



Search Site

How Do I...

Departments

Boards & Committees

Citizens Express

Pay Bills Online

Contacts Directory

Subscribe to News

Hours of Operation

Forms & Documents

Trash & Recycling

Government

Business Resources

Community

Live Meetings & Video

Residents

Schools

Conservation Commission Minutes - 02/18/2016

[Printer-Friendly Version](#)

Franklin Conservation Commission Minutes of Meeting February 18, 2016

To: Town Clerk
cc: Members
File

Present: P. Harrington, R. Pendkar, B. Batchelor, T. Henrichon, George Russell, Conservation Agent, Kathleen Celorier, Secretary.

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

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

Public Hearing – Modification to Approved Notice of Intent – 39 Opal Circle - Griffin

Mr. Russell stated as no one was present for the hearing the Commission has the authority to extend the permit without the applicant's authority provided it does not exceed 21 days. Therefore, he recommended extending the hearing until the next meeting.

There was a motion made by Bill Batchelor to extend the public hearing for the modification to approved NOI for 39 Opal Circle to March 3, 2016 at 7:15 PM. The motion was seconded by T. Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Ravi Pendkar to rescind the motion for the continuance of the public hearing for the modification to approved NOI for 39 Opal Circle to March 3, 2016 at 7:15 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

There was a motion made by Bill Batchelor to reopen the public hearing for the modification to approved NOI for 39 Opal Circle. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Mr. Mark Griffin, 39 Opal Circle, addressed the Commission for the construction of a fence. He stated the NOI needed to be amended to add fence. Notice was sent to neighbors; requesting approval.

Mr. Russell stated it is a procedural issue since the erected fence was not on the original NOI.

There was a motion made by Bill Batchelor to close the public hearing for the modification to approved NOI for 39 Opal Circle. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

There was a motion made by Bill Batchelor to approve the modification to approved NOI for 39 Opal Circle. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Public Hearing –Notice of Intent – End of Garnet Drive – South Hill Estates

Mr. Donald Nielsen, Engineer of Guerriere & Halnon, Inc., representing applicant Wyllie Living Trust, property owners, addressed the Commission for the project to extend Garnet Drive by 381.44 ft. of roadway with 26 ft. of pavement width, and provided a project overview. South Hill Estates was approved by the Planning Board in 2004. The portion of Garnet Drive being discussed was part of the approval. At that time it had an order of conditions and proper permits. Around 2009/2010 the Living Trust wanted to make a modification to the plan; the owners of South Hill Estates would not sign the application. The Wyllie's had an easement over the right-of-way, but did not own the road. In 2014 the Living Trust got the right of the property. It was always part of the discussion that three or four of the lots would be built in Wrentham; the Town of Wrentham has approved the four lots. There is approximately 388 ft. x 26 ft. of road that needs to be constructed, including pavement and curbing; requesting waivers including no sidewalks and lighting. Road will have standard drainage system; calculations have been provided. This has been before Planning Board with discussion relative to whether there was a right to continue this roadway to the Wrentham line. Now before Conservation Commission for NOI as portion of driveway activity is within the 100 ft. buffer; not near the 50 ft. buffer. Intent is this will be a private road with an association that will manage roadway and all land. There will be open space in Wrentham with a conservation restriction. An abutter on Opal Street observed endangered Box Turtles. As such, Natural Heritage was sent information. The proposed area for the new roadway is currently wooded and natural. Mr. Russell stated he had discussions with Emily Holt of Mass. Fisheries & Wildlife. She received and reviewed materials submitted with the application; it was confirmed the Box Turtle was there. Her opinion is that activity is outside the priority habitat and therefore not within jurisdiction. Mr. Russell looked at wetlands and accepts it as shown on the plans. He did not recommend mitigation plantings as they would crowd out existing vegetation. If application is approved, he recommended stipulations as outlined in his Agent's Report. Mr. Nielsen stated they provided some arborvitae along the western edge of the area between the roadway and retention basin for screening at the recommendation of Planning Board.

Commission noted this still has to go before Planning Board, so if there are changes it could come back before Conservation Commission.

Mr. Allen Sawyer, 53 Opal Circle, stated there is much concern that the extension of the roadway is in Franklin and the actual development is in Wrentham. The traffic coming in and out on a regular basis such as for snow removal, fire, and police will all be done by Town of Franklin. He said from environmental prospective there are many wetland areas, and he expressed concern that when road is put in his backyard will become a swimming pool. Commission stated he should voice concerns to Planning Board, as they discuss traffic and traffic flow; Conservation Commission deals primarily with buffer and wetland areas. Members discussed if snow, which picks up oil and salt contamination, will pile up on road sides and get pushed into the wetlands. Mr. Nielsen stated there is a proposed shoulder on both sides of the road which rises up so any plowed snow will drain back onto the roadway, unless there is an extremely large storm.

There was a motion made by Ravi Pendkar to close the public hearing for South Hill Estates. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

There was a motion made by Ravi Pendkar to approve the NOI for South Hill Estates with special conditions #20-22, 24, 27-32, 34, 38, and 44. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Public Hearing –Request for Determination – 23 Longfellow Drive – Michael Mavrides

Mr. Russell Waldron of Applied Ecological Sciences (AES) and Michael Mavrides, property owner, addressed the Commission for leaf and brush pile removal. Mr. Waldron stated the RDA submission is to address an enforcement order. Along each side of the access way there is brush, grass, and leaves, possibly coming from neighbors or landscapers. Recently, there has been additional cutting/clearing, about 50 ft. x 15 ft., as well as a downed overhead utility line which may have fallen during a storm. He stated he does not know who did the clearing, maybe the utility company. He stated Mr. Mavrides said he will clean it up. Mr. Mavrides stated he put in the utility pole around 1986. This is the first he has heard about the clearing. He said he is dumbfounded. He had put up No Trespassing signs and showed Commission a photograph of said signs. He stated the signs have been torn down. Commission members asked if applicant knew who did the cutting as it was extensive, who authorized the clearing, and what was the cable that was on the ground. There is now the issue of the damage encroachment on the wetlands. Mr. Mavrides said it was an overhead line that dropped down and he did not know who did the clearing. He has not yet contacted the utility company. Mr. Russell read into the record a comment from Chairman Livingstone who was not present at the meeting:

"In reviewing the material on 23 Longfellow and looking at the pictures of the trees that have been cut down, it appears to me this clearing has likely been done by chainsaws. Further, the extent of the clearing is quite profound. Hence, I am having a real hard time believing that this level of activity is occurring without the landowner's knowledge or intent. If indeed this is going on despite the applicant's previous presentation to the ConCom which goes back to November, then I for one would lean toward imposing some sort of punitive action on, or escalation to, the applicant. Respectfully submitted, Jeff Livingstone, Chairman"

Mr. Russell stated that assuming the property owner has no knowledge of who did the cutting, and he has no reason to doubt the property owner, nevertheless, unfortunately the legal burden is still on the property owner. And, the significance of this clearing is profound. It was clear-cut and they were not small trees. Some of the stumps were up to 12 inches in diameter. He opined that a tree took the line down when it was cut. He recommended that under the RDA the Commission allows the applicant to post No Trespassing signs and to fence the area to prevent someone from encroaching. Second, the Commission issues a positive determination requiring a complete restoration plan for the removal of the materials. And third, the wetlands line and the restoration plan undergo peer review to make sure it does the minimum damage to the area and the wetlands line is accurate. He has already asked the peer reviewers to generate a cost estimate. He questioned two of three flags closer to Longfellow regarding the wetlands line.

Mr. Mavrides indicated he notified the police when the No Trespassing signs were put up. He suggested possibly Mass Electric or person in Lot 13 may have cut the trees. He requested the hearing be continued until he contacts electric company and owner of Lot 13, and Chairman Livingstone returns. Commission suggested applicant contact Mass Electric. Members wanted to know the extent of the damage to the wetlands. They noted peer review is there to make sure the wetland is taken care of and determine how the applicant will remove debris. Originally, the enforcement order was about removal of leaves and brush. The situation has changed to a significant amount of damage that perhaps has impacted wetlands. Due to the new extensive clearing, a plan is needed to determine how to mitigate/clean up the area. Peer review consultant may determine best thing to do is just leave it there. Mr. Russell recommended a positive determination and the requirement of a restoration plan with a due date of April 1, 2016. There was a motion made by Bill Batchelor to close the public hearing for the RDA for 23 Longfellow Drive. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0. There was a motion made by Bill Batchelor to issue a positive determination for the RFD with the proviso of filing a restoration plan and peer review by April 1, 2016, and erect a fence to prevent further degradation of the area for 23 Longfellow Drive. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Public Hearing – Request for Determination – 120 Conlyn Avenue - Parlon

Mr. Russell reminded the Commission that this RDA was submitted in accordance with the Commission's decision that given the location of the activity relative to the BVW, that an MBZA was not in order. The proposed activity would normally be an MBZA. Mr. Martin Parlon, 120 Conlyn Avenue, was present at the hearing for construction of roof off the back of shed, but did not address the Commission. There was a motion made by Ravi Pendkar to close the public hearing for the RDA for 120 Conlyn Avenue. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

There was a motion made by Ravi Pendkar to approve the RDA for 120 Conlyn Avenue. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Continued - Public Hearing – Notice of Intent – 300 & 340 East Central Street – Halligan

Mr. Russell stated the Commission has heard most of the testimony on this project. He reminded the Commission although it is a continued hearing for an NOI, it is technically two NOIs: one for 300 East Central Street and one for 340 East Central Street. This requires a vote to close the hearing and two separate NOI votes. The major issues with these particular NOIs were drainage and waiting for peer review consultants for both Planning Board and Conservation Commission to provide final approval which has been received. He suggested the applicant can provide testimony, but noted the Commission members present tonight are not all the same members as at the original hearing. He outlined in his Agent's Report suggested reasons for approval and suggested stipulations to be attached.

Wayne Morrill of Jones & Beach Engineers on behalf of the applicant, and Donald Nielsen, Consulting Engineer of Guerriere & Halnon, Inc., addressed the Commission for the construction of three (3)

buildings and one (1) restaurant. Mr. Morrill stated they have been working for the past months with BETA Group and have sign off from everyone.

There was a motion made by Bill Batchelor to close the public hearing for the NOIs for 300 & 340 East Central Street. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Commission discussed if it should be included as part of the NOI conditions that the drainage basins be maintained in perpetuity. Members noted this will be decided by the amendment before the Town Council. Commission should have separate discussion before applying said condition to this situation.

There was a motion made by Bill Batchelor to approve the NOI for 300 East Central Street with stipulations #19-41, 44, 46, and 47, for the reasons outlined in the Agent's Report. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

There was a motion made by Bill Batchelor to approve the NOI for 340 East Central Street with stipulations #19-41, 44, 46, and 47, for the reasons outlined in the Agent's Report. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Continued - Public Hearing – ANRAD – 100 Financial Park – Hancock Associates

Mr. Russell stated he has not received the final approval on review of this ANRAD from the peer review consultant. The applicant is aware of this and has consented to a hearing continuation to the next meeting.

There was a motion made by Ravi Pendkar to continue the public hearing for the ANRAD for 100 Financial Park to March 3, 2016 at 7:15 PM. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Continued - Public Hearing – ANRAD – Map 233 Lincoln Street – Tunison Dias

Mr. Russell stated a memorandum from the peer review consultant was received. He noted Item #3 on the memo from Wetland Strategies, Inc. that an onsite intermittent stream exists which is not shown on the instant plans. And, Item #4 that the bordering land subject to flooding was not requested on the ANRAD and therefore not reviewed.

Mr. Garrett Tunison of Tunison Dias, Inc. addressed the Commission for the delineation of bordering vegetated wetlands. He stated this is an AE flood zone with unestablished elevation which would require a flood certification; so, will probably wait to determine if it is relevant when filing NOI. He stated at the last meeting there was not a Commission quorum. The only item discussed was to hire review consultant which has been done. He provided an overview of the wetland resource areas that were delineated onsite and the letter from Wetland Strategies, Inc. Wetland consultant Lenore White was met onsite to go over the wetland line boundaries. Ms. White flagged one area, no heavy soils found; agreed to include the area and extend out. Also, one other wetland flag 3B 01A was added. No other issues; everything was agreed upon in the field. In Ms. White's letter dated February 18, she requested adding stamp of a PLS or PE, and noted there was an intermittent stream onsite. He stated he has no problem with either request.

Mr. Russell stated he saw no reason not to accept the ANRAD as reviewed with the understanding when the development plan is submitted the appropriate notes for Items #3 & 4 be added to that plan and reviewed by the peer review consultant at that time. The fee structure for the peer review will change.

There was a motion made by Bill Batchelor to close the public hearing for the ANRAD for Map 233 Lincoln Street. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

There was a motion made by Bill Batchelor to accept the ANRAD with the conditions of Items #3 & 4 from the peer review for Map 233 Lincoln Street. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

GENERAL BUSINESS**Minor Buffer Zone Activity: 66 Phyllis Lane**

Mr. Paul Lepsevich, 66 Phyllis Lane, addressed the Commission and provided an overview of the project for two deck replacements. When field inspection was done it was noticed three dying trees that posed a threat to the house had been removed. He stated he did not realize he needed a permit. He is requesting a permit for both the tree removal and deck replacements. He said the side deck will use the same footings; the back deck will require two additional footings and be 4 ft. longer.

There was a motion made by Ravi Pendkar to approve the MBZA for 66 Phyllis Lane. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Permit Modification: Weston Woods

Mr. Phil Cordeiro of Allen & Major Associates, Inc. and Carolyn Zern of Wood Partners addressed the Commission. Mr. Cordeiro stated they had received an order of conditions for the Weston Woods project from the Conservation Commission in July 2015 for the proposed 280 dwelling units. Permit was sought under Acme Jazz. Since that time it has been transferred to Wood Partners. Building designs are getting finalized and some minor modifications were made to the site plan. One building and parking spaces have been slightly shifted; footprint remains the same. Bus shelter and dog park were added, some pavement surfaces refined, and some improvements to buildings, pavements, and drainage basins made. Impervious area has been reduced. Net impacts remain the same.

Mr. Russell stated the Commission must make a decision to determine if this rises to the level of a new NOI or strictly an amendment. He stated although it seems much work is being done, impact on the resource areas is negligible so it rises to the amendment level.

There was a motion made by Ravi Pendkar that the proposed permit modifications for Weston Woods be an amendment to the NOI. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Permit Modification: 67 Prospect Street

Mr. Tim Jones, 67 Prospect Street, addressed the Commission for a permit modification for a drive-under driveway. His engineering company suggested going with original topography of the land to eliminate the needed fill which would be better for the wetlands. They proposed to put a wall in the front left corner to slow the runoff coming across front yard so it will not flow into the wetlands.

Mr. Russell stated in terms of Jeff Livingstone's comments, since this is not the public hearing and there will be a public hearing, Commission should hold off. Commission must decide if this is a new NOI or a modification.

Commission members noted the sloping will be different and questioned how that changes the overall project. They looked at both original and new plans and discussed the sloped area.

There was a motion made by Ravi Pendkar that the permit modification amendment proposed for 67 Prospect Street would require an amendment to the NOI. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

Certificates of Compliance: 39 Opal Circle and 2 Angelo Way

Mr. Russell stated all was in order for both releases to be granted.

There was a motion made by Bill Batchelor to release the Certificates of Compliance for 39 Opal Circle and 2 Angelo Way. The motion was seconded by Ravi Pendkar and accepted with a vote of 4-0-0.

Discussion Item: DelCorte Pond Study

Mr. Russell stated the Town Administrator requested the memo Mr. Russell generated be finalized in order to allow the Town Administrator to finalize his capital budget for funds to carry out years one, two and three of the proposal submitted in the DelCorte Study Report. If the Commission agrees, Mr. Russell will send another memo indicating Commission has endorsed the memo. He noted he has asked peer reviewer to provide cost estimates to permit these activities. More investigation is needed, but the year three activities may require a MEPA filing which will change the cost structure significantly. Must bear in mind the activities of year one will affect the success of the activities of year two, and so on. He mentioned the nitrogen coming from upstream is not a septic or sewer line failure; it may possibly be lawn fertilizer. He requested consensus of Commission to agree or disagree with memo. It will be presented to the Town Council at the February 24 meeting.

Mr. Pendkar had concerns regarding the herbicide. He did research on the chemical and is not comfortable approving it. It would require adding a significant amount of herbicide into the body of water which is something the Commission would not let property owners do. The herbicide would be put into the resource area. He stated the water does not go in a straight path; it goes through a great amount of marsh land. He fears the herbicide does not wash directly into the ocean, but would be absorbed all the way downstream. He would like to explore mechanical ways of harvesting the water chestnut. He would like to attempt other means before using a chemical process. Furthermore, Commission should err on the side of caution as herbicide can affect other plants and wildlife. He does not support this.

Mr. Russell stated at this point they are only asking for the funding; it must be permitted. The consultants said the mechanical method would not work for the water chestnut and they indicated the water body will not last if the problem is not corrected which is why they recommended the use of the herbicide.

Commission noted the herbicide recommended was less toxic than some of the others. This memo is just for budget approval. Commission could get the money to put it aside and then have a conversation about whether to use it. Unless it is all hand-harvested, there is no option beside herbicide for the water chestnut. Some members suggested voting on the funding and also doing more research on herbicidal alternatives. The State will be getting involved as well.

There was a motion made by Bill Batchelor to approve the cost structure as outlined in the report of February 16, 2016, year one, year two, and year three, for the DelCorte funds and recommend to the Town Council. The motion was seconded by Ravi Pendkar and accepted with a vote of 3-1-0. (Mr. Pendkar voted no.)

Discussion Item: Education and Outreach

Mr. Russell stated the Town does have a Facebook page and a Twitter account. These can be used by the Commission to promote what Conservation Commission is doing at any time and can be used by the Commission if they want to put out information to the public as part of education and outreach. The Town attorney strongly feels that Boards, Commissions, etc., in the Town do not have their own Facebook/social media accounts due to legal ramifications. Mr. Russell recommended that any information the Commission would like to put on the Town social media sites be voted on. If approved,

the information will be given to Mr. Russell who will forward it to the Assistant Town Administrator who will put it online. For instance, Commission could put out that the DelCorte Study has been done and there are high nitrogen levels which could be coming from lawn care upstream. He stated this can be kept as a regular agenda item.

Ms. Henrichon referenced the Commission's prior discussion about a kick-off volunteer event to create a volunteer base and members had talked about Earth Day or the time period in that vicinity. She suggested April 23 or April 30 for DelCorte activities such as trail work and/or kid friendly event like mulching in the parking area. She provided a brief schedule of possible events and wanted to know if Commission was interested. She stated she would write it up and give to Mr. Russell.

Mr. Harrington said it sounded great.

Mr. Russell noted that there have been complaints about dog waste at DelCorte.

Mr. Batchelor stated he has seen much leaf and brush on the edges of DelCorte area.

Minutes:

Mr. Russell requested a revision to the meeting minutes for January 28, 2016. There was a motion made by Ravi Pendkar to accept the minutes from the January 14, 2016 meeting. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

There was a motion made by Ravi Pendkar to accept the minutes from the January 28, 2016 meeting with the change proposed by Mr. Russell. The motion was seconded by Bill Batchelor and accepted with a vote of 3-0-1.

Signed Minor Buffer Zone Activity, Certificates of Compliance, Orders of Conditions, Determinations of Applicability & Order of Resource Area Delineation

Determination of Applicability (Positive) 23 Longfellow Drive – Mavrides
Minor Buffer Zone Activity – 66 Phyllis Lane – Lepsevich
Orders of Conditions – End of Garnet Drive – Ruby Wyllie Trust – CE159-1119
Determination of Applicability (Negative) 120 Conlyn Avenue – Parlon
Orders of Conditions – 39 Opal Circle – Griffin – CE159-1077
Certificate of Compliance – 2 Angelo Way – Makris – SE159-795
Certificate of Compliance – 39 Opal Circle – Griffin – CE159-1077
Order of Conditions – 300 East Central Street – Halligan – CE159-1106
Order of Conditions – 340 East Central Street – Halligan – CE159-1107
Order of Resource Area Delineation – Map 233 Lincoln Street – CE159-1117

There was a motion made by Ravi Pendkar to adjourn the meeting. The motion was seconded by Bill Batchelor and accepted with a vote of 4-0-0.

The meeting adjourned at 9:27 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary

Town of Franklin, 355 East Central Street, Franklin, MA 02038
Phone: 508-520-4949 | Fax: 508-520-4903

Employee Email Access
Disclaimer/Policy | Virtual Towns & Schools