parks and Shade Tree Commission as written. Motion carried unanimously.

**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. 0814-05 was requested by C.R. Bailey, Jr. and Kathleen Ann O. Bailey, owners of the property located at 116 St. Lawrence Street 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 August 13, 2014, a tree removal permit was issued to remove five trees that were located in the footprint of a new home. The mitigation required based on the caliper of trees removed equals 132 inches. The total mitigation for the property is (44) 3 inch caliper trees. The permit was issued for 118 St. Lawrence Street because that was the previous address prior partitioning. The permit was picked up by Jeff Meredith of Sussex Tree on September 10, 2014. The appellant has been issued a building permit to build a new home and is requesting relief from the mitigation requirement. The tree permit was approved based on Section 253-30(A)(2)(a)(1) of the Code. The mitigation requirement is based on Section 253-35(E). Section 253-35(F) states that where a property must comply with the tree density requirements or other requirements for tree replacement and the property is shown clearly not suitable for on-site mitigation, the property owner or permit applicant shall, with City approval, provide for use of a site on City public lands providing that the applicant furnishes all necessary services incidental to such mitigation on public property including but not limited to funding of tree maintenance and labor.

Mr. C.R.Bailey, Jr. provided testimony in support of decreasing the amount of trees required to be planted. He noted that the plan shows for six trees to be removed. A crepe myrtle was not removed that is located near the footprint of the house. Sussex Tree had recommended that a diseased pine tree be removed from the property. He had calculated 101 inches based upon the drawings. Mr. Bailey was under the impressions that if a tree was diseased, it would not have to be replaced inch for inch, but at 50%. Twenty-seven inches of caliper would be added to the property.

Public Comment:

1. Commissioner Toni Sharp, asked how the Commission makes it decisions.

Mr. Kesmodel said that its hard to make these decisions.

Ms. Wyatt noted that the Commission also has to consider the cost to plant a tree, water it and take care of it.

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

Mr. Kesmodel calculated that 27 additional trees at a total of 81 inches caliper would need to be planted on the property, but there is no way possible to plant these trees. Discussion ensued among the Commission members as to a few in lieu of mitigation.

Mr. Kesmodel made a motion, seconded by Ms. Smith, to permit the appellant to pay \$3,000 as a fee in lieu of mitigation and move forward with the tree planting plan that he submitted.

Ms. Maldeis noted that a better plan is needed to figure out the fees. Ms. Wyatt agreed. Trees in the footprint should not be counted. Mr. Kesmodel said that the Commission also needs to be fair to homeowners.

(Maldeis – aye. There are no places on the property to plant trees. As long as the City has the tree ordinance, the Commission is stalled. Smith – aye. Kesmodel – aye, because there will be a hardship to come up with 27 trees . Wyatt – aye. Hubbard – aye.) Motion carried unanimously.

Commission members suggested that an item be placed on the next agenda would be for discussion about the appeals process and make recommendations back to the Commissioners as a standard amount for fees.

#### **OTHER BUSINESS**

The December meeting will be held on December 15, 2014 at 2:00 p.m.

#### **OTHER BUSINESS**

There was none.

There being no further business Chair Smith adjourned the meeting at 2:45 p.m.

**Respectfully submitted,**

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**(Ann M. Womack, City Secretary)**

**MINUTES APPROVED ON  
NOVEMBER 24, 2014**

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**(Priscilla Smith, Chair)**