

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

**November 23, 2015**

The Parks and Shade Tree Commission Meeting was called to order at 2:05 p.m. by Chair Priscilla Smith on Monday, November 23, 2015 on the second floor of the Rehoboth Beach Volunteer Fire Company, 219 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

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

Also present: City Solicitor Glenn Mandalas  
Building Inspector Damalier Molina

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**

There was none.

**APPROVAL OF MINUTES**

Minutes of the August 24, 2015 Parks & Shade Tree Commission Meeting were distributed prior to the meeting.

Mr. Ned Kesmodel made a motion, seconded by Ms. Marcia Maldeis, to approve the August 24, 2015 Parks & Shade Tree Commission Meeting minutes 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. 1015-04 was requested by Sander M. Bieber and Linda E. Rosenzweig, owners of the property located at 103 Lake Drive pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, and pertains to denial of a request to remove one (1) tree and a determination of a mitigation fee in lieu of and/or a reduction of mitigation based on the proposed removal of thirty-one (31) trees.

City Solicitor Mandalas noted the procedure for the hearing.

Correspondence:

1. Letter received November 23, 2015 from Pamela M. McCrery – in favor of the removal of the oak tree.
2. Email received November 12, 2015 from Richard R. Cooch, 3 St. Lawrence Street – in opposition to the removal of the oak tree.
3. Email received November 13, 2015 from Marilyn H. Taylor, 1003 King Charles Avenue – in opposition to the removal of the oak tree.
4. Email received November 16, 2015 from Thomas Childers, 125 Lake Drive – in opposition to the removal of the oak tree.
5. Email received November 17, 2015 from Eliza Morehead, 1007 King Charles Avenue – in opposition to the removal of the oak tree.
6. Email received November 17, 2015 from Elizabeth Merritt Cooch McDonnell, 228 State Road – in opposition to the removal of the oak tree.

7. Email received November 17, 2015 from Lucia Morrison, 217 Lake Drive – in opposition to the removal of the oak tree.
8. Email received November 19, 2015 from Pat Fisher, Stockley Street – in opposition to the removal of the oak tree.
9. Email received November 19, 2015 from Enid and Jay Lagree, 7 Prospect Street – in opposition to the removal of the oak tree.
10. Email received November 19, 2015 from Wilson B. Davis, 1007 King Charles Avenue – in opposition to the removal of the oak tree.
11. Email received November 22, 2015 from James Marshall, 201 Lake Drive – in opposition to the removal of the oak tree.
12. Email received November 22, 2015 from Kathleen Bailey, 116 St. Lawrence Street – in opposition to the removal of the oak tree.

Building Inspector Damalier Molina provided background on the appeal. The matter involves construction of a new single-family dwelling. There is a tree located on the premises with an approximate 270 inch circumference. The Applicant has attempted to meet all the requirements of the Code to do all the mitigation which is required under the ordinance. Because of the size of the oak tree on the site, this will require replacement of 90 three inch caliper trees of which cannot be accommodated on the site. Building & Licensing cannot issue a permit, even though the plans have been reviewed and approved, until this matter is satisfied before the Commission as to the amount of payment in lieu of mitigation.

Mr. Sander Bieber noted that the oak tree is 43 inches in caliper. Combined with all the other trees, the total caliper is 270 inches. He provided a list of all the trees to be removed. The roots from the oak tree are wreaking havoc on the existing house. Three trees of 38 inches caliper will remain on the property. According to the builder, Mr. Jeff Meredith of Sussex Tree and other people who have been consulted, Mr. Bieber would be at risk in terms of damage to the tree and the inability to build a home with respect to almost one-third of the property because of the current root structure as it has grown the property and the canopy as well. It would be difficult for the home to be insured because of the tree. Representatives of Building & Licensing had told him that he had met the burden with respect to demonstrating that alternatives had been considered. Mitigation is required with respect to the oak tree. Mr. Bieber will provide seven new evergreen trees that have a total caliper of 21 inches and one existing double-trunk magnolia tree that has a total caliper of 22 inches. Three trees will be retained on the property with a total of 38 inches caliper. Fifteen trees will be planted that have a total of 45 inches caliper. Two holly trees with a total caliper of 16 inches will be retained on the property. Two of the trees on the property haven't fallen over, and one tree is dead; thus decreasing the total caliper to 240 inches. His property needs to have only eight trees on the property to meet the density requirements.

Public Comment:

1. Mr. Burt Flickinger, Lake Drive commented that the Commission does not have the right to impose what can and cannot be cut down on a property. He was in support of the removal of the oak tree.
2. Ms. Mary Davis, 1007 King Charles Avenue – in opposition to the removal of the oak tree. If the removal has been approved, she will be appealing the decision.
3. Mr. Jeff Meredith of Sussex Tree noted that the oak tree has been approved to be removed. This meeting is about mitigation.
4. Mr. Paul Kuhns, 125 Stockley Street – in favor of allowing the process to go forward and make the mitigation as small and reasonable as possible.

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 Glenn Mandalas calculated that there would be 181 inches of unmitigated caliper which equals 63.3 trees that would need to be mitigated.

Mr. Ned Kesmodel made a motion, seconded by Ms. Jane Wyatt, that the fee in lieu of mitigation of \$13,000.00 is to be paid to the City of Rehoboth Beach. (Maldeis – aye, Smith – aye, Kesmodel – aye, Wyatt – aye, Hubbard – aye.) Motion carried unanimously.

**OTHER BUSINESS**

There was none.

There being no further business Chair Smith adjourned the meeting at 3:25 p.m.

**Respectfully submitted,**

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

**MINUTES APPROVED ON  
JANUARY 25, 2016**

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**(Priscilla Smith, Chair)**