

**Franklin Conservation Commission  
Minutes of Meeting  
June 29, 2017**

To: Town Clerk  
cc: Members  
File

Members Present: B. Batchelor, T. Henrichon, A. Gelineau, P. Harrington, J. Livingstone, S. McLean, J. Milne, George Russell, Conservation Agent

Chairman Batchelor announced the meeting would be audio and video recorded.

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

**Potential New Commission Member Introduction**

Ms. Staci Dooney introduced herself and stated her interest in joining the Commission.

Mr. Brian Rosenberg introduced himself providing a brief career background and his interest in joining the Commission.

Mr. Russell stated that he did not have resumes from either candidate.

**Presentation – ESS – Beaver Study**

Mr. Alex Patterson, Wildlife Biologist of ESS Group, provided a presentation of the Beaver Evaluation and Management Plan that was recently completed for the DelCarte conservation area. He discussed beaver ecology, cultural significance, and potential human-beaver conflicts, and reviewed the evaluation of the beaver activity at DelCarte. He stated that an onsite assessment of the area was conducted in April. Four beaver lodges were found in the ponds; two appear to be active. One beaver dam was found in the conservation area. He showed a map of the beaver activity areas. Based on the assessment, human-beaver conflict may exist at the earthen berm, which separates the southern basin with the smaller upstream waterbody at the DelCarte ponds. Management recommendations to address the conflict included: Clear woody vegetation from earthen berm, and remove two-tiered beaver dam from berm spillway. He discussed permitting requirements as well as cost estimates to implement the recommendations. He suggested both short- and long-term monitoring of the beaver activity and the earthen berm area.

Commission members asked questions and discussed presentation information.

Mr. Russell stated this fulfills the need to know what is being dealt with. The next step is to talk to public works, engineering, and BETA regarding the best course for implementing the management suggestions and cost factors in doing that.

**Public Hearing – NOI – 59 Anthony Road - Forte**

Mr. Vincent Forte of Berkshire Environmental Services, representing the owners for the NOI for a kitchen addition, addressed the Commission and stated he flagged the wetlands and provided a species report. The initial project proposal was 2 ft. wider which was in the 25-ft. no-disturb zone. The project was reduced in width by 2 ft. so now 167 sq. ft. out of the 25-ft. zone with 1 sq. ft. in the 25-ft. zone. He stated that the addition is a necessity as it is currently not big enough; this will provide owners with an established kitchen area. He stated that due to medical reasons the owners will also relocate washer/dryer appliances to first floor adjacent to the kitchen area. He stated the addition will have no impact on the wetlands surrounding the property. Any excavated materials will not be stored on site; they will be removed and brought back for backfilling. He estimated five to six 30 gal. barrels of organic debris to be removed. He confirmed this is all on pre-disturbed lawn.

Mr. Russell stated that as indicated in his Agent's Report he recommended standard stipulations be attached as well as a non-standard stipulation which addresses the vegetative debris removal. He confirmed that in the 25-ft. buffer it can be lawn as it is already pre-existing lawn.

There was a motion made by Scott McLean to close the public hearing for the NOI for 59 Anthony Road. The motion was seconded by Jeffrey Milne and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean to approve the NOI for 59 Anthony Road, with stipulations #20, 22, 24, 27-30, 34 and 44, as well as a project stipulation that reads:

All vegetative debris must be removed from the buffer/resource areas adjacent to the existing lawn area. The debris must be removed under the direction and supervision of a wetlands scientist who shall submit a report to the Commission prior to the request for a release from conditions outlining how the material was removed, and the condition/impact on the buffer/BVW after the removal.

The motion was seconded by Tara Henrichon and accepted with a vote of 7-0-0.

Mr. Russell confirmed a variance was requested.

**Public Hearing – NOI – Oak Hill Villages – Heritage Design**

Mr. Eric Bazzett of Heritage Design Group, on behalf of the Oak Hill Condominium Association, addressed the Commission for the NOI that is due to expire next month. He stated the project is nearly complete except for the areas highlighted on the provided map which he reviewed. He noted that all buildings approved to be built have been completed.

Mr. Russell stated the existing NOI will expire on July 21, 2017 and cannot be extended under local bylaw, ergo the new application. He informed the Commission that as of this time, DEP has not provided an NOI number. Therefore, he recommended the hearing be continued to the next meeting; the hearing cannot be closed without the number.

Mr. Robert Gilstein, 2 Cassandra Avenue, asked what material would be used for the guardrail and what kind of barrier would be used for the emergency road.

Mr. Bazzett stated they were not proposing any barrier for the emergency road.

There was a motion made by Scott McLean to continue the public hearing for the NOI for Oak Hill Villages to July 13, 2017 at 7:30 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 7-0-0.

**Public Hearing – Amendment – Lot 1 Marine Way – Grandis Homes**

Mr. Mounir Tayara, Manager of Franklin Hills LLC, the developer for Marine Way, addressed the Commission for the proposal of an amendment to the footprint of the approved NOI, the addition of an underground propane tank, and addition of decks on the back. He stated that this is new construction; they have started on the driveway into the development, but no construction on the homes has begun.

Mr. Russell stated the applicant was at the last Conservation Commission meeting to present the changes and the Commission voted that it did not rise to the level of an NOI. The basic impact of the changes to any jurisdictional area remains the same as the original permits.

Chairman Batchelor confirmed that the Commission will have to vote on each of the lots.

Mr. Russell confirmed that this will require three separate votes and is technically three separate public hearings.

There was a motion made by Scott McLean to close the public hearing for the NOI Amendment for Lot 1 Marine Way. The motion was seconded by Angela Gelineau and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean to approve the NOI Amendment for Lot 1 Marine Way with all original stipulations remaining. The motion was seconded by Jeff Livingstone and accepted with a vote of 7-0-0.

**Public Hearing – Amendment – Lot 2 Marine Way – Grandis Homes**

There was a motion made by Scott McLean to close the public hearing for the NOI Amendment for Lot 2 Marine Way. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean to approve the NOI Amendment for Lot 2 Marine Way with all original stipulations remaining. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

**Public Hearing – Amendment – Lot 3 Marine Way – Grandis Homes**

There was a motion made by Scott McLean to close the public hearing for the NOI Amendment for Lot 3 Marine Way. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean to approve the NOI Amendment for Lot 3 Marine Way with all original stipulations remaining. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

**Public Hearing – Continued - NOI – 31 Hayward Street – Moseley Realty**

Mr. Russell stated he has not received the revised plans; the peer reviewers have not received the revised plans. Based on conversations/emails with the engineering firm, he recommended the hearing be continued to July 27, 2017.

Mr. Livingstone confirmed this is the third time this hearing has been continued.

Mr. Russell stated he has informed the applicant's engineer that if the revised plans are not received by July 27, 2017, he was going to ask the Commission to issue an enforcement order.

There was a motion made by Scott McLean to continue the public hearing for the NOI for 31 Hayward Street to July 27, 2017 at 7:15 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 7-0-0.

**Public Hearing – Continued - RDA – 604 Maple Street - Dmytryck**

Mr. Russell stated this hearing was continued to receive a wetland scientist's report as per standard protocol of the Commission; that report has been received. The wetland scientist has no issues and recommended the tree stumps be ground.

Mr. Thomas Dmytryck, applicant, addressed the Commission and stated he would go along with the report and would like to put in the trees he has purchased. He stated he was aware that the stumps need to be ground.

Mr. Russell noted that the applicant has three years to get the stumps ground. He stated that the applicant can begin to plant his trees if approved.

There was a motion made by Scott McLean to close the public hearing for the RDA for 604 Maple Street. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

There was a motion made by Scott McLean for a negative determination on the RDA for 604 Maple Street with the condition of approval that the existing stumps at the lot be ground. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

**GENERAL BUSINESS**

**Permit Modification: 15 Grace Lane**

Mr. Russell stated this was a request to discuss the project for a new NOI versus an amendment; the applicant was notified it was on the agenda. He recommended the Commission not go forward on this without anyone present to address it. He will contact the applicant's representative to let them know the Commission took no action and ask when he would like to come before the Commission. He noted the applicant is coming to the Commission on July 27, 2017 for another application. In response to Commission member's question, he confirmed a pool was built in the jurisdictional area. The applicant had requested a release of conditions. He stated the as-built plans showed the pool, his field inspection showed the pool, but the original NOI did not show a pool. Mr. Russell stated the release of conditions was denied at the last Commission meeting and he told the applicant he must file a request for an amendment or enforcement action would be forthcoming. The letter filed by applicant requesting to address the Commission was the first step.

**Certificate of Compliance: 2 Stephen Way**

Mr. Russell stated the certificate requested is from a very old subdivision. This lot is part of the subdivision, but there are no jurisdictional areas on the lot. He stated that the attorney dealing with the sale of the house is requesting a partial release. He stated this is in order even though the NOI has expired.

There was a motion made by Scott McLean to partially release the Certificate of Compliance for 2 Stephen Way. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

**Discussion: Right of First Refusal – 215 Prospect Street**

Mr. Russell stated both Discussion Items on Right of First Refusal are no longer germane; the Town Council has already acted. They voted to not exercise their options.

Mr. Livingstone stated that the agreement was that the Town Council gives the Conservation Commission the right to review the public parcels as they come up as to whether we want them for conservation or not; the Town Council does not simply act.

Mr. Russell stated that when he received the certified mailings from the attorneys representing the sellers, he put it on the agenda. But, at last night's meeting the Town Council acted on both parcels to not exercise their right of first refusal.

Commission members discussed that they have not reviewed or voted on these parcels; therefore, how could the Town Council act. There is a process issue here. This is not how it should work. Members stated that this is a problem; what the Town Council did is wrong. This is the Town Council overstepping. The Commission must stand up for its right to do what it is supposed to be doing.

Mr. Livingstone stated he would like to know what the law is about the ability of the Conservation Commission to review before the Town Council acts. The town attorney should be asked about what is the actual law. If there is not written law or procedure, perhaps there should be one. The Commission should not be walked on by other Boards. He would like to bring forward to the Town Council that the Commission is concerned and does have the ability to first review before the Town Council acts.

Mr. Russell stated he would talk to the Town Administrator and the Town Council.

Commission members discussed the process for review of right of first refusal parcels and the opportunity for public input.

Chairman Batchelor confirmed that Mr. Russell would make the Commission's feelings known to Town Council and get questions answered.

**Discussion: Right of First Refusal – 469 Maple Street**

*See notes under: Discussion: Right of First Refusal – 215 Prospect Street.*

Mr. Russell requested the Commission vote to allow an additional agenda item, 2.6.1, to consider an additional standard stipulation.

There was a motion made by Scott McLean to add new item 2.6.1 to the June 29, 2017 agenda. The motion was seconded by Tara Henrichon and accepted with a vote of 7-0-0.

**Discussion: Adoption of Standard Condition #51**

There was a motion made by Scott McLean that the Commission adopts the new standard Special Condition #51 to read: No building permit will be signed by the Conservation office until such time as Stipulations #9 (recording requirement) and #20 (erosion control requirement) are complied with, and evidence of said compliance is received by the Conservation Office. The motion was seconded by Paul Harrington and accepted with a vote of 7-0-0.

**Minutes:**

There was a motion made by Tara Henrichon to approve the meeting minutes for June 1, 2017. The motion was seconded by Scott McLean and accepted with a vote of 5-0-2. (Mr. Livingstone and Ms. Gelineau abstained.)

There was a motion made by Scott McLean to approve the meeting minutes for June 15, 2017. The motion was seconded by Jeffrey Milne and accepted with a vote of 5-0-2.

**CHAIR AND COMMISSION COMMENTS**

Chairman Batchelor asked if Commission members had any questions regarding the Commission member candidates. As no questions were asked, he stated both candidates would be recommended to Mr. Russell to fill as necessary.

Mr. Russell stated he will make recommendations to the Town Administrator. The Town Administrator will meet with the applicants and will make a recommendation to the Town Council. The Town Council is the appointing authority. After appointment, the new Commission member(s) will be sworn in by the Town Clerk.

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

Orders of Conditions – 59 Anthony Road – Norian – CE159-1162

Amended Orders of Conditions – Lot 1, 2 & 3 Marine Way – CE159-1111, 1112 & 1113

Certificate of Compliance – 2 Stephen Way – Wilson – SE159-171

Determination of Applicability (Negative) – 604 Maple Street – Dmytryck

There was a motion made by Scott McLean to adjourn the meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 7-0-0.

The meeting adjourned at 8:33 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary