

Franklin Conservation Commission
Minutes of Meeting
June 28, 2018

To: Town Clerk
cc: Members
File

Members Present: Bill Batchelor, Tara Henrichon, Paul Harrington, Jeff Livingstone, Jeffrey Milne, Staci Dooney, George Russell, Conservation Agent.

Members Not Present: Angela Gelineau.

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 needs of the individual. Therefore, it is the Commission's responsibility to come to a decision, not Mr. Russell's decision; he is here in an advisory technical capacity.

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

Public Hearing – NOI – Well #3 off Grove Street - DPW

Mr. Russell stated he was just handed what would normally be the abutter notifications which is proof of the mailing. The local bylaw requires they be mailed by certified mail; they were not.

Ms. Magdalena Lofstedt, CDM Smith Inc., stated the Mass Wetlands Protection Act allows that.

Mr. Russell stated the town attorney advised him that the statute requires certified mailing. The next meeting is July 12, 2018; the mailing must give a minimum of seven days' notice.

Ms. Lofstedt stated she could get the mailing out tomorrow.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Well #3 off Grove Street to July 12, 2018, at 7:20 PM. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Ms. Henrichon entered the meeting.

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

Chairman Batchelor stated notification was received that this meeting was requested to be continued.

Chairman Batchelor stated as there were no objections from the Commission members, the public hearing for the NOI for 725 Union Street would be continued to July 12, 2018, at 7:25 PM. Vote of 6-0-0. (No motion or second was made.)

GENERAL BUSINESS

Minutes: June 14, 2018

There was a motion made by Tara Henrichon to approve the meeting minutes for June 14, 2018. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-1. (Chairman Batchelor stated he abstained as he was not present for the meeting.)

Minor Buffer Zone Activity: Tree Removal at DelCarte

Mr. Russell stated the Commission issued the Order of Conditions for the ADA improvements at DelCarte. The Public Works Department informed him that their tree contractor looked at the trees at DelCarte between the parking lot and the pond and determined that one of the large pine trees is basically dead. The MBZA has been filed to remove that tree and some significant trimming to two other large pines trees that are losing branches. He recommended approval of the MBZA.

There was a motion made by Jeff Livingstone to approve the MBZA for Tree Removal at DelCarte. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

Minor Buffer Zone Activity: 120 Eric Drive - Fence

Mr. Russell stated no one was present for this item. He recommended this item not be taken at this time in case the property owner arrived later during the meeting.

(Note: As indicated later during tonight's meeting, this agenda item should have been listed as 129 Eric Drive.)

Certificate of Compliance: 31 James Street

Mr. Russell stated all is ready for the certificate to be granted.

There was a motion made by Jeffrey Milne to approve the Certificate of Compliance for 31 James Street. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Certificate of Compliance: The Key in Franklin

Mr. Russell stated all is ready for the certificate to be granted.

There was a motion made by Tara Henrichon to approve the Certificate of Compliance for The Key in Franklin. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – Chestnut Senior Village

Chairman Batchelor stated notification was received that this meeting was requested to be continued.

There was a motion made by Tara Henrichon to continue the public hearing for the NOI for Chestnut Senior Village to July 12, 2018, at 7:30 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

GENERAL BUSINESS (continued)

Permit Extension: 74 Elm Street

Mr. Russell stated the Commission members have information in their packets as to why this has been requested to be extended; he recommended the one-year extension be granted.

There was a motion made by Jeffrey Milne to approve the Permit Extension for one year for 74 Elm Street. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Commission Member Comments

Mr. Livingstone asked if tonight's MBZA agenda item was for 120 Eric Drive or 129 Eric Drive.

Mr. Russell confirmed the item was supposed to be listed as 129 Eric Drive. It was posted incorrectly on tonight's agenda, on the website, and in the Town Clerk's office as 120 Eric Drive. He recommended that due to the clerical error of the address, the Commission formally add the MBZA for 129 Eric Drive to tonight's agenda.

There was a motion made by Jeff Livingstone to add the MBZA for 129 Eric Drive to tonight's agenda. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Ms. Celorier stated she was not in the office when the application was dropped off; maybe the homeowner does not know they are supposed to attend the meeting.

Mr. Russell recommended giving the homeowner more time to arrive and proceed to the Discussion Item on tonight's agenda.

Discussion: Regulation Amendments

Mr. Russell stated that at the last meeting the Commission discussed potential bylaw amendments to streamline the permitting process. After that meeting, he did some research, and as outlined in his Agent's Report, he has concluded that a bylaw amendment is not needed; the bylaw is the enabling legislation that requires the Commission to develop permitting procedures. It is his opinion now, that in order to streamline some of the approval processes discussed at the last meeting, the Town Council does not have to amend the bylaw, but rather the Commission has to amend its regulations. He recommended the Commission set a public hearing to amend Sections 1 & 2 of the Town of Franklin's Wetland Regulations to add the wording provided in the Commission members' packets. Then, should those be approved, the regulations themselves would be amended. The biggest thing this does is to delegate to the Agent the authority for some approvals that would currently have to come before the Commission, for example, vegetative debris in the buffer zone. That MBZA would still have to be submitted, but not have to go to the Commission.

Chairman Batchelor stated that would take a lot off of our table.

Mr. Russell stated he added that the Agent would submit a monthly report to the Commission outlining the administrative approvals have been granted or not granted, and the rationale for said decisions. He stated it is critical to realize that any decision by the Agent can be appealed to the Commission following procedures outlined in the regulations.

Chairman Batchelor stated he felt this was terrific regarding streamlining decisions.

Mr. Russell stated the problem for the Agent is that some of the decisions are going to appear arbitrary to the applicants; the decisions would have to be explained. He thinks there is a probability that complaints are going to ensue as to perceptual unfairness.

Chairman Batchelor acknowledged Mr. Russell's statement and stated that it would behoove us as a Commission to make instant decisions on site. He provided examples to support his opinion.

Commission members and Mr. Russell discussed the proposed regulation amendments and examples of situations regarding said regulation amendments.

Mr. Russell stated that at the next meeting he would like to discuss a procedure regarding someone who has an expired permit and there were some things not done, such as reports not submitted, that would hold up the Certificate of Occupancy. He still has to do more research and is working on the details, but he will suggest to the Commission some methodologies for allowing the applicant to file to allow them to finish the project and then get the Certificate of Completion instead of going through the process of filing a new NOI.

Chairman Batchelor stated this is perfect. He stated that no Commission member disagreed with said philosophy. He provided some examples.

Mr. Russell requested the Commission formally vote to advertise the regulation amendments to Sections 1 & 2 for the July 26, 2018 meeting.

Ms. Henrichon asked if the Agent could report on the actions at each meeting rather than monthly.

Mr. Russell reviewed the spreadsheet he is developing which he will attach to the Agent's Report. He stated he could absolutely report on a meeting to meeting basis. He noted Commission members may see items that have come in, but are not reported on yet.

Commission members suggested various reporting methods including intake and acted upon lists.

Mr. Harrington asked if at the next meeting the exact language of the proposed amendments could be reviewed.

Mr. Russell stated the current language is in the Commission members' packets. The only item to be changed would regard the reporting of the Agent's actions as requested by Ms. Henrichon.

There was a motion made by Staci Dooney to advertise the proposed amendment regulations for Sections 1 & 2 for the July 26, 2018, meeting. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Minor Buffer Zone Activity: 129 Eric Drive - Fence

Mr. Russell stated there is no issue with the Commission granting the approval of the fence. However, the Commission has an unwritten policy that they will not act on an application without an applicant present. He recommended this item be continued to the next meeting. He will generate a letter/email to the applicant to make sure they are present. He stated there may be things the applicant wishes to say or items in his Agent's report or the Commission members' packets that need clarification. He feels more comfortable doing this with the applicant present.

There was a motion made by Jeffrey Milne to continue the MBZA for 129 Eric Drive to the next meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 6-0-0.

Signed Minor Buffer Zone Activity, Certificates of Compliance & Extension Permit

Minor Buffer Zone Activity – DelCarte – Pleasant Street – DPW

Certificate of Compliance – 31 James Street – Rosen – CE159-1177

Certificate of Compliance – The Key – 1312-1342 West Central Street – CE159-1091

Extension Permit – 74 Elm Street – Deluca – CE159-1105

There was a motion made by Jeff Livingstone to adjourn the meeting. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

The meeting adjourned at 7:48 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary