

**Franklin Conservation Commission
Minutes of Meeting
October 5, 2017**

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.

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

Public Hearing – RDA – 16 Berkshire Drive – Moelders/D. Gorden

Mr. David Gorden, certified Wetland Scientist and Soil Scientist of Thunderchase Environmental, representing the homeowners, addressed the Commission to expand the existing deck slightly larger but within exiting grass area, and remove vegetative debris from the rear of the property. He requested the Commission issue a negative determination for both activities.

Mr. Russell stated that at the original site inspection the vegetative debris was discovered. The wetland scientist recommended it be removed. Mr. Russell, therefore, recommended a negative determination with the stipulation that the statement from the wetland scientist be submitted to his office indicating removal is complete and there was no negative impact on the area, or if there was an impact, it be spelled out.

There was a motion made by Jeff Livingstone to close the public hearing for the RDA for 16 Berkshire Drive. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-0. (Ms. Henrichon had no yet arrived.)

There was a motion made by Paul Harrington to approve the RDA for 16 Berkshire Drive with the stipulation as stated in the Agent's Report. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-0. (Ms. Henrichon had no yet arrived.)

Ms. Henrichon entered the meeting.

Public Hearing – Amendment – Dean Avenue – Fairfield Residential

Mr. John Shipe, consultant on behalf of Fairfield Residential, addressed the Commission and stated they had been before the Commission about two weeks ago and had submitted the changes made to the plans that the Commission had previously approved and issued an Order of

Conditions for last summer. He reviewed that they made modifications to the layout of the property to accommodate some impacts from the train. Some buildings were pushed further away from the train noise which also pushed the building further away from wetlands and created less impervious coverage.

Ms. Nicole Hayes of Goddard Consulting and Mr. Brian McCarthy of RJ O’Connell & Associates were also present at the meeting.

There was a motion made by Jeffrey Milne to close the public hearing for the Amendment for Dean Avenue-Fairfield Residential. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

There was a motion made by Staci Dooney to approve the NOI Amendment for Dean Avenue-Fairfield Residential. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-1. (Mr. Harrington abstained.)

GENERAL BUSINESS

Minutes:

There was a motion made by Jeffrey Milne to approve the meeting minutes for September 21, 2017. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

Public Hearing – RDA – No. 341 Substation Breaker – Mass. Electric

Mr. Kevin O’Brien of TRC Environmental on behalf of National Grid addressed the Commission for an RDA for some maintenance work on the substation on Peck Street. He stated the wetland was delineated in April. He described the provided a resource map which shows the 100-ft. buffer zone and the station footprint. He said a few conduits are being installed. Two existing foundations will be replaced with two slightly larger foundations for approximately 18 sq. ft. additional. There is no work outside the fence.

Mr. Russell stated he recommended a negative 3 determination. It is little more than 9 sq. ft. of new concrete each, the impact is minimal, and the trenching is underground; it is strictly buffer zone work.

There was a motion made by Jeffrey Milne to close the public hearing for the RDA for No. 341 Substation Breaker for Mass. Electric. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

There was a motion made by Paul Harrington to approve the RDA with a negative 3 determination for No. 341 Substation Breaker for Mass. Electric. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

GENERAL BUSINESS (continued)

Minor Buffer Zone Activity: 4 Elm Street

Ms. Kelly Goodwin, 4 Elm Street, addressed the Commission to remove dead trees and cleanup brush and overgrowth of poison ivy around the yard as well as remove the existing deck and replace with a larger deck but still within the existing grass area.

Mr. Russell stated the applicant had an RDA approved three-plus years ago to remove a significant amount of vegetation in the rear of the property; that RDA has expired. He stated that in meeting with the property owners, their emphasis in the short-term has changed to cleaning up areas in the front. The pictures show some of the trees are significant hazards. The deck will be a little larger, but the ground impact is minimal; it will be on piers. He noted that the applicant's narrative was the best narrative for an MBZA application he has seen since he has been the Agent.

There was a motion made by Paul Harrington to approve the MBZA for 4 Elm Street. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – 82 Elm Street – Graf/Faneuf

Mr. Harrington recused himself.

Mr. Brandon Faneuf, representing Gretchen Graf of 82 Elm Street, addressed the Commission for septic system repair work. He stated the main issue at the last Commission meeting was that there was no NOI number; he now has the file number.

Mr. Russell confirmed the NOI number was received today.

Mr. Faneuf reviewed that at the last meeting he was warned that he may have to repeat testimony as some Commission members were not present.

Chairman Batchelor stated that this is not the case; a quorum is present.

Mr. Russell stated that should the application be approved, he recommends the stipulations listed in his Agent's Report.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 82 Elm Street. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Staci Dooney to approve the NOI for 82 Elm Street with stipulations #20, 24, 27-30, 34, 35, 41, 44 and 51. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-0.

Mr. Harrington re-entered the meeting.

Public Hearing – Continued - NOI –31 Hayward Street – G & H

Mr. Russell stated that he has been in contact with the applicant and the peer reviewers. The plans have still not been approved by the peer reviewers; so, he recommended the application be continued to the next meeting.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for 31 Hayward Street to October 19, 2017 at 7:20 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

GENERAL BUSINESS (continued)

Violation: 5 Crystal Drive

Mr. Russell stated that in the Commission members' packets he has provided information outlining all correspondence related to this issue as well as photographs of the violation. The last correspondence he has from the property owner requests an extension of time which was granted, but the applicant did not meet the filing date in the last correspondence. Therefore, he requested the Commission issue the attached enforcement order. He noted that normally in situations such as this, the Commission requires an RDA with a report from a wetland scientist. He feels that due to the circumstances of this permit - the length of time and lack of correspondence from the property owner – an NOI is warranted. Should the property owners wish to discuss the enforcement order requiring the NOI, they can ask to be put on the agenda for a discussion item. He has also tried do something new with this enforcement order; there is a narrative attached to the enforcement order outlining what needs to be done, including when, how, and why. He stated the applicant was given well over 120 days to comply with the law. Mr. Russell stated that a copy of the agent's report was sent to the applicant so that they knew the item would be discussed at tonight's meeting.

Chairman Batchelor noted that on September 12, 2017, a hand-written letter from the homeowner was provided to Mr. Russell with a quasi-explanation of why there was a lack of activity which seemed to cluster around a financial difficulty. He questioned the lack of follow-up by the homeowners.

Mr. Livingstone asked that the letter of September 12, 2017, from the homeowner, be read into the record.

Chairman Batchelor read aloud the letter of September 12, 2017, from Ms. Quinn, homeowner.

Mr. Russell requested his response to that letter be read into the record.

Chairman Batchelor read aloud the letter of September 13, 2017, from Mr. Russell to the Quinn's.

Mr. Russell stated that no contact was made and no permit was filed by the September 21, 2017, date. There has been no communication from the homeowner.

Mr. Livingstone remarked on the applicant's letter. He stated that this has been going on for months. They apparently cannot afford a \$500 fee, but can put multiple kids through college and private school; and, they do not have the time to respond to someone who was attempting to help them solve this issue.

Chairman Batchelor stated he can understand the financial burdens, but cannot understand the lack of communication because that is free.

Mr. Russell, in response to a Commission member's question, stated the photographs were taken the day before he generated the first letter. He noted that he has no right to go onto the property. From the road, it appears that the piles have reduced somewhat, but there is more lumber. The statute is written that a permit is needed to put it there and a permit is needed to take it away; as such, the removal compounds the problem.

Ms. Henrichon stated that if in fact they are truly having financial struggles, she can understand where Mr. Russell's follow-up letter could be stressful. She stated that she is not saying that not communicating is the right way to go about it.

Commission members and Mr. Russell discussed the lack of communication by the homeowners. They also reviewed a previous situation with a different applicant who expressed financial hardship and how that situation was handled because the applicant communicated the situation with Mr. Russell and the Commission. Commission members further discussed the instant situation and suggestions were made about allowing additional time.

Mr. Russell recommended the Commission vote to issue the enforcement order and have it effective October 20, 2017. That would allow Mr. Russell the opportunity to generate correspondence to tell the homeowners what transpired and ask them to attend the next Commission meeting on October 19, 2017.

Commission members informally agreed with Mr. Russell's recommendation with discussion of wording for said correspondence.

Mr. Livingstone stated that although he would go along with this, it is his opinion there is a personal responsibility here that is being flagrantly flouted. This is exemplified by the fact that they are not physically present at the meeting in spite of the fact they have been previously threatened with legal action.

Mr. Russell noted that if they are removing the vegetative debris, it is not known what is transpiring in the resource area immediately adjacent. Also, before something like this ever gets to the Commission, he has worked with the property owner for over 120 days.

Commission members discussed that they are giving the applicant extra time and every opportunity.

There was a motion made by Chairman Batchelor to issue the enforcement order for 5 Crystal Drive effective October 20, 2017, pending the applicant's response to this item being on the Commission's agenda on October 19, 2017 meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 6-0-0.

Discussion: DelCarte Maintenance Master Plan

Mr. Russell stated the Commission requested this item be on the agenda to discuss the possibility of a maintenance subcommittee to take care of DelCarte once the beaver and Master Plan issues were underway. He stated that he and the Town Engineer met with a consulting engineer who is going to submit a request of what it would take to investigate the beaver issues that ESS determined; it has not yet been received. During this meeting it was apparent that whatever is done with the beavers upstream is going to affect downstream. It may be a bigger scope than anticipated. For instance, if the drainage flows are changed, what will happen to the nitrogen loading in the lower ponds. In addition, he has submitted the capital funding request to the town administration and it is currently under review. Money for permitting was included. He noted that today a grant funding site for ADA compliance was discovered; however, whether the application filing deadline of the third week in November can be met is an issue as there is so much information that must be pulled together from so many sources.

Ms. Henrichon offered her help with the grant writing piece.

Mr. Russell discussed the maintenance costs, the maintenance plan for the front area and the invasive treatment plan. He said the signs that had been thrown in the pond were repaired and will be put back up. He also said the data on the ConCom managed parcels will be forthcoming. He noted the parking lot and playground area at DelCarte is managed by the DPW, not ConCom; any maintenance plan does not include the parking lot and playground. He addressed the creation of a possible subcommittee to work on potential maintenance. He said if the Commission wants to make a subcommittee, that is fine. He recommended that a subcommittee should be kept to three or less members; four members is a public meeting.

Mr. Livingstone stated that he thinks there should be some kind of open space subcommittee which includes maintenance.

Ms. Dooney stated the Franklin High School gymnastics club would like to do community service; she will have them volunteer at the next DelCarte cleanup day.

Mr. Russell noted that the maintenance needed will depend on if the Master Plan gets funded.

Chairman Batchelor confirmed it may be too early to make the subcommittee; they should hold off until the Master Plan is set.

Commission members informally agreed to wait for the Master Plan before creating a subcommittee.

Mr. Russell stated he would keep the Commission updated.

Signed Minor Buffer Zone Activity, Orders of Conditions & Determinations of Applicability

Minor Buffer Zone Activity - 4 Elm Street – Goodwin

Determination of Applicability – 341 Substation at 128 Peck Street – Mass. Electric

Determination of Applicability – 16 Berkshire Drive – Moelders

Amended Orders of Conditions – Dean Avenue Apts. – Fairfield Residential – CE159-1155

Orders of Conditions – 82 Elm Street – Graf – CE159-1167

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

The meeting adjourned at 8:11 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary