

**Franklin Conservation Commission
Minutes of Meeting
May 3, 2018**

To: Town Clerk
cc: Members
File

Members Present: Bill Batchelor, Tara Henrichon, Paul Harrington, Jeff Livingstone, Angela Gelineau, Staci Dooney, George Russell, Conservation Agent

Members Not Present: Jeffrey Milne.

Chairman Batchelor announced the meeting would be audio and video recorded. He reviewed how the Commission operates. He stated that Mr. Russell, Conservation Agent, makes recommendations to the Commission based on law; the Commission interprets the law and the needs of the individual. Therefore, it is the Commission's responsibility to come to a decision, not Mr. Russell's decision; he is here in an advisory technical capacity. Chairman Batchelor announced an addition to tonight's agenda, Item 2.6.2: 2019 Meeting Schedule. He noted there would be an executive session at the conclusion of the regular meeting.

There was a motion made by Jeff Livingstone to accept the additional agenda Item 2.6.2: 2019 Meeting Schedule. The motion was seconded by Angela Gelineau and accepted with a vote of 6-0-0.

Mr. George Russell's Agent's Report and Supplemental Agent's Report have been appended to the minutes.

Public Hearing – NOI – Chestnut Senior Village – G&H

Chairman Batchelor stated it is the applicant's right by law to give testimony; however, he urged caution for the following reasons: 1.) the Commission learned that the Town is going to oppose the plan as presented on the scale being too big for the area in question, 2.) the Commission does not have an NOI number, and 3.) a project of this scope would have to go to BETA. If testimony is given and there is conflict, there is a problem. It is his recommendation that this item be continued until all three of the above pieces are put in place.

Mr. Donald Nielsen of Guerriere & Halnon, Inc. and Mr. Richard Whittington, applicant, addressed the Commission. Mr. Nielsen mentioned that Chairman Batchelor just stated that the Town was going to oppose the project. They have been to the Planning Board and that was never said at the Planning Board meeting.

Chairman Batchelor stated he was in receipt of a letter from the Town Administrator indicating it is his opinion that the project is too big for the area in question. He read the letter aloud. He reiterated there was

neither an NOI number nor BETA review. He stated he has seen frequent changes after a BETA review. He advised strongly that the applicant take the continuance.

Mr. Russell recommended the Commission formally vote to authorize peer review.

There was a motion made by Jeff Livingstone to authorize peer review for the NOI for Chestnut Senior Village. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

Mr. Russell recommended the public hearing be continued to the next meeting on May 17, 2018, and continue forward on each agenda so the applicant is always on the agenda until things fall into place.

Mr. Nielsen stated they meet with the Planning Board on May 21, 2018; he requested the hearing be continued to May 31, 2018.

Mr. Russell confirmed a formal letter was received from Jeffrey Nutting, Town Administrator; it is not in the Commission members' packets. He stated as soon as payment for BETA's services is received, he will authorize a notice to proceed.

There was a motion made by Tara Henrichon to continue the public hearing for the NOI for Chestnut Senior Village to May 31, 2018, at 7:15 PM. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – Panther Way Sculpture Park - DPW

Mr. Russell recommended to continue this public hearing to May 17, 2018, based on the lack of an NOI number.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for Panther Way Sculpture Park to May 17, 2018, at 7:25 PM. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – 725 Union Street – Holmgren Engineering

Mr. Russell stated the Zoning Board of Appeals denied their variance. He stated the applicant wishes to continue the public hearing to May 17, 2018.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for 725 Union Street to May 17, 2018, at 7:30 PM. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

GENERAL BUSINESS

Minutes:

Commission members discussed and confirmed the meeting minutes for the April 19, 2018, public hearing for the NOI for 5 Maple Brook Lane.

There was a motion made by Tara Henrichon to approve the meeting minutes for April 19, 2018. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Permit Extension: 15 Bald Hill Road

Mr. Russell recommended the extension be granted.

There was a motion made by Paul Harrington to extend the permit for one year for 15 Bald Hill Road. The motion was seconded by Jeff Livingstone and accepted with a vote of 6-0-0.

Public Hearing – Continued - NOI – 834-842 West Central Street – Padula

Mr. Russell stated the applicant presented the project at the last meeting and requested a continuance because there were some technical issues that had to be worked out on the plans for the Planning Board. Those plans were submitted to both the Planning Board and the Conservation Commission. The modifications that were made on the plans have no impact on any of the peer review that was done, and it does not impact the resource areas. So, we are basically ready to wrap up what modifications were done and take a vote.

Mr. Nielsen provided highlights of what was done, including, but not limited to, some adjustments to shape and size of the infiltration system; it is under the parking lot. There was some information that had been noted in the details that is now also noted on the site plan. The rip rap at the end of the headwall was redirected to the right; it had been going straight. Nothing changed with the plantings. The dumpster was shifted in direction to make it easier for the truck to remove the trash and maneuver the vehicle on the site.

There was a motion made by Jeff Livingstone to close the public hearing for the NOI for 834-842 West Central Street. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Mr. Russell pointed out his suggested stipulations in his Agent's Report.

There was a motion made by Jeff Livingstone to approve the NOI for 834-842 West Central Street with special conditions #20-24, 27-30, 32, 34, 35, 38, 41, 44, 47 and 51. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

GENERAL BUSINESS (continued)

Minor Buffer Zone Activity: 7 Emilio Drive

Ms. Katrina Haverty addressed the Commission for the installation of a front porch that will be mounted on piers; it is at the very edge of the riverfront zone.

Mr. Russell stated it is standard operating procedure for his office to get a copy of all agendas for the Planning Board and Zoning Board of Appeals. All addresses on the agendas are checked to see if there will be any issues concerning the Conservation Commission. As it turned out, the variance request for this address showed up as being in a riverfront zone. He generated correspondence to the property owner indicating it was his opinion that this was in jurisdiction and if the variance was approved, they would need to discuss the issue of permitting through this Commission. Mr. Russell met with the property owner; the proposed farmer's porch is approximately 180 ft. from the bank of the river. It is just within the 200 ft. riverfront zone. Given the Commission's policy of MBZAs in the riverfront, as long as it is not in the resource area, not within 25 ft., not disturbing the land, this would be an MBZA. Therefore, he recommended approval.

There was a motion made by Staci Dooney to approve the MBZA for 6 Emilio Drive. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

Permit Modification: 43 Blueberry Lane

Mr. Russell stated that as noted in his Agent's Report, there is an outstanding reporting issue with this permit. He recommended the extension not be granted at this time, but rather the request be tabled to the May 31, 2018, meeting. And, if the reports are not submitted by that time, he is going to recommend denial. He stated the owner was sent a copy of this report; no response has been received.

Mr. Livingstone confirmed that therefore there is no verification that the applicant has looked at this.

Mr. Russell stated this has been a reoccurring problem. He noted he has received copies of emails sent to the owner's engineer asking why the reports have not been submitted.

Mr. Livingstone asked Mr. Russell if the owner understands that it is not going to fall back on the engineer, it is going to fall back on the owner.

Chairman Batchelor stated here is the difficulty. The Commission must reach out to the homeowner somehow to make sure they understand. He asked if the Commission had an email for the homeowner.

Mr. Russell confirmed the homeowner was emailed a copy and no response was received.

Mr. Livingstone stated, yes, it is true that it is not the Commission's responsibility to be working on the landowner's behalf to solve the problem of the landowner. But, it would be decent of the Commission to simply say to the owner please understand that the Commission understands that there have been no responses from the engineering company, but the responsibility and problems will fall back on you.

Mr. Russell stated that letter will be going out on Tuesday. He noted that no one is living at 43 Blueberry; it is a house that is going up. Technically, the house is in Norfolk; the jurisdictional area they had to get approval for is in Franklin.

Commission members discussed that the Commission does not necessarily have the data from past meetings, such as the textual material in the meeting minutes, in an easily accessible form that people could look at to find out about past projects that specific contractors/builders have done. If there was such a tool that the public could access, it would make it better.

Mr. Russell stated information about past projects that contractors/builders have done is a matter of public record and he could give people the files.

Chairman Batchelor noted a person could go to people that own homes by that builder to obtain information.

Commission members discussed storage and access of meeting minutes; they should be searchable. There are easy and not expensive remedies for this. This would be a great tool for the public and would put some pressure on the developers.

There was a motion made by Paul Harrington to table the permit modification request for 43 Blueberry Lane to May 31, 2018. The motion was seconded by Staci Dooney and accepted with a vote of 6-0-0.

Certificates of Compliance: Lot 6 Juna Way and 11 Longwalk

Mr. Russell stated both certificates are from old orders that have expired. Neither of these lots have jurisdictional areas on them, but they are part of the big subdivision. He recommended partial releases for both lots.

There was a motion made by Paul Harrington to approve the Certificate of Compliance for Lot 6 Juna Way (2 Juna Way). 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 Certificate of Compliance for 11 Longwalk. The motion was seconded by Paul Harrington and accepted with a vote of 6-0-0.

Discussion: ConCom Managed Land

Mr. Russell stated he has gone through all the ConCom managed land that was not subject to other actions by the Commission, such as some parcels transferred to the state; those parcels are not included. He has inspected every parcel. In the Commission members' packets, he has provided suggested or recommended locations of signs. The first page in the packet has a preliminary layout of the sign that would go up. He requested the Commission give authorization to go forward with the signs and authorization to go forward to install the signs.

Commission members questioned why the signs would indicate no trespassing when it would be public land.

Mr. Russell stated the vast majority of the areas are environmentally fragile.

Commission members discussed the sign wording should indicate environmentally fragile.

Mr. Russell stated it does not mean that because it is town-owned land or managed by the ConCom that the public has access to it.

Commission members and Mr. Russell discussed access and possible wording on the signs.

Mr. Russell noted he would like to leave the no trespassing words on the signs as it is legally binding.

Commission members discussed adding information to the signs to clarify why there is no trespassing, the actual wording for the signs, design, adding a phone number, and if the Commission had its own seal.

Mr. Russell noted there are some areas where he recommended no signs. He stated he would meet with the DPW Highway and Grounds foreman next week to go over the cost factors involved in getting bigger signs which means bigger posts; he will see what can be done with the wording. If he cannot get the wording on the signs, he will let the Commission know.

Discussion: 2019 Meeting Schedule

Mr. Russell stated that at the last meeting the Commission voted to approve the 2019 Meeting Schedule with four changes in October and November. That is not going to work. The Commission has no guarantee of getting the Training Room, which is the second meeting location option, as it is under the jurisdiction of the schools and they may have other functions scheduled on the nights the Commission needs the room. If the Commission does not get the Training Room, they will be given a very small room where the meeting video recording cannot be done. He suggested keeping the original schedule as it was and deleting the October 31, 2019 meeting date. If they find they are running into logistical issues as those meeting dates approach, they could hold a special meeting.

Mr. Livingstone asked if the Commission had to meet inside this building and noted there was a new conference room in the Franklin Public Library.

Mr. Russell stated they could possibly go to another location, but they would have to get the public TV access and it would have to be a special meeting. The recording technician indicated he could not record at the Franklin Public Library. Mr. Russell stated the October 31, 2019, meeting date would be kept on the schedule when sent to the Town Clerk, but the meeting would be cancelled.

There was a motion made by Jeff Livingstone to accept the original 2019 Meeting Schedule. The motion was seconded by Tara Henrichon and accepted with a vote of 6-0-0.

Chairman and Commission Member Comments

Chairman Batchelor reviewed Earth Day. He gave special thanks to Ms. Henrichon and Ms. Dooney. He stated about 20 people attended at DelCarte; more adults than children. He stated Beaver Pond was a great success; they had an enormous group of people. He said he thought people did not know that DelCarte was an option. He said we were not listed on the sign; only Beaver Pond was listed. He thinks that hurt the Commission's event. He does not know why it was not listed. There were 50 people last year. He appreciated the walk held by the Audubon people that Ms. Henrichon arranged. He thanked the DPW people that came by with the truck.

Ms. Henrichon reviewed the past three years that the Commission participated in the event.

Commission members discussed why there were so few people at DelCarte and why people did not know about it. For next year, there needs to be an agreement on a communication plan that gives equal status to all locations; Earth Day will be on April 27, 2019. It was suggested that the GATRA bus should stop at DelCarte as a way for DelCarte to be accessed by people that do not live near it.

EXECUTIVE SESSION

Discussion – Pending Litigation

There was a motion was made by Chairman Batchelor to go into executive session pursuant to Massachusetts General Law Chapter 39 Section 23b3 to discuss strategy with respect to litigation as an open meeting may have a detrimental effect on the litigating position of the public body and the chair has so declared. The Conservation Commission will return to open session solely for the purpose of adjourning the meeting. The motion was accepted with a Roll Call Vote: Henrichon-Yes; Livingstone-Yes; Gelineau-Yes; Dooney-Yes; Harrington-Yes; Batchelor-Yes. (Vote: 6-0-0.)

The regular session of the Conservation Commission meeting ended at 8:23 PM.

Signed Minor Buffer Zone Activity, Orders of Conditions, Certificates of Compliance & Extension Permit

Certificate of Compliance – 2 Juna Way – Sebio – SE159-384

Certificate of Compliance – 11 Longwalk Road – Palmer – SE159-557

Minor Buffer Zone Activity – 7 Emilio Drive – Haverty

Extension Permit – 15 Bald Hill Drive – Goodermuth – CE159-1065

Orders of Conditions – 834-842 West Central Street – Padula – CE159-1176

Respectfully submitted,

Judith Lizardi
Recording Secretary