

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

**October 22, 2012**

The Parks and Shade Tree Commission Meeting was called to order at 2:00 p.m. by Chair Priscilla Smith on Monday, October 22, 2012 in the Commissioners Room in City Hall, 229 Rehoboth Avenue, Rehoboth Beach, DE.

**ROLL CALL**

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

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

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**

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).

This appeal hearing has been requested by Jeff K. Meredith, Certified Arborist of Sussex Tree Inc. on behalf of Beverly Zimmerman, owner of the property located at 232 Country Club Drive pursuant to Section 253-36 of the Municipal Code of the City of Rehoboth Beach, pertaining to the denial of a request to remove one (1) tree.

Building Inspector Terri Sullivan read her report which had been distributed with exhibits prior to the meeting. (Copy attached.) The Southern Magnolia tree is growing between the house and the garage. There is no visible damage to the house or the garage. While there are minor imperfections in the tree, the City finds no imperfection that warrants the removal of the tree per the City Code. The tree permit was denied because it did not meet the requirements of Section 253-30(A)(2)(a) of the Code.

Mr. Jeff Meredith, Certified Arborist of Sussex Tree Inc., provided testimony on behalf of Ms. Beverly Zimmerman, owner of the property, that there is not enough room between the garage and the house for this tree. Photographs were provided of the tree which has included bark. The occluded bark is the main reason for removal of the tree. There is also a hole in the tree. In the future, there will be a problem with cement cracking in the garage. The tree is healthy, but he will not be able to crotch prune the tree to make it a safe tree. The danger of the included bark is rated eight on a scale of one to ten with ten being the worst.

There was no correspondence and no public comment.

City Solicitor Glenn Mandalas said that the City has to apply certain criteria that it looks to, to see whether it fits within certain allowable tree removal. One criteria would be that the tree is located where it creates or will create material safety or health hazard or nuisance with respect to existing or proposed structures or vehicles or pedestrian routes, and such hazard and nuisance is not native to commonly associated with the existence of trees in general. Other criteria would be that the tree is determined by the City to be dead, diseased

or severely injured.

Mr. Walter Onizuk, City Arborist, noted that the tree has included bark more than normal, but he was unable to see where any damage has been done by the tree.

Mr. Ned Kesmodel made a motion, seconded by Ms. Jane Wyatt, to allow the owner of the property to take down the tree because the tree is creating a safety hazard. (Kesmodel – aye. The tree is a hazard, it is a nuisance with respect to the existing structure, and it is a danger. Maldeis – against. The tree has more years left to it, and she would rather it be closer to having to be cut down than it is now. Smith – aye, for the reason in Section 253-30(A)(2)(a)(4) because the tree is a hazard. Wyatt – aye. The Commission needs to follow Mr. Meredith’s lead since he is an arborist and for the reason in Section 253-30(A)(2)(a)(4) because the tree is a hazard to the house and the garage. Hubbard – aye. The tree is a hazard which would be consistent with Section 253-30(A)(2)(a)(4).) Motion carried to allow the tree removal permit.

City Solicitor Mandalas read Section 253-35 – tree protection and mitigation of the City Code. Since the tree is 18 inches in caliper, it would need to be replaced with one inch caliper for one inch caliper. There is also a tree mitigation credit in the Tree Ordinance. Tree preserved or relocated onsite which exceed the minimum requirements shall count as equivalent replacement caliper.

Mr. Kesmodel made a motion, seconded by Ms. Wyatt, that there is no additional mitigation because the caliper of the other trees compensate for taking down that tree. (Kesmodel – aye. Maldeis – aye. Smith – aye. Wyatt – aye. Hubbard – aye.) Motion carried unanimously.

The tree removal permit will be issued, and there is no need for any additional mitigation of trees.

#### **OTHER BUSINESS**

Consider approval of official Parks and Shade Tree Commission Application.

Recommendations were made to include a diagram with the Application identifying the trees on the property to be removed and the trees to remain on the lot, and to include the reasons from the Code with checkboxes on the Application.

Ms. Maldeis made a motion, seconded by Ms. Wyatt, to approve the proposed Application with the amendment of providing a checkbox for the purpose of whether a diagram is attached and the amendment that seven reasons will be attached for allowing removal and the checkboxes beside them. Motion carried unanimously.

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

The consensus of the Commission was to hold the meeting on December 17, 2012 at 2:00 p.m.

There being no further business, Mr. Kesmodel made a motion, seconded by Ms. Wyatt, to adjourn the meeting at 2:51 p.m.

**Respectfully submitted,**

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

**MINUTES APPROVED ON  
NOVEMBER 26, 2012**

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**(Priscilla Smith, Chair)**