

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

November 25, 2013

The Parks and Shade Tree Commission Meeting was called to order at 2:00 p.m. by Chair Priscilla Smith on Monday, November 25, 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

Absent: Ms. Anne Hubbard

Also present: City Solicitor Glenn Mandalas
Building Inspector Terri Sullivan

A quorum was present.

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.

CORRESPONDENCE

There was none.

APPROVAL OF MINUTES

Minutes of the June 24, 2013 Parks and Shade Tree Commission Meetings were distributed prior to the meeting.

Ms. Jane Wyatt made a motion, seconded by Ms. Marcia Maldeis, to approve the minutes of the June 24, 2013 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 administrative appeal hearings pursuant to the Comprehensive Tree Ordinance (Chapter 253 of the Municipal Code of the City of Rehoboth Beach).

Appeal Hearing 1013-04 was requested by Jeff Meredith of Sussex Tree Inc. on behalf of Steve Kaufman, owner of the property located at 200 Stockley Street pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, pertaining to denial of a request to remove two (2) trees.

Correspondence:

1. Cover letter dated November 11, 2013 from Steve Kaufman, 200 Stockley Street with attached letter from Sharon Kaufman, same address. The Kaufmans have been negatively impacted by the berries and sharp leaves from two holly trees. These trees make the deck and yard a hazard to their family and the adjacent neighbors. The Kaufman's two dogs have had injuries to their paws from both the leaves and berries. The interior walls of the pool had to be completely resurfaced from the staining. Their grandchildren can never be without shoes in the yard or on the deck. It has never been the Kaufman's intention to remove or reduce greenery on their property, but they are dismayed by the added maintenance expenses they continue to incur and the narrowing, limited use of their yard. The Kaufmans are willing to replace the two trees with other trees if the City has a place to plant them.

City Solicitor Mandalas noted the procedures for both hearings.

Building Inspector Terri Sullivan read her report which had been distributed with exhibits prior to the

meeting. (Copies attached.) On August 2, 2013, a tree removal permit was applied for to remove two holly trees from the back left side of the property. The tree permit was denied based on Section 253-30(A)(2)(a). No tree removal permit shall be issued unless the City finds that at least one of the criteria is satisfied with respect to each protected tree designated for removal. The City Arborist did not find that the holly trees met any of the criteria to warrant removal.

Mr. Jeff Meredith of Sussex Tree Inc. noted that the two holly trees are messy. There is plenty of tree structure around the Appellants' back section of the property. In the front of the property, two new trees have been planted at the sidewalk. The Appellants cannot use their pool because the hollies shed their leaf structure in early spring through early summer. The Appellants are willing to plant trees in the City parks. There basically is no room to plant new trees on the Appellants' property. The caliper for each tree is approximately 18 inches.

Mr. Steve Kaufman noted that the two holly trees are healthy, but they provide safety and hazardous issues for his grandchildren and pets. Mr. Kaufman has had to totally replaster his pool. There are approximately six trees that would be remaining on his property if the two holly trees are removed. He had also planted two street trees when his house was built in 2005. Mr. Kaufman was willing to put money into a tree fund or pay for replacement in the City.

There was no public comment.

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

City Solicitor Mandalas read reason No. 4 from the criteria in Section 253-30 of the Code which would be applicable to this case. The tree is located where it creates or will create a material safety or health hazard or nuisance with respect to existing or proposed structures or vehicles or pedestrian routes and such hazard or nuisance is not innate to or commonly associated with the existence of trees in general (for example, lightning, wet leaves on the ground during rainstorms).

Ms. Wyatt made a motion, seconded by Mr. Ned Kesmodel, to allow Mr. Kaufman to remove the two trees because they are a nuisance with respect to existing or proposed structures. (Maldeis – aye, reluctantly for reason No. 4. Smith – aye, reluctantly for reason No. 4. Kesmodel – aye, reluctantly for reason No. 4. Wyatt – aye, reluctantly for reason No. 4.) Motion carried unanimously.

A tree removal permit will be issued from Building & Licensing to take down the trees.

City Solicitor Mandalas read Section 253-35 of the Code with regard to mitigation. Mitigation shall be required for the loss of any protected tree of at least 24 inches caliper or a tree described in Section 253-20(A)(1)(c) that is at least four inches in caliper and shall include the following: (1) Replacement trees either preserved, relocated or newly planted shall be of the same or other native species as the tree 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 of caliper removed. The following mitigation credit applies. The trees preserved or relocated onsite which exceed the minimum requirements shall count as equivalent replacement caliper. The planting design shall provide adequate space for root and crown development. The property owner shall be responsible for maintenance of the mitigation trees. It is his responsibility to include replacement of unhealthy and dead trees. The property owner shall submit to an onsite inspection of the planted and preserved trees 12 months after the approved plan or permit.

City Solicitor Mandalas noted that there is approximately 56 inches caliper on the property. Nine inches would be subtracted from the 56 inches which leaves 47 inches remaining on the property. The two holly tree with a total of 36 inches would be subtracted from the 47 inches, leaving 11 inches caliper as a surplus. There is no mitigation necessary in this case.

Mr. Kaufman volunteered to donate \$1,000.00 to be put in the maintenance fund for the City.

Appeal Hearing No. 1013-05 was requested by Jeff Meredith of Sussex Tree Inc. on behalf of Henry and Carol Hehir, owners of the property located at 41 Henlopen Avenue pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, pertaining to denial of a request to remove one (1) tree.

City Solicitor Mandalas noted that two members of the Parks and Shade Tree Commission have acquaintances with the Applicants, but there is no relationship with regard to the tree. He did not see any issues with the two members participating in this hearing.

Building Inspector Sullivan read her report which had been distributed with exhibits prior to the meeting. (Copies attached.) On September 19, 2013, a tree removal permit was applied for to remove one large yellow pine tree from the right side of the home. The tree permit was denied based on Section 253-30(A)(2)(a). No tree removal permit shall be issued unless the City finds that at least one criteria is satisfied with respect to each protected tree designated for removal. The City Arborist did not find that the yellow pine tree met any of the criteria to warrant removal.

Mr. Meredith noted that the tree is too close to the side porch of the house. The approximate distance is two feet. The root structure of the tree has a tap root which is partially located under the cement porch. The tree is a hazard to the property and the home. If the tree is allowed to continue to grow, it will be into the house. Mr. Meredith's concern was the root structure and the tree uprooting. The only way Mr. Meredith would be able to remove the tree is by using a crane. The Hehir's neighbor has agreed to removing the tree in sections by a crane.

Mrs. Carol Hehir, 41 Henlopen Avenue, said that their insurance company has recommended to remove any hazardous trees. She and her husband have become very conscious of the tree in the last several years due to hurricanes coming through and being told to evacuate. The tree is located on the east side of the property and is 20 inches from the roof of the house. The tree is leaning towards the house. If the tree would uproot, there is no attic or floor joists to slow the tree down. It would end up in the middle of their living room. They will plant whatever trees are needed to be planted.

Mr. Henry Hehir, same address, has received a letter from their insurance company encouraging people to remove hazards around their houses. The insurance company would not send a representative here for the hearing and would not tailor a letter with regard to this matter.

There was no need to conduct a public hearing because the only people in the audience were the owners and the applicant.

Ms. Maldeis made a motion, seconded by Mr. Kesmodel, to allow Mr. and Mrs. Hehir to cut down the tree because of the tree being a hazard. (Maldeis – aye, Smith – aye, Kesmodel – aye, Wyatt – aye.) Motion carried unanimously.

A tree removal permit will be issued from Building & Licensing to take down the trees.

Mr. Meredith noted that there is approximately 70 inches caliper on the property. After calculating the caliper, City Solicitor Mandalas noted there was approximately 51 inches as a surplus. There was enough density on the property so no mitigation was necessary.

OTHER BUSINESS

Consideration of date for Parks and Shade Tree Commission Meeting to be held in December 2012.

The consensus of the Commission was that no meeting would be held in December 2013. The next scheduled meeting will be held on January 27, 2014 at 2:00 p.m.

There being no further business, Chair Smith adjourned the meeting at 2:50 p.m.

Respectfully submitted,

(Ann M. Womack, CMC, City Secretary)

**MINUTES APPROVED ON
JANUARY 27, 2014**

(Priscilla Smith, Chair)