

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

June 24, 2013

The Parks and Shade Tree Commission Meeting was called to order at 2:03 p.m. by Chair Priscilla Smith on Monday, June 24, 2013 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

ROLL CALL

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

Also present: City Solicitor Glenn Mandalas
Building Inspector Terri Sullivan

A quorum was present.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the April 22, 2013 Parks and Shade Tree Commission Meetings were distributed prior to the meeting.

Ms. Marcia Maldeis made a motion, seconded by Ms. Jane Wyatt, to approve the minutes of the April 22, 2013 Parks and Shade Tree Commission as written. Motion carried unanimously.

OLD BUSINESS

There was none.

NEW BUSINESS

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

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

This appeal hearing has been requested by Allen Walker of Cottages of Rehoboth LLC on behalf of Joel and Nancy Fradin, owners of the property located at 107 Fifth Street pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, pertaining to the mitigation requirement for trees that were removed to facilitate construction of a new house.

Building Inspector Terri Sullivan read her report which had been distributed with exhibits prior to the meeting. (Copies attached.) On January 17, 2013, a tree removal permit was issued to remove five trees that are in the footprint of a new home. The total mitigation of this property is eleven (11) three inch caliper trees based on the removal of a 34 inch oak tree. The tree permit was approved based on Section 253-30(A)(2)(a)(1). The mitigation requirement is based on Section 253-35(E). Mitigation shall be required for the loss of any protected tree of at least 24 inches caliper, or a tree described in Section 253-28(A)(1)(c) that is at least four inches caliper and shall include the following: 1. The replacement trees, either preserved, relocated or newly planted, shall be of the same or other native species as the tree(s) approved for removal. 2. The quality and size of the replacement trees shall be at least 12 feet tall and three inches caliper. Any tree which is the subject of a mitigation plan shall be replaced at a ratio of one-inch caliper for each inch or caliper removed. Under Section 253-35(F), 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 onsite 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. On May 16, 2013, Mr. Allen Walker of Cottages of Rehoboth filed an

application for an appeal to the Parks and Shade Tree Commission on behalf of the owners of the property.

Mr. Allen Walker of Cottages of Rehoboth LLC provided testimony in support of the appeal. Not all of the five trees were located in the footprint. Two of them were dead and were located on City property. Two oak trees were located in the footprint of the house. There is not enough room on the property to plant eleven (11) trees. The Fradins would like to plant a minimum of three (3) additional trees of three inch caliper on their lot and not be required to pay for eight (8) additional trees.

Mr. Ned Kesmodel said that of the 67 inches total caliper to be replaced, there is 54 inches of caliper for the trees that remain on the lot. Since the Fradins will be planting a minimum of three (3) trees of three inch caliper, an additional tree would need to be planted with a four inch caliper. If there is not enough room on the property, it could be planted on City property.

There was no correspondence and no public comment.

Mr. Kesmodel made the motion, seconded by Ms. Wyatt that a minimum of 12 inches of caliper with a minimum of three inch caliper per tree would be planted; and up to the entire 12 inches could be planted on the property or nine inches caliper could be planted on the property with the remaining caliper to be planted on City property at the City Manager's discretion of the location. (Maldeis – aye, Kesmodel – aye, Smith – aye, Wyatt – aye, Hubbard – aye.) Motion carried unanimously.

This appeal hearing has been requested by Nicholas & Carolyn Pettoruto at 322 Hickman Street pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, pertaining to the mitigation requirement for trees that were removed to facilitate construction of a new house.

Ms. Sullivan read her report which had been distributed with exhibits prior to the meeting. (Copies attached.) On February 15, 2013, a tree removal permit was issued to remove seven (7) trees that are in the footprint of a new home. There is a mitigation requirement that four native hardwood tree be planted onsite, and the remaining mitigation is to be determined by the City Manager. The total mitigation for this property is nineteen (19) three inch caliper trees based on the removal of a 24 inch oak and a 32 inch maple. The mitigation requirement is based on Section 253-35(E). Mitigation shall be required for the loss of any protected tree of at least 24 inches caliper, or a tree described in Section 253-28(A)(1)(c) that is at least four inches caliper and shall include the following: 1. The replacement trees, either preserved, relocated or newly planted, shall be of the same or other native species as the tree(s) approved for removal. 2. The quality and size of the replacement trees shall be at least 12 feet tall and three inches caliper. Any tree which is the subject of a mitigation plan shall be replaced at a ratio of one-inch caliper for each inch or caliper removed. Under Section 253-35(F), 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 onsite 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. On May 22, 2013, Mr. and Mrs. Nicholas Pettoruto filed an application for an appeal to the Parks and Shade Tree Commission.

Mr. Michael Lynn of Select Builders provided testimony in support of the appeal. Seven trees are located on the property, and two were within the footprint of the house. It was recommended that four trees would be cut down because if they remained where they currently are located, there would be damage to the root systems. One tree would have to be planted in the front yard. In the side yard, DP&L had not followed the suggested easement and ran the power line across the lot. The power to the line has been abandoned, but the power and cable lines are still there. New lines have been put in underground which limits where trees can be planted. Three deciduous hardwood trees could be planted on the property with the fourth tree being a crepe myrtle.

Mr. Nicholas Pettoruto provided testimony in support of the appeal. He would be flexible with the type of trees to be planted. He accepted a minimum of five trees being planted on the property, with one being a crepe myrtle. The remainder of the trees to be planted would be hardwood and there would be a \$500.00 in lieu of the mitigation of 15 trees.

There was no correspondence and no public comment.

Mr. Kesmodel made a motion, seconded by Ms. Wyatt, to plant a minimum of five trees on the property with one being a crepe myrtle and pay \$500.00 in lieu of mitigation. (Maldeis – aye. Kesmodel – aye. Smith – aye. Wyatt – aye. Hubbard – aye.) Motion carried unanimously.

The next meeting is scheduled for July 22, 2013 at 2:00 p.m.

There being no further business, Chair Priscilla Smith adjourned the meeting at 2:42 p.m.

Respectfully submitted,

(Ann M. Womack, CMC, City Secretary)

**MINUTES APPROVED ON
NOVEMBER 25, 2013**

(Priscilla Smith, Chair)