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Conservation Commission Minutes - 09/01/2016

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Franklin Conservation Commission Minutes of Meeting September 1, 2016

To: Town Clerk
cc: Members
File

Present: B. Batchelor, T. Henrichon, J. Livingstone, P. Harrington, S. McLean, George Russell, Conservation Agent, Kathleen Celorier, Secretary.

Chairman Batchelor announced the meeting would be audio and video recorded.

Mr. George Russell's Agent's Report has been appended to the minutes.

Public Hearing – Continued – RFD – 82 Elm Street – Graf

Mr. Russell stated the applicant requested to continue this item to the October 13, 2016 meeting.

There was a motion made by Scott McLean to continue the public hearing for the RFD for 82 Elm Street to October 13, 2016 at 7:15 PM. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

GENERAL BUSINESS

Certificate of Compliance: 35 Meadowlark Lane

Mr. Russell stated all is ready to go forward.

There was a motion made by Scott McLean to release the Certificate of Compliance for 35 Meadowlark Lane. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Certificate of Compliance: Lot 15 Dwight Street

Mr. Russell stated the work is completed and he recommended the release.

There was a motion made by Jeff Livingstone to release the Certificate of Compliance for Lot 15 Dwight Street. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Discussion Item: Best Development Practices Guidebook

Mr. Russell stated this is a draft copy of the updated and revised document. He requested the Commission members review the document and provide him with any questions, comments, concerns and suggestions. He would like to set this for a public hearing on September 15, 2016 at 7:15 PM. Prior to the adoption of the document it will be sent to the Planning Board and they will go through the same process. After both land use bodies agree on the language, it will be formally adopted by both.

Mr. Livingstone recommended a version number be put on the document for easier reference.

Public Hearing - NOI – 20 Liberty Way – Engineering Design Consultants

Mr. Russell stated for this application the advertising fee was submitted and it was advertised for tonight. But, there are a number of items missing from the application. He generated a review letter, but he has not received a response. He recommended the Commission not take testimony until such time as the application is complete and issues are addressed.

Mr. Peter Bemis of Engineering Design Consultants, Inc. addressed the Commission to add approximately 4,400 sq. ft. of pavement to rear of building. He stated there has been a strong disagreement as to whether there is even a wetland present. He has discussed this with Mr. Russell in the past. He acquiesced and filed the NOI. He has the supplemental information with him tonight. He requested that the Commission not punish his client. He stated his client wishes to build a small addition to his parking lot on a 10-acre site in the industrial park next to a detention basin that was specifically constructed to handle the stormwater in this park. There are no natural wetland resource areas in or near this site. He filed at the request of the Agent and did so in order to appear before the Commission; he would like to present his information.

Chairman Batchelor stated he is requesting the applicant not present any information at tonight's meeting as he is being instructed by the Conservation Agent that information has been missing and not filed with the Commission.

Mr. Bemis stated he has been before the Franklin Conservation Commission for 30 years. He actually constructed this detention basin for the contractor at the time.

Chairman Batchelor stated the Commission does not accept paperwork on the night of the hearing as it does not allow for sufficient time for review. This procedure cannot be changed.

Mr. Livingstone stated about three years ago this was made into a written policy with no exceptions.

Mr. Russell stated that under the local bylaw the detention basin is considered a wetland.

Mr. Bemis stated the point he is making is that the detention basin is not a wetland. He would like to withdraw his NOI. He cannot go forward with site plan review. He noted that they did not do any work on the detention basin; the park has done the maintenance. He agreed to this reluctantly and is now getting bureaucracy thrown back at him.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 20 Liberty Way to September 15, 2016 at 7:20 PM. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

Public Hearing – Continued - Amendment – 176 Grove Street – Novaya Real Estate

Mr. Russell stated there was a procedural error with this application in that abutter notifications were never sent out. The hearing has been re-advertised; there has been no material change in the application. This is technically considered as brand new.

Mr. Karlis Skulte of EBI Consulting, representing the applicant, addressed the Commission for minor site modifications. He noted that abutter notifications had not been sent out properly. Since then they re-advertised. He provided an overview of the project and stated that late last year minor modifications to the site had been presented to the Commission. At that time, it was decided that it would be an amended order of conditions. He described the changes and requested they be incorporated into the amended order of conditions. During construction it was discovered that the pavement was too high. There were issues with the trucks at the receiving docks. They had to remove about 2 in. of pavement and install some trench drains. In some ways this better captures runoff. These minor changes were also addressed by the Planning Board. Planning Board reviewed and is all set with this. Also, identified on the plans was some riprap; to discourage ATVs and recreational activity the applicant has chosen to install a chain-link fence. Minor changes to striping and curbing were also made; however, nothing impacts the drainage.

Mr. Russell apologized that this item was not on his Agent's report. He recommended the amendments be approved.

There was a motion made by Jeff Livingstone to close the public hearing for the amendment for 176 Grove Street. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Jeff Livingstone to approve the amendment for 176 Grove Street. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 14 Oxford Drive - Underwood

Mr. Russell stated this hearing was continued to receive the report from the wetland scientist on some vegetation that was removed from the BVW. The report has been received; the wetland scientist recommended that no additional action be taken. This was per the standard operating procedure of the Commission to require a wetland scientist to evaluate any vegetative debris deposits in a resource area.

Mr. Bill Halsing of Land Planning, Inc. and Mr. Bob Underwood, owner, address the Commission to build addition to existing single-family house. Mr. Halsing stated the two-story addition would be for a garage under and the main addition at first floor elevation. A front-entrance garage does not work due to grading; side entrance garage did not work either due to grading. So, they wrapped driveway around the back of the dwelling with garage under and back. Building is out of the 50 ft. no build. They have mitigation plan and infiltration from the roof of the addition.

Mr. Russell recommended approval with the stipulations outlined in his Agent's Report.

Mr. Harrington confirmed this was all pre-disturbed area.

Mr. Underwood noted that on the plans it shows the use of paver stones; he asked if he could continue the asphalt around and make it part of the driveway due to a cost factor.

Mr. Russell stated given the amount of impervious surface, it is not going to significantly change the drainage.

There was a motion made by Jeff Livingstone to close the public hearing for the NOI for 14 Oxford Drive. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

There was a motion made by Jeff Livingstone to approve the NOI for 14 Oxford Drive with special conditions #20-22, 27, 28, 29, 34, 35, 38 and 44, plus an additional stipulation giving the applicant the option of using asphalt as opposed to paver stones for the back part of the driveway, plus the stipulation that no vegetative debris shall be placed beyond the rock wall at the rear of the lawn area. The motion was seconded by Scott McLean and accepted with a vote of 5-0-0.

GENERAL BUSINESS (continued)

Minor Buffer Zone Activity: 1 Peters Lane

Mr. Russell stated the applicant requested the Commission act without them being present as they are out of the country. He stated he advised the applicant that this has never happened before and there may be questions from the Commission. Although this is a relatively minor issue, he stated concern regarding the precedent the Commission may be setting should they act on the application without someone at the meeting to address it. This is not a purely administrative action. He suggested the Commission carefully consider whether they wanted to go forward without the applicant present. He recommended that the applicant should be present.

Mr. Harrington stated agreement with Mr. Russell as there are questions that the Commission may want to ask the applicant.

Mr. Livingstone stated the applicant could have sent a proxy on their behalf. He agreed with Mr. Russell.

Ms. Henrichon confirmed with Mr. Russell that the trees are not dangerous.

Mr. Russell stated he did not know when the applicant is scheduled to return. He stated he would send the applicant a letter stating the decision of the Commission and that the item has been continued to September 15, 2016. Either they or their representative must attend the meeting.

There was a motion made by Scott McLean to continue the MBZA for 1 Peters Lane until the September 15, 2016 meeting. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Permit Modification: 31 Hayward Street

Mr. Russell stated this is a relatively innocuous permit modification that had to be done due to flooding taking place in the structure. He stated he authorized the work to proceed on the condition that they file a request for the modification. He stated he did expect the applicant or applicant's representative to be here tonight to explain it. He recommended the Commission take no action until the applicant is present.

Mr. McLean requested Mr. Russell generate a letter to the applicant indicating the Commission took no action as the applicant was not present.

There was a motion made by Scott McLean to continue the permit modification for 31 Hayward Street until the September 15, 2016 meeting. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Violation: 723 Lincoln Street

Mr. Russell stated the Commission has voted to require the applicant to submit a restoration NOI based on a wetland scientist's report which is standard operating procedure. The property owner has requested a discussion of this with the Commission and has retained a wetland scientist to look at the property. Based on that, Mr. Russell stated his recommendation would be that the Commission rescind their requirement, to file a restoration NOI and require an RDA based on the wetland scientist's report, no later than December 1, 2016.

Mr. Robert Burton, owner, addressed the Commission and stated he wanted to file for an extension for 723 Lincoln Street. There is vegetative debris in his backyard, over the line a little bit. He retained a wetland scientist who was on vacation. As soon as he is granted the extension, he will call the wetland scientist to look at it.

There was a motion made by Scott McLean to rescind the July 12, 2016 letter stating that the applicant had to submit an NOI by September 1, 2016, and that the applicant will have an RDA to this Commission based on the wetland scientist's report by December 1, 2016. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Violation: 6 Domenica Way

Mr. Russell stated the Commission members have received in their packets a series of letters and photographs of the issue at this property. Despite attempts to get the landowner to contact him and try to work out the problem, as per procedure with a wetland scientist and RDA, nothing has been forthcoming. He recommended an enforcement order requiring a wetland scientist review and a restoration plan based on that report by December 1, 2016. The applicant was notified this item was on tonight's meeting agenda.

There was a motion made by Scott McLean to issue an enforcement order for 6 Domenica Way that they will have an RDA based on a wetland scientist's report no later than December 1, 2016. The motion was seconded by Jeff Livingstone and accepted with a vote of 5-0-0.

Violation: 23 Longfellow Drive

Mr. Russell stated this item is on the agenda due to a letter generated from his office requesting the status of the mandated NOI by the positive RDA finding.

Mr. Michael Mavrides, owner, addressed the Commission. He stated he has a title problem with the land. He has hired lawyers and everything should go to them. They are going to work on this on his behalf.

Mr. Russell stated he has generated a letter to the applicant's counsel indicating that it would be Mr. Russell's strong desire to sit down together to go over all of the issues involved. He did receive emails today from applicant's counsel requesting an extension of any action requested by the Commission. He told applicant's counsel he would request Commission to extend any action by the Commission to September 15, 2016. He noted there has been a positive RDA issued which requires an NOI filing. He is not recommending the Commission take any action at this time. He also told counsel that if no action is taken between now and September 15, 2016, he would be asking the Commission for another enforcement order.

Mr. Mavrides stated he had spoken with his lawyer today and September 15, 2016 does give them enough time.

Chairman Batchelor confirmed with Mr. Mavrides that he does not have a problem meeting the September 15th deadline.

Mr. Livingstone stated this has been going on much too long and he wants to make sure that the applicant's new attorney does not request extra time to get up to speed.

Mr. Mavrides stated this is not a new lawyer; she has been on this project for nine years.

There was a motion made by Scott McLean to continue the hearing for 23 Longfellow Drive with the understanding that between now and September 15, 2016 the applicant's attorney will meet with the Conservation Agent. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Discussion Item: Starting Home Zoning Amendment to House 4569

Mr. Harrington confirmed that this is something the town would have to adopt and it seems like a state run-around to avoid environmental regulations for people building houses.

Chairman Batchelor stated he read the entire bill and it is an entangled mess under the economic opportunity for both jobs and building the communities. It is called smart-growth zoning and what it does is basically a way for communities to get special money if they waive certain features under the building code, including conservation. It bypasses local codes and must follow state regulations. He stated he is against this.

Mr. Harrington opined there must be a way to encourage the town not to adopt this based on environmental concerns and impacts.

Mr. Russell stated the Commission can legally go on record as opposing the adoption. He stated he would generate a letter/position paper for the Commission's review to give to the Town Council.

There was a motion made by Scott McLean for Mr. Russell to issue to the Town Council a letter stating that it is the Commission's opinion that the Starter Home's House Bill 4569 goes against the interests of the environmental laws and regulations that Franklin has adopted for years now and the Commission is against it. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Discussion Item: Tree Removal at Franklin Heights

Chairman Batchelor recused himself as he is a resident of the complex.

Mr. Russell stated that based on the Commission's actions on other agenda items, given that there is no one here to address the application, he recommended that it be continued to the next meeting. His office will generate correspondence with the applicant stating that the applicant must be present to discuss the issue. He does not feel there is adequate information for the Commission to make a decision on how to proceed on this, although he expects it will be a modification to the existing NOI. He knows the applicant would like to cut down three trees, but is not sure exactly where the trees are. The applicant has only file a request to discuss it with the Commission.

There was a motion made by Scott McLean that the discussion for the Franklin Heights tree removal will be continued to the September 15, 2016 meeting. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Minutes:

There was a motion made by Scott McLean to accept the minutes for the August 18, 2016 meeting with the amendment that the absence of Mr. Jeff Livingstone be added. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-1 (Mr. Livingstone abstained as he was not present at the August 18, 2016 meeting).

There was a motion made by Tara Henrichon to accept the minutes for the July 21, 2016 meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-1 (Mr. McLean abstained as he was not present at the July 21, 2016 meeting).

Signed Orders of Conditions & Certificates of Compliance

Orders of Conditions – 176 Grove Street – Novaya Real Estate – CE159-1086

Orders of Conditions – 14 Oxford Drive – Underwood – CE159-1140

Certificate of Compliance – 35 Meadowlark Lane – Balcius – CE159-1141

Certificate of Compliance – Lot 15 Dwight Street – Barr – SE159-320

There was a motion made by Scott McLean to adjourn the meeting. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

The meeting adjourned at 8:24 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

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