

**Franklin Conservation Commission  
Minutes of Meeting  
May 31, 2018**

To: Town Clerk  
cc: Members  
File

Members Present: Bill Batchelor, Angela Gelineau, Jeffrey Milne, Staci Dooney, George Russell, Conservation Agent

Members Not Present: Tara Henrichon, Paul Harrington, Jeff Livingstone.

Chairman Batchelor announced the meeting would be audio and video recorded. He stated the Commission's quorum will not be available after 8:00 PM; any issues not addressed by 8:00 PM will have to be brought to the next Commission meeting. 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.

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

**Public Hearing – Continued - NOI – Chestnut Senior Village – Whitman**

Mr. Russell stated he received an email from the applicant allowing an extension of the hearing. As written in his Agent's Report, he noted there is a stipulation in the zoning regulations upon which the Conservation Commission must make a recommendation to the Planning Board. This is under section 185-48 F of the zoning regulations; he read aloud section (c). He recommended the Commission does not recommend that a greater percentage of open space be allowed. Further, he also recommended that the Commission recommend to the Planning Board that the open space not be deeded to the town. Once it is deeded to the town by ordinance, it must be open to the public for public access and the environmental fragility of the area should preclude that. And, he recommended that the open space be placed under a state approved CR. He noted the ultimate decision is the Planning Board's.

Ms. Amanda Cavaliere, Guerriere & Halnon, Inc., representing Whitman Homes, addressed the Commission. She stated she wanted to speak for the client; the client is not here as the meeting is to be continued. She requested that any recommendations be presented to the client for review.

Mr. Russell stated this body at this time is recommendary to the Planning Board; they can accept or reject the Commission's decisions.

Chairman Batchelor reiterated what the Commission plans to recommend to the Planning Board, but it is the Planning Board's decision.

There was a motion made by Angela Gelineau that the Commission recommend to the Planning Board for the Chestnut Senior Village that no additional wetlands jurisdictional areas be used in the calculation of open space, they do not deed open space to the town because it would require public access to environmentally fragile areas, and the open space be placed under a state approved CR. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

There was a motion made by Staci Dooney to continue the public hearing for the NOI for Chestnut Senior Village to June 14, 2018, at 7:40 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

### **Public Hearing – RFD – 107 Elm Street - Dellea**

Ms. Amanda Cavaliere, Guerriere & Halnon, Inc., and Mr. Andrew Dellea, applicant, addressed the Commission to mitigate erosion along the Charles River bank. Ms. Cavaliere stated they are requesting a negative determination for the RFD. She reviewed the background of the issue which included the initial complaint filed last year with DEP regarding a large pipe observed by a canoeist on the river. The applicant was notified by the Commission of this observed activity. The property dates back to the 1800s. It is deeded as farmland. The owner and his family have owned 30-plus acres of farmland for decades in that area. The majority of it is covered as agricultural preservation restriction land. The observed pipe was determined to be a 6 in. PVC pipe discharging into the river as part of a drainage ditch that used to be an open ditch used as drainage to prevent the farm fields from flooding. This ditch was eventually hard piped to maintain and improve the farming area and make it easier to access the fields. These tracts of land are covered as agricultural use. They do not believe this activity would need to be permitted as this has been there as long as the farmlands have been there. She stated 107 Elm Street is agricultural land, but 91 Elm Street is not; however, it was agricultural land dating back to the 1800s. It has since been subdivided.

Mr. Russell requested the Commission ignore his original Agent's Report and focus on his Supplemental Agent's Report for this item. The property that the pipe outlet is on is owned by the applicant. The property where the inlet to the pipe is, is on a different property and is not agricultural. That is shown on the photographs and maps he provided. The pipe has been there a number of years; the applicant stated it has been there at least 20 years. He is assuming the pipe was actually draining agricultural property when it was first put in. It is not draining agricultural property at the present time. However, it would seem to him at this point that requiring the applicant to go through the NOI process for something that has been there for so long, and more importantly, is probably not going to change in any way, shape or form over the next decade or two, he would recommend instead of granting a negative #5 or a positive #1, that the Commission grant a negative #2 allowing the activity to remain as is, not requiring an NOI, and at the same time not adopting or blessing the agricultural exemption for this particular pipe. This allows the applicant to avoid the NOI process which could get expensive and allow the pipe to function as is. But, it would also put the applicant on notice that in the future should there be modifications to the pipe or to the agricultural activity taking place, additional permitting may be required.

Ms. Gelineau asked if the owner of where the inlet is should be here in front of the Commission as well.

Mr. Russell stated it was the outlet structure that would be necessary to permit as it is in the resource area. During the investigation after the permit was filed, it was discovered that the inlet was not on the same property.

Chairman Batchelor stated he and the Vice Chair have had multiple meetings with Town Counsel and Town Administration and it was determined by Town Counsel that it is an issue we do not want to tackle.

It is up to the owners of both properties to make a mutual agreement. On strong advice of Town Council, we are not going to tread on that. He stated that the Commission does not regulate water. He stated this is an issue they are going to give a negative #2; this makes everything blend and we want to turn it into a non-issue.

Ms. Cavaliere reviewed the inlet, the ditch, and the fields. She stated she agreed with the negative #2 that states they are in the resource area but not going to fill or alter it and therefore no NOI is required.

There was a motion made by Jeffrey Milne to close the public hearing for the RFD for 107 Elm Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Jeffrey Milne for a negative #2 determination for the RFD for 107 Elm Street. The motion was seconded by Staci Dooney and accepted with a vote of 4-0-0.

#### **Public Hearing – RFD – 7 Chilmark Road- Bailey**

Ms. Lisa Bailey, homeowner, addressed the Commission to remove trees from the backyard. She stated the trees were dying; several limbs fell this past winter and they were hollow.

Chairman Batchelor stated this is imminent danger.

Mr. Russell stated that normally this would be an MBZA. The trees are all in the 25 ft. no-touch zone; the RDA was required. He recommended a negative #3 which means the applicant can cut the trees down. He noted that at least two of the trees are in very difficult shape. No NOI is needed.

There was a motion made by Jeffrey Milne to close the public hearing for the RFD for 7 Chilmark Road. The motion was seconded by Staci Dooney and accepted with a vote of 4-0-0.

There was a motion made by Staci Dooney for a negative #3 determination for the RFD for 7 Chilmark Road. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

#### **GENERAL BUSINESS**

##### **Minor Buffer Zone Activity: 60 Southgate Road**

Mr. Frank Fiorillo, homeowner, addressed the Commission to build a shed; he had three trees cut down for safety reasons as they were badly damaged during the winter.

Mr. Russell stated the field inspection revealed the trees had been cut down. They were damaged during a storm. Given their location, he is recommending that when the MBZA is approved, it is approved for the shed and the removal of the trees after-the-fact. The wetlands are much closer than originally thought; the map is incorrect. But, the applicant is still out of the 25 ft. no-touch zone.

There was a motion made by Jeffrey Milne to approve the MBZA for 60 Southgate Road for the shed construction and retroactively for the removal of the trees. The motion was seconded by Staci Dooney and accepted with a vote of 4-0-0.

##### **Minor Buffer Zone Activity: 4 Cherie Lane**

Mr. John Baker, property owner, addressed the Commission for a deck replacement. He stated it will be a little bigger than the original deck. It will be on footings, no foundation.

Mr. Russell pointed out there is a perennial stream in the front yard; that puts almost the entire lot in the permitting jurisdiction of the Commission. He does not see any problem with the deck; it is in the back of the house away from the stream.

There was a motion made by Jeffrey Milne to approve the MBZA for 4 Cherie Lane. The motion was seconded by Staci Dooney and accepted with a vote of 4-0-0.

**Certificate of Compliance: 67 Prospect Street**

Mr. Russell stated this item cannot be taken tonight as a member of the Commission would have to recuse themselves and then there would be no quorum.

**Certificates of Compliance: 1 Clearview Drive and 18 Clearview Drive**

Mr. Russell stated these are both ready to go forward. He recommended approval; these are both partial certificates.

There was a motion made by Angela Gelineau to approve the Certificates of Compliance for both 1 Clearview Drive and 18 Clearview Drive. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Discussion: Vegetative Debris SOP**

Mr. Russell stated in the Commission members' packets, there is a proposed amendment to the handling of vegetative debris in a jurisdictional area. He stated what he is proposing is two-fold; this is only step one. Right now, the Commission requires an applicant who has vegetative debris in a jurisdictional area to retain a wetland scientist, prepare a report, and file an RDA. He is recommending the policy be amended in the buffer zone from the 100 ft. to the 25 ft. area that an MBZA be allowed with no wetlands report if it is vegetative debris. He noted that vegetative debris is defined. But, if there is vegetative debris in the 25 ft. no-touch zone or the resource area, the wetland scientist's report would be required and an RDA.

Chairman Batchelor stated this is major; some people will not have to get a wetland scientist.

Ms. Gelineau stated this is what the Commission has discussed in the past.

Mr. Russell stated the Commission has adopted the current SOP that requires the wetland scientist. He is requesting they adopt, by formal vote, this new SOP.

There was a motion made by Angela Gelineau that the Conservation Commission adopt the Conservation Commission Policy on Vegetative Debris in a Jurisdictional Area as presented to the Commission in tonight's meeting materials. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

**Agent Comments**

Mr. Russell stated at the next meeting there will be an item on the agenda concerning proposed amendments to the local wetlands bylaw that will address this item among others.

**Signed Minor Buffer Zone Activities, Determinations of Applicability & Certificates of Compliance**

Determination of Applicability – 107 Elm Street – Dellea

Determination of Applicability – 7 Chilmark Road – Bailey

Minor Buffer Zone Activity – 60 Southgate Road – Fiorillo

Minor Buffer Zone Activity – 4 Cherie Lane – Baker

Certificate of Compliance – 1 Clearview Drive – TNT Building Corp.

Certificate of Compliance – 18 Clearview Drive – TNT Building Corp.

There was a motion made by Staci Dooney to close the Conservation Commission meeting. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0. The meeting adjourned at 7:52 PM.

Respectfully submitted,

---

Judith Lizardi  
Recording Secretary