

**Franklin Conservation Commission
Minutes of Meeting
April 19, 2018**

To: Town Clerk
cc: Members
File

Members Present: Bill Batchelor, Tara Henrichon, Paul Harrington, Jeff Livingstone, Angela Gelineau, George Russell, Conservation Agent.

Members Not Present: Staci Dooney, Jeffrey Milne.

Chairman Batchelor announced the meeting would be audio and video recorded. He reviewed how the Commission operates. He stated that Mr. Russell, Conservation Agent, makes recommendations to the Commission based on law; the Commission interprets the law and the need of the individual. Therefore, it is our responsibility to come to a decision and not Mr. Russell. He is here in an advisory technical capacity.

Mr. George Russell's Agent's Report and Supplemental Agent's Report have been appended to the minutes.

Public Hearing – Amendment – Franklin Heights
Chairman Batchelor recused himself.

Mr. Mark Fantasia, representing Franklin Heights, addressed the Commission for an amendment for the NOI which was requested by the Commission at their extension hearing two months ago.

Vice Chair Henrichon stated it is her understanding the amendment is to delete stipulation 88 from the Orders of Conditions.

Mr. Fantasia stated it is not; it is to supplement stipulation 88 to add the date of June 15, 2018, and annually thereafter for that particular report.

Mr. Russell stated his monthly reports are not the subject of this amendment, but they do have a tangential bearing. The developer is required to submit bi-monthly reports to the Commission through his office that outlines what is going on with the development, if there any problems, how is the erosion control standing up, etc. They were in arrears two months on those reports until Tuesday when they were submitted after a letter from his office was sent to Mr. Fantasia. The instant application amendment is addressing stipulation 88 requiring reporting and is attached to the Orders of Conditions when originally approved by the Commission; it requires an annual report every May from a professional engineer outlining how the stormwater system is functioning. Not a single report has ever been received. Obviously, they cannot go backwards and create reports. Therefore, the issue is if the amendment is never granted, to in essence say okay you never have to submit reports for 2017 backwards, the Commission

would never be able to issue a Certificate of Compliance when one is requested. The project terminates in terms of permits in February 2019. So, without this amendment, the property owners who are currently there would have a legal issue to deal with. Therefore, as stated in his Agent's Report, he sees the only practical alternative is to grant the request for the amendment for 2017 backwards, but not for 2018; this means that next month a report would be due. He noted that last year's report would not be able to be produced because the report requires an evaluation of how the stormwater system is functioning; he does not see how they could report today for conditions that existed in the past. He stated the report that is due next month would evaluate the current stormwater system on site.

Commission members discussed the reporting that has never been filed and the reports due.

Mr. Fantasia stated they did a stormwater report and submitted it, he thinks in December. He stated it does not count, but they did one. There are minor issues that need to be corrected. He pointed out that in the amendment he requested the date to be June 15 instead of May 1 due to weather. Moving the date to June 15 allows for the work to be done and the report to be filed verifying the work was done. It allows more springtime weather.

Mr. Russell stated having the report go to June would be fine.

Commission members clarified and discussed the report that was submitted in December and reviewed that Mr. Fantasia knows the work that needs to be done, that it is minor, and it will not take long to do.

Mr. Russell reiterated that their permit expires in February and cannot be extended; therefore, this is the only report.

Mr. Fantasia stated he thinks the reporting is in perpetuity and therefore the Commission would continue to get reports going forward; the Association would be responsible.

Mr. Russell noted the other reports would continue to be due every month until the Certificate of Compliance is granted.

Mr. Fantasia agreed on more timely submission of those reports.

There was a motion made by Jeff Livingstone to close the public hearing for the Amendment for Franklin Heights. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Jeff Livingstone to accept the Amendment for Franklin Heights with a new date of June 15, 2018. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Chairman Batchelor re-entered the meeting.

Public Hearing – RFD – 229 Conlyn Avenue - Baker

Mr. Kelly Baker addressed the Commission for the installation of a fence to keep in his new dog. He proposed chain link along the back and vinyl fencing along the sides and front; 300 ft. of fence altogether. It is in a wet area. He stated he would like to enclose his shed in the boundary.

Mr. Russell said the homeowners would like to install the fence as shown in the application which puts the fence in two resource areas, the 100-year flood zone and a BVW. His site inspection showed the BVW closer to the house than the homeowners thought. However, with the type of fence and installation process they propose, he does not think it will have any negative impact on either resource area. Therefore, he recommended a negative #2 determination.

Commission members asked questions.

Mr. Baker confirmed the current chain link fence shown in the photographs is his neighbors, and he is not planning to remove any shrubbery.

There was a motion made by Jeff Livingstone to close the public hearing for the RFD for 229 Conlyn Avenue. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Angela Gelineau to approve the RDA for 229 Conlyn Avenue with a negative #2 determination. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Public Hearing – NOI – Panther Way Sculpture Park - DPW

Mr. Jay Mello, Assistant Town Engineer, stated they do not get back the white or green cards for the abutter mailing due to the system used through the town.

Mr. Russell confirmed because of the in-house system used, the green and white cards are not received. He stated that in the application there is an affidavit that they have notified the abutters.

Mr. Mello confirmed there was no NOI number; he stated the state is running very late with numbers.

Mr. Russell stated that without the NOI number, legally, the hearing must be continued.

Chairman Batchelor stated he prefers the applicant hold testimony until the NOI number is received.

Mr. Russell noted he recently received an NOI number from the state with technical comments.

Mr. Mello agreed to the continuance.

There was a motion made by Angela Gelineau to continue the public hearing for the NOI, Panther Way Sculpture Park, to May 3, 2018, at 7:20 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Public Hearing – NOI – 5 Maple Brook Lane – Goddard Consulting

Mr. Tom Rebula of Goddard Consulting, Mr. Adam Payne, homeowner, and Mr. Marc Depoto, landscaper, addressed the Commission to remove invasive vegetation from the 25 ft. no touch zone. Mr. Rebula stated the homeowners are proposing to do work and redevelopment of structures around the house that are in disrepair including a back terrace and a wall around the back built with pressure treated wood that is rotting. They are proposing to replace the wall with stone, redo the front walk, install landscaping around those areas, a patio area at the rear of the house, a gazebo toward the rear of the property, a shed, and clear out an area of overgrown vegetation in the back that is mostly comprised of invasive species. This area is about 15 ft. x 12 ft. and enters the 25 ft. no disturb area. However, as it is invasive in nature, there is a net benefit to the resource area to remove it. Some of the work will occur in the 50 ft. zone including the new gazebo and shed. It will be built within the limits of the existing lawn. The additional work proposed between the 25 ft. and 50 ft. area is a portion of the new patio for about 390 sq. ft. In addition, they are also looking to move their neighbor's shed and fence which was built on their property, off the property; that area will be returned to lawn. They are just looking for approval on removal; they are assuming the neighbor will come in for their own permit for placement of the structures on their own property. The final item is a driveway repave; there is no proposed expansion.

Mr. Russell asked what the closest point of work to the BVW is.

Mr. Rebula said the clearing area is about 30 ft. away. The remainder of any new structures stays out of the 25 ft. area.

Mr. Russell stated the NOI number was received from DEP today. He stated DEP noted there was no erosion control shown on the plan.

Mr. Rebula stated DEP said just erosion control around the auxiliary structures meaning the gazebo and shed.

Mr. Russell recommended the applicant's professional lay down the erosion control completely, and as usual, certify that it is according to plan. He stated he would like to look at it before any permits are signed off. Therefore, he recommended the stipulations as outlined in his Supplemental Agent's Report.

Mr. Depoto stated that as the contractor/designer, they could install the erosion controls required.

Chairman Batchelor confirmed after the erosion control is in, Mr. Russell needs to inspect and approve it.

Mr. Depoto stated that was perfectly reasonable.

Mr. Livingstone asked if Mr. Russell had viewed site. He noted the boundaries of the lawn from the aerial photographs were difficult to determine. He asked if the shed was going on existing lawn or brush.

Mr. Rebula stated it was lawn and described the area.

Mr. Depoto explained the area and stated it was lawn but allowed to be let go.

Ms. Henrichon noted she does not want it implied in anyway that the Commission is approving any off-site improvements, specifically regarding the neighbor's physical property that is on this property.

Mr. Russell recommended it be clearly stated in the motion that no permissions are being given for any off-site improvements.

Chairman Batchelor stated the Commission is not going to get involved with the fence, it will be specifically excluded; the Commission will not make a judgement on that.

Mr. Harrington noted that at some point someone is going to have to file something for that, probably the other property owner.

Mr. Depoto explained the neighbor's split rail fence that is on this property.

Ms. Henrichon stated her concern is that in order for the applicant to do the work they need to do, the Commission needs to approve removal of the fence because it is in a jurisdictional area, but the Commission also needs to be clear that they are not giving approval to remove someone else's fence.

There was a motion made by Angela Gelineau to close the public hearing for the NOI for 5 Maple Brook Lane. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 5 Maple Brook Lane with the following stipulations taking into account DEP comments: 20-24, 27-30, 32, 34, 35, 38, 41, 44, 47 & 51,

and it only pertains to structures on this property. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 725 Union Street – Holmgren Engineering

Mr. Russell stated this application was held up for a couple of meetings until the final peer review report was received this week; it is now ready to proceed.

Mr. Richard Cornetta, attorney for the applicant, stated the engineer that was to be presenting on the applicant's behalf is not present this evening; therefore, he requests a continuance of this hearing.

Mr. Russell stated he heard from Scott Rogers of Holmgren Engineering who asked for continuation.

There was a motion made by Angela Gelineau to continue the public hearing for the NOI for 725 Union Street to May 3, 2018, at 7:25 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 834-842 West Central Street – Padula

Mr. Richard Cornetta, attorney representing the applicant, Mr. Donald Nielsen of Guerriere & Halnon, Inc., and Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., addressed the Commission. Mr. Cornetta noted in the audience were Mr. John Padula and his daughters, Darlene and Denise; they are principals in ownership of the property. Mr. Cornetta provided an overview of the NOI request. He described the property and location, and stated it consists of four parcels that have been conglomerated together over the years. The parcel is approximately 28,000 sq. ft. and is located within the business zoning district. He noted that on the plans there is a small parcel of property that provides the vehicular access to this property. He stated the Commission has been submitted a document indicating the applicant has been provided a grant of easement from the Brookdale Mill property, the owners of that property, allowing the applicant full use of that area. It is technically part of this application because of the easement and it will serve, and continue to serve, if the project moves forward, as the access drive for this property. He stated there are two old wood frame two-story buildings on the property which served as two-family residential structures. Due to fire, one of the structures was destroyed and removed; only one structure remains. The applicant is proposing the last remaining structure be raised, removed and replaced with the construction of a single four-story wood frame office building with footprint of 3,160 sq. ft. and total area of 12,640 sq. ft. with associated paved parking area over the easement area previously mentioned, along with off street parking proposed to accommodate 27 vehicles. He described the new utilities, as well as a new contemporary drainage system. He noted they have gone to the Zoning Board of Appeals and were granted variances for setbacks and to construct a fourth story. They are also scheduled to go before the Planning Board for site plan approval. He is looking for feedback from the Conservation Commission.

Mr. Nielsen provided additional details of the proposed development. He stated if they were starting from scratch, they would not be sitting here today; the site is totally in the riverfront and what is being proposed would not be permitted. However, he stated they have taken the position that this is a redevelopment project. From that standpoint, they conclude that they have a degraded site. Mr. Padula purchased the property around 1980. He has been working on this for five or six years. About six months ago they began working with Tech. Review; he described the process. The rendition they have come up with was perceived to be the best for all conditions and everyone was in general consensus that it would work understanding they still had to go through all the permits. The site is generally in a riverfront area, Mine Brook, with a building in disrepair, a broken pavement parking area with site conditions that all water running off the pavement is untreated, no stormwater management, a lawn area that is filled with many types of materials, and 6 in. layer of loam and grass. It has no habitat conditions. From that standpoint, he reviewed what they are doing to mitigate and manage the redevelopment of the site. The building would be a new structure with current drainage and a subsurface recharge system to mitigate the

runoff. There is all the pavement on site with a system of catch basins, sumps, drain manholes and piping for stormwater management. The grass area in the rear of the site is degraded as it has no habitat value. They will be regrading portions of that site to accommodate the drainage system. Taking all the grass slope to plant shrubs and trees will enhance the riverfront; the degraded conditions will be brought to a riverfront condition with plants and shrubs that will support habitat. They are also proposing a post and rail fence with a placard on the fence indicating it is conservation area. Based on site conditions, there is only a small portion of the site that is woodland on the southerly corner. All the woodland area will be maintained. There is no work activity planned in the 0-25 ft. buffer. In the 25-50 ft. they are basically dealing with grading changes and planting to enhance habitat for the riverfront. He discussed their correspondence with BETA Group and Wetland Strategies Inc. He discussed an adjustment on the NOI; one of the numbers did not coincide with the plan so they changed the NOI. They submitted an updated plan as shown tonight that shows the various areas that represent the activity in the riverfront zones. He thinks he has satisfied BETA and their subcontractor Wetland Strategies.

Chairman Batchelor confirmed the NOI number from DEP and the completed peer review. He asked why this meeting would need to be continued; the project seems well on its way.

Mr. Nielsen stated they do not know if they will have any changes to make for this Commission. They have minor changes to make for the Planning Board and will be meeting with them on May 7; so, they will have to return to this Commission on May 3. The Planning Board will not take a vote until the Conservation Commission has rendered a decision.

Mr. Russell stated since there will be minor changes to the plans, he thinks it is critical that the hearing be continued. At the next hearing, Mr. Nielsen should only go over what has changed. He noted there were some issues in the peer review, but they have all been addressed.

Mr. Livingstone summarized that due to the extensive degradation of the area, it would seem that being so close to Mine Brook, effectively, there is risk of gravel or asphalt washing into Mine Brook as there is nothing to prevent that from happening. It would seem that the condition of the site itself is a risk; actually, doing something to the site would alleviate that risk.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 834-842 West Central Street to May 3, 2018, at 7:30 PM. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

GENERAL BUSINESS

Minutes:

There was a motion made by Paul Harrington to approve the meeting minutes for April 5, 2018. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Minor Buffer Zone Activity: 51 Daniels Street

Mr. Gerald Miu addressed the Commission for the installation of a prebuilt 10 ft. x 12 ft. shed on the right side of his backyard.

Mr. Russell stated the property owner had filed a building permit. He did a site inspection and found jurisdictional areas. The applicant has moved the shed further away from the jurisdictional resource areas. He recommended approval of the MBZA.

There was a motion made by Angela Gelineau to approve the MBZA for 51 Daniels Street. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Minor Buffer Zone Activity: 69 Mill Street

Mr. Russell stated the applicant filed the appropriate MBZA permit to expand his deck and do work in the driveway. However, the site inspection revealed the issues outlined in the Agent's Report and provided in the Commission members' packets. He has spoken with the property owner and left with him the RDA packet, the list of wetland scientists, and a copy of the SOPs the Commission has adopted. The property owner has been extremely cooperative. He recommended allowing the applicant to withdraw the MBZA and use that filing fee towards his RDA application.

Mr. Brian Orlando addressed the Commission for a deck that is unsafe and out of code. He would like to rebuild the deck to 11 ft. x 12 ft. He stated some of the debris piles that Mr. Russell took pictures of were there before he bought the property; one pile is from his grass clippings. He stated a wetland scientist came to his property today and instructed him to get the piles removed. If he gets approval from the Commission, he would like to get the piles removed and make it a natural slope and clean for the riverway. The wetland scientist is drafting the RDA and writing the report that will be submitted.

Mr. Russell stated that Mr. Orlando has been very cooperative; it was not his "fault." This is not something he goes around looking for; it came up at a site inspection. The RDA would encompass the deck, the driveway, and the removal of the vegetative debris.

There was a motion made by Jeff Livingstone to allow the withdrawal of the MBZA for 69 Mill Street and allow the filing fee to be put towards the RDA application. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Discussion: ConCom Managed Land Recommendations

Mr. Russell stated that going on the ConCom Land Study recommendations, he has taken step 2 which is to look at some of the parcels on the Peter's Road and Jefferson Road area that were, in essence, a hodgepodge of who controls what. The Commission members have a map in their packets that outlines recommendations below that he thinks the Commission should make to the Town Administrator and the Town Council:

1. Parcel 341-023, which is land locked and thus inaccessible, be "given" to the state and combined with the DCR controlled land adjacent to the instant parcel;
2. Parcels 327-006, 327-007 & 328-074-001 should go from Town Council control to ConCom management. They are adjacent to, or surrounded by, ConCom managed parcels and contain resource areas.

He suggested a formal vote of the Commission to submit the recommendations to the Town Council. He will have some additional ConCom Managed Land recommendations at the next meeting. He would like to submit all recommendations to the Town Administrator at once.

There was a motion made by Anglea Gelineau to provide to the Town Council the above Recommendation #1 for Parcel 341-023 to go to state control. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Anglea Gelineau to provide to the Town Council the above Recommendation #2 for Parcels 327-006, 327-007 & 328-074-001 to go to ConCom control. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Discussion: 2019 Meeting Schedule

Commission members agreed that Halloween would not work for a meeting night. It was suggested to delete the meeting scheduled for October 31. The November 14 meeting would be moved to November 7, the December 5 meeting would be moved to November 21, and the December 19 meeting would be moved to December 12.

Mr. Russell noted the Town Council Chambers meeting room may not be available if the proposed meeting dates were changed. He noted there is a statutory provision that if an application is received, a hearing must be opened within 21 days. If that does happen, the applicant is asked to sign a 21-day extension.

There was a motion made by Angela Gelineau to approve the Conservation Commission's 2019 meeting schedule as amended with the four changes outlined above. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Discussion: Earth Day

Ms. Henrichon provided an update on Earth Day. She stated she left a note with the manager of the Starbucks in Franklin about coming out. Doug Williams from Stony Brook will do a lecture at 11:30 AM at DelCarte.

Mr. Russell stated there is a request from Park and Rec. that all volunteers sign in at Beaver Pond; they give out t-shirts, hats, gloves, and bags.

Ms. Henrichon asked why they cannot just have a supply of those things at DelCarte.

Mr. Russell stated he would see if he could arrange it, but he cannot promise. He suggested a Commission member go to Beaver Pond and pick up the supplies for the number of people they are expecting.

Chairman Batchelor stated he would go early and do that.

Ms. Henrichon stated she would like to send a short description to Chrissy to put up on the website for the Commission to publicize Doug's walk.

Ms. Gelineau asked where they were on the forest cutting fiasco.

Mr. Russell stated there was no change; whatever we transmit to DCR is ignored. He stated one of the problems is that we are not being backed up by DEP. He noted for the instant situation, about 90 percent of the cutting is taking place in Wrentham, but they are in Franklin with some of it.

Ms. Henrichon asked Mr. Russell if he has enough hours to do all the work he is doing. She would like this added to the agenda for the next meeting.

Signed Minor Buffer Zone Activity, Amended Orders of Conditions, Determination of Applicability & Orders of Conditions

Amended Orders of Conditions – Franklin Heights – Lincoln Street – SE159-911

Determination of Applicability (Negative) – 229 Conlyn Avenue - Baker

Orders of Conditions – 5 Maple Brook Lane – Payne – CE159-1179

Minor Buffer Zone Activity – 51 Daniels Street - Miu

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

The meeting adjourned at 8:41 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary