

**Franklin Conservation Commission
Minutes of Meeting
November 2, 2017**

To: Town Clerk
cc: Members
File

Members Present: Tara Henrichon, Angela Gelineau, Paul Harrington, Jeffrey Milne, Staci Dooney, George Russell, Conservation Agent, Kathleen Celorier, Secretary.
Members Not Present: Bill Batchelor, Jeff Livingstone.

Vice Chair Henrichon 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 Alexandria Drive – Darragh & Daley

Mr. Dale MacKinnon of Guerriere & Halnon, Inc., representing the applicant, addressed the Commission. He stated that this is a residential site. The applicant is adding a family room to the house and replacing an existing deck with a patio on the ground just below the stairs off the proposed family room. Work is being done within the riverfront; the disturbance in the riverfront area is 737 sq. ft. They are proposing 400 ft. of remediation for the disturbance. He stated that Mr. Russell pointed out a pile of leaves in the resource area which has been removed as recommended by Goddard Consulting.

Mr. Russell stated he is a little unsettled that the debris has already been removed as the removal of fill from a wetland is a violation of the Act without a permit. He requested that should the NOI be approved, that in addition to the stipulations outlined in his Agent's Report, that an additional stipulation be added that the wetland scientist prepare a report to outline how the debris was removed, where it was removed to, and any negative impacts from the removal. He noted that the letter from Goddard Consulting only recommends the removal of the debris.

Mr. MacKinnon stated they can accommodate that request. In response to a question, Mr. MacKinnon stated the area being modified is currently a lawn area plus the patio, pre-disturbed. They are not going into the tree line. He described the proposed addition and patio.

There was a motion made by Paul Harrington to close the public hearing for the NOI for 6 Alexandria Drive. The motion was seconded by Angela Gelineau and accepted with a vote of 5-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 6 Alexandria Drive with special stipulations #20, 23, 24, 27-30, 34, 38-40, 44 and 51, and an additional condition that the wetland scientist prepare a report on how the debris was removed, where it was removed to, and any negative

impact from removing said debris. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

Public Hearing – NOI – Franklin Country Club – G & H

Mr. Russell stated that a DEP number for this project has not been received; therefore, the public hearing will have to be continued.

Mr. Dale MacKinnon of Guerriere & Halnon, Inc. addressed the Commission and stated that the proposed project is the construction of a conduit that would allow electrical lines to be extended from a proposed transformer that is going to be built in the Cook's Farm subdivision. The purpose of that is to provide new power to the existing pump station of the Franklin Country Club. This is along the 18th fairway. He reviewed the proposed location for the excavation. He said that it will be about a 3-ft. deep x 3-ft. wide trench and the conduit will go along the bottom of the trench. It is proposed for two, possibly three, conduits going inside the trench. The intent is to excavate and put the spoils on the fairway side of the excavation. In addition, he noted that Cook's Farm will be taking down some of the existing power poles which is part of their NOI for their work in that area. When it is determined what National Grid will be doing in taking down some additional power poles, the applicant may need to come in for an amendment to the Order of Conditions. He thinks these poles will not be able to be removed without going into the buffer. He does not have any additional information currently. Erosion control would be provided for the protection of the resource area.

Mr. Harrington confirmed the applicant will be in the 25-ft. buffer and asked if an alternative plan was created to avoid the buffer.

Mr. MacKinnon stated they were trying to avoid disturbing the fairway.

Commission members discussed disturbance of the 25-ft. no touch zone.

Mr. Russell stated that for the variance to the 25-ft. buffer be granted, the Commission must find that there is no reasonable alternative to the proposed NOI. He thinks it would be fair that if the Commission does not grant the variance, the applicant would be allowed to amend the application.

Commission members informally agreed that they would not grant the variance, at least without seeing an alternative plan.

Mr. Russell recommended that since the application is going to be continued anyway, the Commission take a formal vote to request the applicant prepare an alternative analysis on the installation of the trench to see if there is a way to keep it outside the 25-ft. no touch zone.

There was a motion made by Angela Gelineau on the NOI for Franklin Country Club for the applicant to return with an alternative plan to keep the trench completely outside of the 25-ft. buffer zone. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-0.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for Franklin Country Club to November 16, 2017 at 7:40 PM. The motion was seconded by Staci Dooney and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 16 Berkshire Drive – Moelders

Mr. David Gorden, Certified Wetland Scientist/Certified Soil Scientist, representing the Moelders, addressed the Commission for a single-family house lawn expansion project. He stated that Mass. DEP issued a file number; Mass. DEP had no comments. The applicant would like to expand the lawn up to the

25-ft. no disturb buffer of an isolated vegetative wetland. They are proposing erosion control around the entire disturbance area. They have delineated the 25 ft., 50 ft., and 100 ft. buffer. They are working within the 100-ft. buffer. Currently, there are low growth shrubs and sweet pepper bush that are being removed. They are proposing mitigation of a shrub/tree species as listed on the applicant's submittal of October 9, 2017. He stated the back of the yard drops off with a steep slope and then flattens out to the woodlands. They are proposing to have the water still draining in the same direction.

Dr. Nick Moelders, homeowner, in response to a question regarding what the new lawn would be treated with, stated he would use natural fertilizer, organic base.

Vice Chair Henrichon stated that if the lawn company could mulch the lawn clippings back in that would be even better.

Mr. Harrington stated he was worried that all the additional water from taking out the trees would just wash everything away.

Mr. Gorden stated that the soil type presently is a very nice sand material and there are no signs of water. They are proposing additional materials including loam for the new grass which will aid in the absorption of the water.

Dr. Moelders stated the with the Commission's approval they would start to remove the trees around Thanksgiving time. Then they would cease the project until after the spring rains and when everything dries out backfill the area.

There was a motion made by Angela Gelineau to close the public hearing for the NOI for 16 Berkshire Drive. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-0.

There was a motion made by Angela Gelineau to approve the NOI for 16 Berkshire Drive with special conditions #20, 23, 24, 27-30, 34, 44 and 51. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

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

Mr. George Mihov of Guerriere & Halnon, Inc. addressed the Commission for a site plan modification. He stated that the work consists of improvements of a parking lot. Currently, it is a parking lot with 29 spaces; they would like to reconfigure it, add some pavement, regrade, and achieve 51 spaces. The overall gain would be 22 parking spaces. While doing this the impervious increases around 6,000 sq. ft. To mitigate the increased runoff, they will improve the existing detention basin. The detention basin was constructed in 2013. It has a construction issue as it seems like it retains water currently, so improvements will be made to fix the problem. As well, they will remove and replace the rip rap between the parking lot and the detention basin and rebuilt it to stop the current erosion to not have silt going into the detention basin. Also, they are going to clean the bottom of the detention basin and replace the material at the bottom with sand.

Mr. Russell stated that based on the stormwater bylaws, detention basins must drain within 72 hours after a rain event. He explained the note in his Agent's Report about the wetlands at the northern end of the site. When the application was out for peer review, Wetland Strategies was tasked with confirming the wetlands delineations as accurate. There were numerous requests to the applicant to confirm wetland series A; it was never done. But, there is no work proposed within 100 ft., so it is a question of making sure in the Orders that the fact that the wetland series A has not been confirmed is stated.

Mr. Mihov stated that the work currently proposed is in the southeast corner of the site; the wetlands just discussed are in the north corner which is irrelevant to the proposed work.

Mr. Russell stated this plan has undergone a number of iterations. When it went out to peer review, the wetland series A flags were originally on the plans. As a result, the wetlands peer reviewer reviewed those flags and found they were not accurate. As this plan will go on record, it is incumbent on the Commission to make sure that it is noted that said wetlands line was not approved. He strongly recommended this additional stipulation go on the Orders.

Ms. Dooney left the meeting at 8:00 PM.

There was a motion made by Paul Harrington to close the public hearing for the NOI for 31 Hayward Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Paul Harrington to approve the NOI for 31 Hayward Street with special conditions #20-24, 27-30, 34, 38-40, 44 and 51, and the additional stipulation that the wetland on the northern end of the site (wetland series A) is NOT correct, and no work is allowed within 100 feet of these wetlands. As per earlier reports from Wetland Strategies via BETA the Conservation Commission finds that wetland series A has not been confirmed pursuant to peer review. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

GENERAL BUSINESS

Violation: 5 Crystal Drive

Mr. Russell stated that this lack of application issue has been continuing for some time. Yesterday, their report from the wetland scientist concerning vegetative debris and other debris on this site was received. The report is extensive, and it makes certain recommendations concerning removal of some debris and some debris to remain. However, while the report from the wetland scientist is in fact the major issue in terms of time on the property owners part, the missing piece is that he does not have the required RDA application. The statute requires a permit from the Commission; therefore, his recommendation to the Commission is that they acknowledge that the wetland scientist's report has been received, but require the property owner to file the RDA application no later than November 16, 2017. And, failure to file would institute the initiation of the enforcement order. If the Commission agrees with that recommendation, they would need to vote again to delay the enforcement order to November 17, 2017. He pointed out that should the enforcement order be issued, it requires a Notice of Intent which is significantly more expensive and involved than the Request for Determination.

Mr. Thomas Quinn, property owner, addressed the Commission and asked if all four of the engineer's recommendations are to be followed. Originally it was a violation of the grass clippings. Then the scientist found that there is some invasive species that has to be removed.

Mr. Russell stated that it is up to the Commission at the time they debate the permit. He stated that the invasive species is not a violation. He stated it is not germane to the instant application. The importance from a legal standpoint is the deposition of the material and the removal of the material. He stated that the Commission has not had time to review the scientist's report as it was only received about one hour ago. The report will be reviewed when the RDA application is filed. There will be a public hearing in which the Commission will debate the issues involved and render a decision. That will determine if some or all the material must be removed, leave or remove the invasives, etc. He does not believe there will be a requirement to remove invasive species.

Mr. Quinn said he will get the RDA submitted.

Commission members reminded the applicant to file the RDA, but not to remove anything or do any work at this time.

There was a motion made by Angela Gelineau to extend the enforcement order for 5 Crystal Drive to November 17, 2017 pending the filing of an RDA by November 16, 2017. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

Discussion: Forest Cutting Plan – Maple Street

Mr. Russell stated he provided the Commission with a proposed letter to DCR. The plan that was submitted states that there are very few wetlands on the property. He disagrees with that statement. And, DEP is showing a potential vernal pool on the property. There are no wetlands shown on the plan that was submitted with the application. He stated that once DCR approves the forest cutting plan, they do not have to comply with the Wetlands Protection Act while they are cutting. They are also proposing a stream crossing and there is no way to tell from the materials submitted what will be the impact to the stream crossing. In addition, the abutter notifications that went out give no indication about what will transpire, where it will transpire, and who to contact with questions. His recommendation is that the Commission go on record with a letter to the state forester of this region that based on the fact that there was a wetlands delineation and they do not show any wetlands on the plan, the forest cutting plan not be approved.

Commission members and Mr. Russell discussed past forest cutting plans.

Vice Chair Henrichon asked if DEP could be copied on the letter as there is a vernal pool across the way.

Mr. Russell pointed out that there is no vehicle for the public at this point to express concerns regarding this plan.

There was a motion made by Angela Gelineau to authorize a letter to DCR in opposition to this plan. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Discussion: Sandy Knoll Subdivision

Mr. Russell stated that the developer of the Sandy Knoll subdivision which is Cottontail Lane and Silver Fox Road was approved on a superseding order by DEP because the Commission denied it originally. That superseding order has expired, and no Certificate of Compliance was ever issued. So, it is not known what was done and not done. The developer has applied to the Planning Board and the Town Council for street acceptance. The town engineer has prepared a punch list of what must be done. Based on the punch list, it is quite possible that additional work in a jurisdictional area was undertaken and never approved. There were retaining walls built and it does not look like they were approved by this Commission or DEP. Therefore, he is asking the Commission to go on record as recommending the Planning Board not accept the roads until such time as we know what work was done in jurisdictional areas under the superseding order in addition to what was approved, if anything.

There was a motion made by Paul Harrington to authorize a letter recommending to the Planning Board that they not accept the Sandy Knoll roads until such time as the Commission knows what has been done and what has not been done. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Minutes:

There was a motion made by Paul Harrington to approve the meeting minutes for October 5, 2017 with the recommended changes as outlined in the attached Agent's Report. The motion was seconded by Jeffrey Milne and accepted with a vote of 3-0-1 (Ms. Gelineau abstained).

Mr. Russell and Commission members discussed the letters that were read during the October 5, 2017 meeting that should be attached to the meeting minutes. Commission members agreed to rescind the previous Motion to Approve the October 5, 2017 meeting minutes.

There was a motion made by Paul Harrington to rescind the approval of the meeting minutes for October 5, 2017. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

There was a motion made by Paul Harrington to approve the meeting minutes for October 5, 2017 with the recommended changes as outlined in the attached Agent's Report as well as the inclusion of two letters that should be added to the minutes. One letter is dated September 12, 2017 from Catherine Quinn to the Agent, Mr. Russell, and the September 13, 2017 letter to Thomas and Catherine Quinn from Mr. Russell. The motion was seconded by Jeffrey Milne and accepted with a vote of 3-0-1 (Ms. Gelineau abstained).

Signed Orders of Conditions

Orders of Conditions – 6 Alexandria Drive – Darragh - CE159-1169

Orders of Conditions – 16 Berkshire Drive – Moelders – CE159-1168

Orders of Conditions – 31 Hayward Street – Moseley – CE159-1160

There was a motion made by Anglea Gelineau to adjourn the meeting. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

The meeting adjourned at 8:33 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary