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Conservation Commission Minutes - 04/28/2016

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Franklin Conservation Commission Minutes of Meeting April 28, 2016

To: Town Clerk
cc: Members
File

Present: J. Livingstone, P. Harrington, S. McLean, B. Batchelor, T. Henrichon, A. Gelineau, R. Pendkar, George Russell, Conservation Agent

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

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

Public Hearing – RDA – 14 Clara Louise Drive - Redonnet

Mr. Wayne Carlson of Carlson Surveying Company, on behalf of Dave Redonnet, applicant, addressed the Commission for the removal of two dead trees. He stated that during a storm part of the tree came down. He would like to clean up area and take tree down as it is a hazard. It is on the edge of the wetlands on the side of the house. Mr. Russell has looked at it.

Mr. Russell stated the project narrative indicates two trees, but the map shows one tree. He stated that during his site inspection there was a large pile of vegetative debris within 3 to 4 feet of the water, almost in the resource area, which is a violation.

Mr. Carlson stated the project is for removal of one tree and the vegetative debris came from the tree; the landscaper stacked it there.

Mr. Russell stated the tree would require climbers or a bucket, but the vegetative debris should not be removed by machine. He recommended approval of the RDA with debris being removed by hand.

There was a motion made by Paul Harrington to close the public hearing for the RDA for 14 Clara Louise Drive. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean for a negative determination for the RDA for 14 Clara Louise Drive with the understanding that the vegetative debris, with the exception of the tree to come down, be removed by hand, and with special conditions #20, 28, 34, and 44. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Public Hearing –NOI – 9 Molly Lane - Drewry

Mr. William Halsing, Engineer of Land Planning, Inc. addressed the Commission to supersede and release expired Order of Conditions.

Mr. Russell stated the request for a certificate of completion was not granted as the approved plans did not match the as-built plans. In order to obtain the release, the applicant has filed a new NOI to correspond with what was actually built. This is a legal formality. Must approve the NOI first; will close the first one out as invalid and then close this one out as completed.

There was a motion made by Bill Batchelor to close the public hearing for the NOI for 9 Molly Lane. The motion was seconded by Ravi Pendkar and accepted with a vote of 7-0-0.

There was a motion made by Paul Harrington to approve the NOI for 9 Molly Lane. The motion was seconded by Scott McLean and accepted with a vote of 7-0-0.

Public Hearing – NOI – 275 Beaver Street – Town of Franklin DPW

Mr. Jay Mello, Assistant Town Engineer, addressed the Commission for the reconstruction of existing Recreation Department parking lot. He provided an overview of the project. He stated the parking situation needed to be altered as there is not enough parking and no circular access. The plan represents the modifications that will allow spaces and access. The biggest change is around the southwestern side; will be removing the grass strip area and paving. As part of the project three drainage basins will be built. Increasing impervious area on the site; compensating for this with the drainage basins. He noted the soil on the site is very poor. He discussed the intermittent stream channel running parallel to the building. He read related email correspondence from wetland scientist stating this perennial stream shows 400 ft. back from the property line. Mr. Mello stated stream looks to be an even width and was lined with stones. He reviewed details of the stormwater management (O&M) plan.

Mr. Russell stated the applicant (the Town) is requesting a waiver to work within the 25 ft. no touch zone. The NOI number was received today. He received an email from the wetland scientist retained by the DPW who believes it is not a perennial stream. Mr. Russell stated it is his opinion it is a freshwater wetland under the local wetlands bylaw. However, the wetlands line established by the wetland scientist is actually closer to the project

than this freshwater wetland, so it is all included; therefore, this issue has been resolved. During a field inspection he saw partially buried filter fabric, probably used decades ago. He recommended the filter fabric be removed.

There was a motion made by Bill Batchelor to close the public hearing for the NOI for 275 Beaver Street, Town of Franklin DPW. The motion was seconded by Tara Henrichon and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean to approve the NOI for the Recreation Department parking lot on Beaver Street with special conditions #20, 34, and 44, and the added stipulation that the filter fabric currently on site be removed. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

GENERAL BUSINESS

Minor Buffer Zone Activity: 111 King Street

Ms. Rebecca Howell, 111 King Street, addressed the Commission. She stated she had a large tree cut down because it was rotting, dropping branches and becoming very dangerous.

Mr. Russell stated he happened to see the tree being removed. It is an after-the-fact permit. The tree clearly had to come down.

There was a motion made by Scott McLean to approve the MBZA permit for 111 King Street, after-the-fact. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Minor Buffer Zone Activity: 11 Amy's Way

Mr. Christopher Morris and Ms. Pamela Morris addressed the Commission. He stated they have a large rotting maple tree on their side yard and are concerned it may come down during a storm. He obtained a quote from a tree company to remove the tree, grind the stump, and remove all the grindings.

Mr. Russell stated he did a site inspection and the tree is rotting from the inside out.

There was a motion made by Scott McLean to approve the MBZA permit for 11 Amy's Way. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Permit Modification: 11 Evergreen Drive

Mr. Russell stated due to a complaint he conducted a field inspection. He issued a stop-work order which is currently in force as the work being done was a significant deviation from the NOI including working on the adjoining property.

Mr. Paul Desimone of Colonial Engineering addressed the Commission. He stated a pool person went to the location to open the pool to get it ready for use. The pool was part of the original NOI. The pool person reported to Mr. Desimone that the erosion controls were gone, the pool was back filled by a contractor hired by the owners, as well as the fence and other items done that were not in the original plan. He went to the property to confirm. Mr. Desimone pointed out that rather than using a crane, the shed was put in its location by dragging it through the 25 ft. buffer. When grading, the contractor either went over the mulch tube or took it up, and went onto the abutters property and made a mess. Mr. Desimone stated he has received a letter from the abutter giving permission to fix their property. The contractor has since been fired. Mr. Desimone has people ready to fix the problems. As well, the project was not inspected for the wiring and grounding of the pool. Therefore, the patio must be ripped out to inspect the wiring below it. Fortunately, the contractor did not go into the wetlands. Mr. Desimone would like to amend the order of conditions. He stated to close out the old order and start a new one would take more time when the same work is going to be done. He stated they are not going to propose anything different than what is planned to be fixed. The pool and shed are in the correct locations, but the grade of the pool is about 1 ½ feet higher. Therefore, the slope of the grading needs to be pulled back and a small retaining wall put in. There was a lot of fill put in which now needs to be taken out. It is currently stabilized, but a heavy rain will be a problem. The fence was not put up which is a safety issue. The patio was made bigger. The calculations for the impervious area do conform.

Chairman Livingstone questioned whether the revisions rise to the level of an amendment or to the level of a new NOI. As well, he noted the need to remediate this quickly before something else happens.

Mr. Russell stated it is within the purview of the Commission to order the installation of erosion control immediately. An amendment to the NOI would mean a public hearing which includes abutter notifications which is generally a time consuming effort. He suggested this does rise to the level of a new NOI considering there is significant new grading, a new retaining wall, and the abutting property owner's property has been impacted.

There was a motion made by Scott McLean that the new work at 11 Evergreen Drive rises to the level of a new NOI as opposed to an amendment to the existing NOI. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Mr. Desimone asked if the owner can have the patio pulled up to check the wiring and the fence installed for safety.

Mr. Russell stated that would be acceptable.

There was a motion made by Scott McLean for an immediate permit for the installation of new erosion control, the emergency fence which the Commission acknowledges the need to put up the fence, and that the applicant be allowed to tear up the patio for purposes of inspecting the wiring. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Discussion Item: 656 King Street

Mr. Russell stated he provided the Commission members with a packet of information regarding the site. He received a formal request today to modify stipulation #62 which is the prohibition of the use of rock salt. Applicant had previously come before Commission and BETA looked into the use of salt adjacent to a wetlands resource area. BETA prepared a report and made recommendations. Now applicant has come back in writing and asked to use calcium chloride or potassium chloride, both of which BETA said would satisfy special condition #62. Critical item is the way stipulation #62 is worded. The Commission may approve in writing another de-icing chemical after a formal review of the proposed substance. As long as the proposed use of the calcium chloride or potassium chloride is in conformity with what BETA is recommending, the Commission has the

prerogative to allow the use of those chemicals. The other issue onsite is drainage. It is his opinion that the drainage system does not appear to be working as designed and certified. Drainage basins must drain within 72 hours after a significant rain event and they are not.

Commission discussed what might be blocking the drainage including an issue of engineering, bad calculations, or something else.

Mr. Bruce Wilson of Guerriere & Halnon, Inc. stated they are going to dig a test hole in the detention basin to see the material on the bottom. It is a mixture of sand and loam. Waiting for pond to drain a little, probably next week. Will look at adding more sand on bottom or putting a small diameter pipe to help the drainage flow.

Mr. Russell stated there is a partial certificate issued for this property. As something is not working, he recommended a full engineer's plan be resubmitted for a new NOI to find out what is wrong and how to fix it.

Mr. Wilson stated he would like to amend what is in place as he believes they are going to find that it will take only a small amount of work necessary to bring back into compliance.

Mr. Russell stated he did not think an engineer's plan could be amended. He will check with DEP to see if an amendment to a partial certificate is legally possible. Even if so, it will require a public hearing. A new engineering report is needed to determine what happened and what is the remedy.

Chairman Livingstone stated this is re-engineering and not maintenance.

Mr. Russell stated he does not think the Commission should allow anything with potassium due to the toxicity. The potassium chloride is not as environmentally friendly as the calcium chloride. He had sent a letter advising property owners to stop using salt.

Chairman Livingstone said that the response via a letter from Commission should indicate Commission's position which is they try to use CMA if possible, but if not available, they are allowed to use calcium chloride as an alternative. But, they are not to use potassium chloride, KCL, due to its aquatic toxicity.

There was a motion made by Scott McLean that the Commission generate a letter to Brookdale Senior Living that in the future the only de-icing agents they are allowed to use are calcium magnesium acetate or calcium chloride. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

Mr. Russell suggested on the NOI the Commission should make a motion that the drainage system must be evaluated, proposed engineering alternatives submitted to the Commission, and then Commission based on Mr. Russell's findings with DEP will decide whether a new NOI is required or an amendment to a partially released NOI can be granted with a due date of July 1, 2016.

There was a motion made by Scott McLean that Brookdale Senior Living will need to submit to the Commission by July 1, 2016, a report evaluating the engineering issues with their detention basins. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

Discussion Item: Open Space and Recreation Plan

Mr. Russell stated he has proposed a schedule for the Open Space and Recreation Plan. It is currently in final draft. Still waiting for comments back from a few people. Hopefully, at next meeting Commission will be given the final draft. There will be a public hearing on May 26, 2016.

Violation: 31 Hayward Street

Mr. Russell stated the property owner had a violation. A wetland scientist examined the violation and made a recommendation. The property owner indicated he was going to come in for a significant project onsite, request a new NOI and a certificate of compliance, and going to fix everything. This entire issue has been pending for two years. Mr. Russell stated he has not seen the plans that the owner's representative was handing out at this meeting, and he did not intend to review them at this meeting. He stated the Commission can listen to the applicant's representative, but should not allow any more time for the wetlands violations. There are two major violations: the bank was filled and a drainage pipe is coming out of the building putting water into the wetlands from some source inside the building.

Mr. Bruce Wilson of Guerriere & Halnon, Inc. stated the wetlands were delineated. The applicant passed away about one month ago and he is now working with groundskeeper that is on the property. Mr. Wilson said he was not aware there was an issue with the one-inch pipe that is discharging. It may have to do with a sump pump. He will look into directing it to some type of stone pit. He stated hand tools can be used to clean up the small amount of deposited debris. He will get back to Mr. Russell on who is the legal owner.

Mr. Russell stated letters were generated beginning December 2013. Solution to problem is simple. Must file RDA to remove soil that was put on the bank. That is the Commission's original enforcement order.

Chairman Livingstone stated Mr. Russell must be advised of the legal entity/owner and Commission cannot assume that said entity has any idea of the issues going on here. He suggested letter be drafted to legal entity/owner providing brief history of issue and steps taken, and indicating an RDA must be filed very quickly as this is a serious issue. No point in discussing this until the owner information is obtained. He confirmed that when Mr. Russell determines the property owner, he may start enforcement action.

Violation: 23 Longfellow Drive

Mr. Russell stated the issue regarding 23 Longfellow Drive has been resolved.

Violation: 7 Briarwood Road

Mr. Russell stated this began as the result of a complaint. There are two issues involved: the leaves and cutting down forest. He was informed by Mass Fisheries and Wildlife that they are in an endangered species habitat. He recommended that if a wetland scientist has not been retained to address the outstanding violations and file the necessary permits, then enforcement orders and fines be issued. The property owner is an attorney in Framingham who has received all the generated letters; he has not been forthcoming in getting the information to the current residents.

Mr. Bruce Wilson of Guerriere & Halnon, Inc. representing the owner presented information to the Commission members.

Mr. Russell stated that it is not the Commission's policy to accept new material at the meeting.

Chairman Livingstone stated the material could be accepted, but Commission does not have to act on it.

Mr. Wilson stated once Guerriere & Halnon, Inc. was hired by the Trustee, they hired a firm to delineate and determine the stream location. They firm provided a letter of findings which included natural heritage, stream buffer, debris and trees that were cut. He submitted a plan identifying the

different resource areas. He stated the stream is not vegetated according to the report. There is an endangered species, but not sure what it is. The house and debris are outside the natural heritage, but inside the 100 ft. buffer zone. He stated a notice needs to be filed and would like to get input from the Commission.

Commission stated they should not judge anything until Mr. Russell has had a chance to review everything that has been submitted.

Mr. Wilson stated he would be glad to meet with Mr. Russell next week to put something together that is amenable to the Commission.

Mr. Russell stated the bigger issue requiring a NOI is the impingement on the endangered species habitat.

Chairman Livingstone stated the Commission acknowledges that Guerriere & Halnon, Inc. is acting as a representative for the Trust and that Guerriere & Halnon, Inc. understands an NOI must be filed and they must work with the town agent to put together something that makes sense to remedy this situation. He reminded that a stop work order had been issued.

CHAIR AND COMMISSION COMMENTS

Minutes:

There was a motion made by Bill Batchelor to accept the minutes from the April 14, 2016 meeting. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-1.

Discussion Item: MDAR Materials

Chairman Livingstone stated he had asked the people at MDAR if they would provide the Commission with items that could be made available to the local citizens. He stated that recently there have been some serious invasive species taking down trees. He asked MDAR for materials and information about the borer beetle that is coming. He suggested the information be placed in the lobby area of the Town Hall for access by citizens.

Commission member suggested having a presentation about the borer beetle at the library.

Mr. Batchelor stated the Delcarte cleanup last Saturday was an extremely successful effort. He acknowledged Tara Henrichon and her leadership on the effort and appreciated everyone that participated in the event.

Signed Minor Buffer Zone Activities, Orders of Conditions & Determination of Applicability

Minor Buffer Zone Activity – 111 King Street – Howell

Minor Buffer Zone Activity – 11 Amy's Way – Morris

Orders of Conditions – 275 Beaver Street – DPW – CE159-1125

Orders of Conditions – 9 Molly Lane – Drewry – CE159-1123

Determination of Applicability (Negative) 14 Clara Louise Drive - Redonnet

There was a motion made by Paul Harrington to adjourn the meeting. The motion was seconded by Bill Batchelor and accepted with a vote of 7-0-0.

The meeting adjourned at 9:00 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary