

**Franklin Conservation Commission
Minutes of Meeting
March 1, 2018**

To: Town Clerk
cc: Members
File

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

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 – Amendment for Regulations for MBZAs

Mr. Russell stated that as discussed at the last meeting, there is a technical/legal problem regarding the Rivers Protection Act as the Riverfront Zone is a resource area; it is not a buffer zone. Minor Buffer Zone Activity can only take place in a buffer zone. When this discussion came about, the Commission decided that it was not their intent to make a property owner who wanted to put in a shed or playscape, for instance, within the Riverfront Zone to have to go through the hurdles of a Notice of Intent. As a result, an amendment is offered that would allow an MBZA to be submitted and approved by the Commission provided it is no closer than the 25 ft. no-touch zone, and in addition, that no variance to that would be allowed under the Minor Buffer Zone Activity. This amendment requires a public hearing which is where we are right now.

Ms. Gelineau asked if there is any wording that may need to be added further to keep corporations/commercial properties from taking advantages of this.

Mr. Russell stated, No, because the requirements under MBZA clearly state for residential use only.

Commission members asked questions and discussed the proposed amendment.

There was a motion made by Tara Henrichon to close the public hearing for the Amendment for Regulations for MBZAs. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

There was a motion made by Tara Henrichon to accept the proposed Amendment to 2.1.1 of the local wetland regulations for MBZAs as listed in today's handouts from Mr. Russell. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – 93 Elm Street – Sellew

Mr. Russell stated he provided the Commission members with copies of all correspondence he has had with the property owners dating back to the original letter of September 12, 2017, which was sent certified mail; the applicant refused to pick it up, therefore, it had to be delivered by constable. This complaint originally came from the Department of Environmental Protection and it concerned an issue that was not on the subject property, but on the adjoining property. Nevertheless, it was ascertained that there was a significant violation to the Wetlands Protection Act on the property. This has been pending since September with several certified letters to the applicant which have not been picked up. The applicant came into Mr. Russell's office at 3:50 PM yesterday in attempt to address Mr. Russell's original review letter; he handed Mr. Russell copies of some pages of the application. Mr. Russell was able to look them over quickly tonight and there are still significant mistakes, of which he provided an example. He stated neither the staff nor Commission can change the applicant's paperwork. The applicant stated that the DEP told him they issued the file number; however, they indicated his application is wrong/incomplete; applicant also needs a Chapter 91 water waste permit. There is also a fee discrepancy between the amount paid and amount owed. The advertising fee was correct, so the hearing was advertised. Mr. Russell stated that given all the noted factors, he recommends that the Commission do the following: close the public hearing; deny the NOI application due to lack of completeness/proper information; issue an enforcement order to the applicant requiring him to retain the services of a wetland scientist and file a complete NOI application by April 1, 2018; and, authorize peer review when the application for the NOI is submitted based on the proximity to the river and the bank and the location of potentially where the trees were cut. He is recommending a wetland scientist because the application is very incomplete, applicant is disturbing two resource areas, riverfront and bank, and there is danger that one of the logs could roll down the bank into the river.

Commission members asked questions and discussed the recommendations and the NOI.

Chairman Batchelor noted that no one from SCS Realty Trust is present at this meeting.

Mr. Russell noted that when he talked to the applicant yesterday, he informed the applicant that he has a right to come to the public hearing and he should come to the public hearing to present his case.

Ms. Henrichon asked if the Commission has ever recommended peer review before a professional application has come before the Commission.

Mr. Russell stated there is an application in front of the Commission which is going to be denied. And, although the Commission has never done this before, the Commission does have a scope of the work and the jurisdictional areas. This is similar to when other applications are filed when the Commission has an idea of the scope of the work and the jurisdictional areas and a recommendation can be made to the Commission even before the public hearing is opened. In that sense, he is asking for the same recommendation before the next public hearing is opened.

Commission members discussed this unique situation and noted the Commission does know the scope of the issue. In many such cases, peer review has been recommended. They discussed the need for a wetland scientist for expertise in completing the application and the recommended enforcement order. Wetland mapping is needed. It was discussed that if the applicant can fill out the application correctly, will he still need to hire a wetland scientist.

Mr. Russell noted that an applicant has the right to come back to the Commission to discuss the enforcement order, to extend the deadlines, etc. But, must start the legal ball rolling. This is a violation

that is not being addressed. The applicant can return to Commission to discuss if he can fill out the application without help of a wetland scientist.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 93 Elm Street. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

There was a motion made by Angela Gelineau to deny the applicant the NOI due to incomplete information. 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 issue an enforcement order to the applicant at 93 Elm Street requiring him to hire a wetland scientist and submit the results with an application for a new NOI by April 1, 2018. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

There was a motion made by Angela Gelineau to authorized peer review for the pending NOI for 93 Elm Street. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

GENERAL BUSINESS

Permit Extension: 176 Cottage Street

Mr. Russell stated there is no reason not to extend the application; no activity has taken place over the past year. This would be the second extension allowable under the local bylaw.

There was a motion made by Paul Harrington to approve the extension for 176 Cottage Street for one year. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Minutes:

Mr. Russell discussed suggested changes to the meeting minutes.

There was a motion made by Jeffrey Milne to approve the meeting minutes for February 15, 2018, as amended in Mr. Russell's Agent's Report. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Discussion: ConCom Managed Land Recommendations

Mr. Russell reviewed a list of ConCom managed land recommendations as outlined in a list of six bulleted items in his Agent's Report. He recommended the Commission begin to act on these recommendations by submitting correspondence to the Town Council via the Town Administrator for the following. Bulleted item 1: Parcel 306-041-000 has no public access and should be transferred to the State to make it part of the State forest. He stated the Town Administrator is onboard with the transfer. Bulleted item 2: Parcel 254-012-000 is inaccessible and surrounded by land owned by the U.S. Government/Army Corp of Engineers; Town should consider donating/selling parcel. Bulleted item 3: Parcels on David Road beginning with 244- appear to be a subdivision that is incomplete. All lots, except one, may be buildable. It is unclear why it is under ConCom jurisdiction; none of it is wet except for one piece of land. He recommended the Town should give consideration to marketing the vacant parcels; it should go back to Town Council jurisdiction except for the one wet parcel. Bulleted item 4: Parcel 298-002-000, off Russet Hill Road, is under the management of DPW; it should be transferred to the ConCom to allow all parcels in the Town Forest to be under the same management/jurisdiction. Bulleted item 5: Parcel 328-060-000 is a 10 ft. wide pedestrian/bike path to the school and should be managed by the Town Council or the schools. Bulleted item 6: The following needs more analysis. There are some parcel "groupings" that have multiple entities managing parcels that should be under one entity, and other parcels, for instance 327-006 and 327-007, should be under the management of ConCom, but they are not. He suggested these

parcels be placed in some type of management order based on environmental fragility. He recommended continuity of management.

Commission members asked questions and discussed each parcel and Mr. Russell's recommendations.

Mr. Russell recommended the Commission make a motion to authorize the agent to make the recommendations to the Town Administrator on the first five bulleted items as listed in his Agent's Report, or the bulleted items the Commission is comfortable with.

Ms. Gelineau confirmed there are six bulleted items on the Agent's Report; the last item should be held off on as the agent has additional analysis to do, and the third item Ms. Henrichon is expressing that she is not comfortable with. Ms. Gelineau stated she can agree with the agent's recommendations on bulleted items 1, 2, 4, and 5.

Ms. Henrichon stated she supported bulleted items 1, 2, and 4. She is supportive of item 5 if the Commission provides the recommendation that it go to the school. She would like more information and the opportunity to drive by the location of item 3.

Ms. Gelineau, Ms. Dooney, Mr. Milne, and Mr. Harrington agreed with Ms. Henrichon's statement.

Chairman Batchelor stated he supported bulleted items 1, 2, 3, 4, and 5.

There was a motion made by Angela Gelineau to for bulleted items 1, 2, 4, and 5 on Mr. Russell's Agent's Report under Item 2.6.1, the Commission supports the agent's recommendation with the addition that for bulleted item 5 the Commission recommends that it go to the school. The motion was seconded by Jeffrey Milne and accepted with a vote of 6-0-0.

Discussion: Earth Day

Mr. Russell stated Earth Day has been scheduled from 9:00-12:00 PM on April 28, 2018. Kate, the person that got in touch with him, along with Ryan Jette from the Recreation Department, need to confirm if the Commission members will be participating as they have been in the past at DelCarte. If that is the case, they request that everyone go to Beaver Pond first to pick up their T-shirts, gloves, trash bags, and they get a count of who is doing what.

Ms. Henrichon stated she would like to participate as long as there is some time on each meeting agenda until that date to talk about this as a group to do some planning for the event. She would like to take 5-10 minutes at each meeting to talk and divvy up responsibilities for how it will be handled.

Mr. Russell stated he will put it on the upcoming agendas and he will tell Kate and Ryan that the Commission members will be participating.

Signed Extension Permit & Orders of Conditions

Extension Permit – 176 Cottage Street – Staniscia – CE159-1060

Orders of Conditions (Denied) – 93 Elm Street – Sellew – CE159-1175

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

The meeting adjourned at 8:10 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary