

**Franklin Conservation Commission
Minutes of Meeting
January 26, 2017**

To: Town Clerk
cc: Members
File

Members Present: B. Batchelor, T. Henrichon, A. Gelineau, N. Shuler, George Russell, Conservation Agent

Members Not Present: P. Harrington, J. Livingstone, S. McLean.

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 – NOI – 6 Domenica Way – Young

Mr. Rick Goodreau of United Consultants and Mr. Bruce Young, property owner, addressed the Commission for the removal of debris. Mr. Goodreau stated there have been activities at this site which prompted this application. They have prepared a plan and NOI, and Mr. Russell has been out to the site. He highlighted the issues and stated that some of the debris including a mattress, ladder and snow shovel will be removed by hand and disposed of off the property; the area will then be covered with leaf litter. The area with dirt bike traffic has been covered with leaf litter naturally and additional leaf litter added.

Mr. Russell stated there is still some evidence of dirt bike traffic on the site. But, since the activity has stopped the area is being taken care of by nature and rebounding. The biggest issue was stopping the activity until the permit was filed. He recommended approval of the NOI with two special conditions over and above the normal special conditions: no dirt bike/motorcycle riding or dirt bike/motorcycle trails be permitted within the jurisdictional area unless a new NOI is submitted for the activity, and there be no additional deposition or removal of any vegetative debris, over and above what is authorized by this permit. He also noted the normal special conditions as outlined in his agent's report.

Chairman Batchelor confirmed with the applicant that they were in agreement with all Mr. Russell's special conditions.

Mr. Russell, in response to Commission member comments, stated that the wording of all motorized vehicles could be added to the above statements in addition to dirt bikes/motorcycles.

There was a motion made by Angela Gelineau to close the public hearing for the NOI for 6 Domenica Way. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 6 Domenica Way with special conditions #23, 24, 27-30 and 34, and with two additional special conditions of no dirt bike/motorcycle riding/no motorized vehicle of any kind riding permitted in the jurisdictional area unless a new NOI is

submitted for the activity, and no additional deposition or removal of any vegetative debris, over and above what is authorized by this permit, within the jurisdictional area. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

Public Hearing – NOI – 57 Anthony Road – Lorusso

Mr. Rick Goodreau of United Consultants on behalf of Mr. Lorusso, property owner, addressed the Commission for the construction of a 24 ft. x 30 ft. attached garage. He stated there is currently an existing dwelling, deck and asphalt driveway located on the property. The deck will be removed; the proposed attached garage will be located partially over where the existing deck is located. On the plan, they have shown the bordering vegetative wetlands on the east side of the property and the various buffer zones. They will be working in the 50 ft. to 100 ft. buffer zone. They have shown the compost sock erosion control and the limit of work demarcation. There is a compost pile, approximately 10 ft. x 20 ft., of vegetative debris just off the property which is proposed to be removed and area restored with leaf litter to reestablish the area back to a wooded condition. They have been before the Zoning Board of Appeals; relief was granted to allow garage of that size with the proposed setback requirements.

Chairman Batchelor confirmed the compost pile will be removed.

Mr. Russell stated he recommended special stipulations as listed in his agent's report upon approval.

There was a motion made by Tara Henrichon to close the public hearing for the NOI for 57 Anthony Road. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 57 Anthony Road with special conditions #20, 24, 27-30, 34, 38 and 44. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

GENERAL BUSINESS

Certificate of Compliance: 2 Ruby Way

Mr. Russell stated all work has been completed; he recommended approval for the release to be granted.

There was a motion made by Tara Henrichon to release the certificate of compliance for 2 Ruby Way. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

Public Hearing –NOI – Remington/Jefferson School – 628 Washington Street

Mr. Russell stated he has not received an NOI number from DEP on this item for the retrofit of three existing stormwater detention areas. He stated he has received permission from the applicant to continue the item to the next meeting. Prior to making the motion to continue, he requested that the Commission vote to authorize peer review of this permit. There is significant work being done in these basins; in discussions with the applicant, it was agreed peer review was warranted.

There was a motion made by Angela Gelineau to recommend peer review for the NOI for Remington/Jefferson School, 628 Washington Street. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

There was a motion made by Tara Henrichon to continue the public hearing for the NOI for Remington/Jefferson School, 628 Washington Street, to February 9, 2017 at 7:20 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Public Hearing – RFD – 109 Constitution Boulevard – Cushman & Wakefield

Mr. Denis Cychan of Cushman & Wakefield addressed the Commission for the installation of leveler pipe fitter to control water flow and prevent blockage by beaver activity.

Mr. Russell stated that last year he was asked to look at the site due to significant activity of beavers cutting down trees on the bank. Periodically, he would stop at the site to see how things were going. One day he saw a structure in the middle of the resource area. He took a photo and sent it to DEP and Mass. Wildlife and asked them what they thought it was. They had no idea. He generated correspondence to the owner saying it was his opinion that this structure was in a resource area and therefore required the filing of a permit. The RDA was promptly filed. On further investigation and research, Mr. Russell came across the following in DEP's Guidance for Conservation Commissions:

DEP does not recommend using the Request for Determination process to handle beaver and muskrat flooding, as it is unlikely the work proposed will occur solely in the buffer zone, and it is likely that the work will impact wetland resource areas.

Therefore, the fact that a resource area is involved would strongly suggest an NOI be required. He stated the photograph provided shows only what is on top of the water, not what is underneath. He suggested that if a positive determination is issued, and the NOI is filed, it should provide much more detail of what is transpiring under the water that cannot be seen. He noted it should be clear they are not mandating peer review, just authorizing it if necessary when the NOI is filed.

Commission members discussed the structure and determining its impact on the resource area.

Mr. Michael Callahan of Beaver Solutions addressed the Commission. He stated he did not think this structure needed a permit. He stated the part under the water looks just like the part on top of the water.

Chairman Batchelor stated this is difficult because they are only getting a topical view of the device. He cannot take anyone's word for something. The best way to approach this is to go with a positive determination and the possibility of peer review.

Ms. Gelineau stated concern that this situation has not occurred before; DEP and others did not recognize the structure.

There was a motion made by Angela Gelineau to close the public hearing for the RDA for 109 Constitution Boulevard. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau for a positive determination for the RDA for 109 Constitution Boulevard, to be followed by an NOI, and if the detail of the NOI rises to the level of needing peer review, the Commission authorizes peer review. The motion was seconded by Nick Shuler and accepted with a vote of 4-0-0.

Public Hearing - NOI – 58 Elm Street – Fleischer

Mr. Paul DeSimone of Colonial Engineering, Inc. addressed the Commission for the construction of an addition and garage. He stated they are within the 100 ft. buffer zone and the Rivers Protection Act. They will only be disturbing 700 sq. ft. Applicant will be removing a deck from the back of the house and putting on the addition. As shown on the proposed plan, they will be adding the garage on the right-hand side. Those areas are all within the lawn area. He discussed mulch tubes and installation of an orange construction fence. He stated the construction sequence was provided on the plans. There are no vernal

pools on the property. The very front corner of the property is within the flood zone, but none of the work will be impacting that.

Mr. Russell stated that as noted in his agent's report he has recommended some special conditions. In addition, he noted he has discussed with Mr. DeSimone that a playscape in the rear of the property will be moved. If it is placed on the property, it would be subject to local wetlands bylaw; therefore, he is requesting that an extra special condition be added indicating that the playscape cannot be placed on the property without a permit from the Commission.

Mr. DeSimone stated he had no problem with that; it will be removed completely. He also said that any material excavated for the foundation will be excess and taken off the property. There will be a small amount remaining for backfill.

There was a motion made by Angela Gelineau to close the public hearing for the NOI for 58 Elm Street. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 58 Elm Street with special conditions #20, 22, 24, 27-30, 34, 38 and 44 as well as condition that the playscape must not be placed on the lot without a permit from the Commission. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

Public Hearing – Continued - NOI – 0 Pond Street – Baystone Franklin LLC

Ms. Gelineau recused herself.

Chairman Batchelor stated that with the recusal of one of the Commission members there is not a quorum for this public hearing.

Mr. Russell stated that a motion to continue the public hearing cannot be taken as there is not a quorum to do that; however, the Commission can extend a hearing within 21 days. He recommended the application be extended to the February 9, 2017 meeting at 7:25 PM.

Chairman Batchelor stated the public hearing will be extended to February 9, 2017 at 7:25 PM.

GENERAL BUSINESS

Discussion Item: Geocaches – Permit to Use Conservation Land

Mr. Mike McGuire of 4 Tia Place addressed the Commission for the Geocaching project. He has submitted a property use permit to do geocaching. He explained geocaching as a treasure hunt game that involves GPS. It has been in place since about 2001. There are 16,000 geocaches across Massachusetts and 38 in Franklin. He stated it is like hiding Tupperware in the woods; it gets people outside hiking in the woods using their GPS.

Chairman Batchelor stated a caution that this Commission takes a dim view of using Conservation land and finding debris on it after an activity takes place. He encourages what they are doing, but please, no debris or litter.

Mr. McGuire stated the only item would be the Tupperware. Geocaching is a very green activity; they encourage people to not break branches and stay on the trails. He described the location and space as the old ski trails. The item will be there until it is taken away.

Commission member thanked Mr. McGuire for coming to the Commission before placing something on the land. It was questioned that if the activity is sanctioned by the Commission, what would happen in terms of liability if a person got injured in the area to be used?

Mr. Russell stated that would be a question for the town attorney. He noted it is now part of the record that said question was raised. He will try to get an answer.

Chairman Batchelor and Commission members discussed liability. He stated that with assurance that debris would be managed, he had no problem with this.

There was a motion made by Angela Gelineau to approve the permit for the use of Parcel 349001000 for geocaching. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-0.

Discussion Item: DelCarte Master Plan/Beaver Activity

Mr. Russell stated there are three portions to this item. He has put together some comments on the DelCarte Master Plan. He discussed the health of the ecosystem and stated the herbicide treatments should dramatically improve it. He reviewed maintenance and cost estimates of what it would involve to retain a grounds manager for the front part of the pond area. The cost figures were developed by Public Works at an estimate of about \$7,000 per year. He asked if the Commission wanted to proceed on this issue or wait until more of the plan is in place. He noted that many of the plants that were cut about three years ago are making a comeback. If the problem is not addressed now, it will be a bigger problem by the end of the summer.

Chairman Batchelor stated they may as well try to address everything rather than piecemeal.

Mr. Russell stated the only source of revenue to do this is the Wetlands Protection Filing Fee Account which has about \$130,000. He stated he would have to verify if legally the Commission could try to raise money for this purpose. He asked if the Commission would like him to pursue this.

Chairman Batchelor stated yes.

Commission members discussed maintenance of the DelCarte property and the Master Plan.

Mr. Russell stated the DPW has informed him that they are stretched and cannot give DelCarte the attention it deserves. He stated ESS could come in and provide a plan of attack; it would have to be paid for by the Wetlands Protection Filing Fee Account. Second, he would work with DPW, administration, etc., to see what can be done to improve the maintenance, and third, he would create a plan of attack within the Master Plan. He then discussed the beaver activity at DelCarte. He stated the state law allows to retain consultants to do services if it does not go over \$10,000. He contacted the consultant that did the pond evaluation; he was assured it could be done for less than \$10,000. He prepared a scope of services on the beaver issue which he would like to give to ESS to get an exact dollar amount. He would also like to find out if they can ask ESS to look at the maintenance issue at the front of DelCarte.

Commission member recommended Mr. Russell reach out to Mass. Audubon for input on issues.

Mr. Russell stated he would like to use ESS for the beaver issue.

Commission members discussed trail maintenance and trash cleanup.

Chairman Batchelor confirmed that Commission would like Mr. Russell to go with ESS on the beaver issue. Ms. Henrichon would give Mr. Russell the Mass. Audubon contact information tomorrow. He

requested ESS give cost estimate for the scope of services that Mr. Russell prepared. This information will then be used for the Master Plan.

Ms. Henrichon requested that at the next meeting a date is selected for the cleanup. Last year it was done on Earth Day.

Discussion Item: Sale of Land on Washington Street

Mr. Russell stated all Commission members received a copy of a letter sent to many town departments. The land was a Chapter 61 parcel; there has been logging activity on this parcel. It is the only one in the town under Chapter 61. It has been offered for sale; the town has the right of first refusal. He recommended the Commission make a recommendation to Town Council on what they would like to do or think should be done. The town has 120 days from date of letter, January 6, 2017. The land is private so there is no legal right to go on it. The Town of Franklin owns three lots to the south of this property that are land locked; this land for sale will offer access to these parcels. There is a utility easement on the property that contains underground gas pipelines.

Commission members discussed the land, whether to consider purchase of the land, desire to go out and look at land, and gas line easement on the land.

Mr. Russell stated he would do more research on this and the three land-locked lots owned by the town before the next meeting.

Chairman Batchelor reminded Commission members that no more than three members could do a site visit at one time as it would constitute a meeting. He noted this item will be put on the next agenda.

Minutes:

Mr. Russell recommended that no action be taken on the minutes. There is an item that needs to be rectified on page 4, first paragraph, statement by applicant regarding whether minor changes were made or not. Mr. Russell stated he was going to reach out to the applicant to find out more detail; he needs to know if those plans were changed.

CHAIR AND COMMISSION COMMENTS

Signed Orders of Conditions, Determination of Applicability & Certificate of Compliance

Determination of Applicability (Negative) 109 Constitution Boulevard – Cushman & Wakefield

Certificate of Compliance – 2 Ruby Way – Vallee - CE159-1145

Orders of Conditions – 57 Anthony Road – Lorusso – CE159-1150

Orders of Conditions- 58 Elm Street – Fleischer – CE159-1149

Orders of Conditions – 6 Domenica Way – Young – CE159-1148

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 4-0-0.

The meeting adjourned at 8:39 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary