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**Franklin Conservation Commission
Minutes of Meeting
August 9, 2018**

To: Town Clerk
cc: Members
File

Members Present: Bill Batchelor, Jeff Livingstone, Angela Gelineau, Jeffrey Milne, George Russell, Conservation Agent, Kathleen Celorier, Secretary.

Members Not Present: Tara Henrichon, Paul Harrington, Staci Dooney.

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.

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

Public Hearing – RFD – 430 Partridge Street - Anderberg

Mr. Taylor Anderberg addressed the Commission for wood chips in the BVW. He stated downed branches in the yard were put through a chipper; the woodchips were then placed on invasive species at the edge of the woods to try to eradicate them.

Mr. Russell stated this application originally came in as an MBZA for a fence. An inspection revealed the woodchips in the BVW. The Commission met with the applicant and agreed the applicant should retain a soil scientist to evaluate the woodchips; the applicant has done this. The soil scientist's report recommended the removal of the woodchips. He stated the applicant has followed all the Commission's SOPs. He recommended a negative #2 with the stipulations as outlined in his Agent's Report.

Mr. Anderberg stated he read and has no difficulty with Mr. Russell's recommendations. In response to a Commission member's question, he stated the woodchip pile has been there approximately two to three months.

There was a motion made by Jeffrey Milne to close the public hearing for the RFD for 430 Partridge Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

There was a motion made by Angela Gelineau to approve a negative #2 for the RFD for 430 Partridge Street with the following stipulation:

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The applicant shall remove the vegetative debris referenced in the application for this project from all resource areas. After the material is removed, a wetlands scientist shall submit a report outlining the conditions of the jurisdictional area after removal, restoration of the jurisdictional area if necessary and any remediation efforts that were necessary to restore the jurisdictional areas. Failure to submit this report within 45 days after removal shall be considered a violation of the permit and may result in additional legal action for non-compliance.

The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

Public Hearing – Amendment – Lot 2 Marine Way/6 South Street

Mr. Omar Chatila, Project Manager, Franklin Hills, addressed the Commission. He stated they filed an amendment because they had to shift the wall to prevent washouts from going into the wetlands. The wall has been moved closer to the jurisdictional area.

Mr. Russell stated he has inspected the site. This came to his attention when the applicant wanted to file a request for a Certificate of Compliance. When he saw the as-built engineering certification with the wall and fence, he recommended the applicant apply for an amendment to the NOI. He recommended approval of the amendment. He confirmed the wall has been moved closer to the resource area which is in the back of the structure.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI Amendment for Lot 2 Marine Way/6 South Street. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

There was a motion made by Jeffrey Milne to approve the NOI Amendment for Lot 2 Marine Way/6 South Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

GENERAL BUSINESS

Minutes: July 26, 2018

There was a motion made by Jeff Livingstone to approve the meeting minutes for July 26, 2018. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0. (Mr. Milne stated he abstained and voted approval.)

Public Hearing – NOI – 85 Elm Street – Botchis/Karon Skinner

Ms. Karon Skinner Catrone, Wetland Consultant, representing Christopher and Cindy Botchis, addressed the Commission regarding a 19 ft. x 11.7 ft. addition to the rear of the house of which part is in the 25 ft. no-touch zone. She explained the proposal and noted erosion control and mitigation on the plan. They will be removing an impervious patio area for the addition.

Chairman Batchelor noted part of the house is in the 24 ft. no-touch zone.

Mr. Russell stated he reviewed the application; there was an issue with flags that has been corrected. He recommended approval of the NOI with the stipulations outlined in his Agent's Report.

Commission members asked questions and discussed the proposed plans.

Mr. Christopher Botchis stated the house was purchased in 2002.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 85 Elm Street. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

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There was a motion made by Jeffrey Milne to approve the NOI for 85 Elm Street with special conditions #20, 23, 24, 29, 30, 34, 38, 44 and 51. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

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

Mr. Russell stated that at the request of the applicant, this agenda item should be continued to the next meeting.

There was a motion made by Angela Gelineau to continue the public hearing for the NOI for 725 Union Street to August 30, 2018, at 7:05 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

GENERAL BUSINESS (continued)

Certificate of Compliance: 59 Anthony Road

Mr. Russell stated all is ready for the COC to be granted.

There was a motion made by Jeffrey Milne to accept the Certificate of Compliance for 59 Anthony Road. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Discussion: Annual Report

Mr. Russell stated the final draft of the Annual Report was provided in the Commission members' packets. He will be submitting it to the Town Clerk by the end of the month. He stated if anyone has anything else they need or want in the Annual Report, he needs it.

Chairman Batchelor stated he has no difficulty with it at this time, but he will review it again.

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

Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., representing Whitman Homes, addressed the Commission and stated she would give testimony to present the project as it has been submitted to both Conservation Commission and Planning Board. She stated at the Monday night meeting with the Planning Board, they received the thumbs up that the Planning Board is comfortable with the concept of the plan as shown. They will be addressing the comments they have received from the Town and BETA Group. She provided a background of the project. This is a proposal for a three-story, 26-unit senior village consisting of both one and two-bedroom units, and one existing home at 51 Chestnut Street. There is work proposed within the 100 ft. buffer, 0-25 ft. buffer, and 25-50 ft. buffer. WSI who is working with BETA Group was onsite in July to inspect the wetland flags; they were in agreement with the flags as is. The majority of BETA's and the Town's comments have been addressed. They are at a point with the project that they need some feedback from Conservation Commission so they can get final revisions to both Planning Board and Conservation Commission and close out the project. One outstanding issue that pertains to the Conservation Commission is the fire access requested by the Fire Chief. They have been working together with the Fire Chief to determine the best option for the slope for the access and egress for emergency vehicles; it is still a little steep for the Fire Chief.

Chairman Batchelor, concerning the access road, confirmed his understanding that the applicant received approval to be in the no-touch area.

Ms. Cavaliere confirmed they have submitted a variance for work in the no-touch area. She noted right now they are at a proposed 15 percent slope for access and egress; the Fire Chief stated he will accept no more than 8 percent. There is a potential that they may have to lift the road up and bring in material. A

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retaining wall would be needed. They are still in discussions. Conceptually, the plan will not change. She stated the road is approximately 125 ft.

Mr. Russell stated the actual approval for the noted variance is up to the Commission. The only thing they do not know for the access road is what is going to be the final quantities of fill which will be dictated by the pitch and grade agreed on.

Commission members and Chairman Batchelor asked questions and discussed the plans.

Ms. Cavaliere discussed the "Open Space Management Plan" for the project. She stated the applicant is proposing to have the majority of it active recreation within the 5-acre parcel outside of the wetland areas. They are proposing to put four raised gardening beds and a horseshoe pit and various seating areas throughout the property for walking recreation. No recreation activity is associated with anything beyond the wetland line. If that area is raised for the access, there will be no walking area along there.

Mr. Russell stated in order to comply with the zoning regulations, the applicant has to get from the Conservation Commission comments on this Open Space Plan. If the applicant wants to go with this plan, per se, he has no issue. However, he strongly recommended any maintenance or management that involves such things as tree removal, that is within jurisdiction, comes back to the Conservation Commission.

Commission members informally agreed with Mr. Russell's recommendation.

Ms. Cavaliere stated she did not object to that.

Mr. Russell suggested the Commission not close the hearing because they are still waiting for input on the access road which may be a big deal. To go along with the zoning regulations, the Planning Board needs some "input" from the Commission as to whether they are favorably disposed or not to the plan as presented so far. Secondly, the Planning Board needs information on an up or down on the Open Space Management Plan as provided at this point. He recommended the Commission take a stand on the Open Space Management Plan that any jurisdictional area requiring changes come back to this Commission.

Chairman Batchelor asked if anyone had any problem with the concept being presented. He noted they cannot vote on the access road as it is still under discussion and can change.

Commission members informally agreed they had no problem with the concept and what is presented.

Chairman Batchelor confirmed there are still a couple of issues that remain to be debated which is why this item will be continued. He stated he does believe a vote should be taken on the Open Space Plan and asked if anyone had any difficulty regarding that the applicant must come back before the Commission if any remedial work is to be done such as tree cutting. He stated they would continue this hearing to the next meeting. He stated to Ms. Cavaliere that right now they are looking very favorably on this.

Mr. Livingstone requested confirmation that the entrance to the facility is an existing easement.

Ms. Cavaliere stated Yes.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for Chestnut Senior Village to August 30, 2018, at 7:10 PM. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

GENERAL BUSINESS (continued)

Certificate of Compliance: 3 Maple Brook Lane

Mr. Russell stated that technically the COC has not been submitted. There is an expired permit, but there have been some deviations from what had been approved to what was actually done. Those deviations are outlined and provided in the Commission members' packets. He noted the fence is in a different position, the proposed plants are not in the pool area, no compost bin, hot tub installed, and more. The difference in the plantings is somewhat significant in the sense that in some cases sixteen were proposed and only six were installed.

Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., and Zack and Michelle Addi, addressed the Commission. Ms. Cavaliere stated that due to the long duration of the project the area has significantly grown back. She showed the original and new tree line on the plans. They did do some of the plantings required. They are requesting the Commission approve the plan as is constructed to date and they would file a RFD to accept the plan as is and then request a COC to close it out, to remove the order from the title.

Commission members asked questions and discussed how the tree line changes apply to all the deviations listed from the original plan.

Ms. Cavaliere stated as the area has grown in fairly thick, adding more plantings will cause more disturbance to the buffer.

Mr. Russell stated his concern is the original approved NOI and that what was actually done is different. He stated that given the permit has expired, he agrees with Ms. Cavaliere that ripping out the vegetation that has grown in is going to cause more problems; therefore, the way to legally solve the issue is to file a RFD for what is there to show the difference between what was originally approved and what is there now. He stated items such as the hot tub are in jurisdiction and they were not approved.

Mr. Livingstone stated data is missing; the Commission cannot do anything without the original plan and understand the difference between the two. The re-growth is independent from the rest of these concerns. He strongly recommends a site visit from this group and he wants a copy of the original plan.

Ms. Cavaliere stated the applicant is not opposed to a site visit.

Mr. Russell stated there is no immediacy to this as the original permit has expired. In order to clear the applicant's title, they must have the COC. The question is, do they need an RDA or an NOI. He stated he can provide the Commission members with a copy of the original plans. He noted that if more than four members of the Commission go there, it constitutes a meeting and it has to be advertised.

Ms. Gelineau stated they can figure out the logistics of the site visit.

Chairman Batchelor asked Mr. Russell to continue this to the next meeting.

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Mr. Russell noted the Commission members will get in their next packets information about a State Supreme Court on Open Meeting Law; he cautioned the Commission members not to give any opinions publicly.

Chairman Batchelor told Commission members there should be no discussions with the property owner, engineer, etc. Commission members may ask questions during their site visit but give no opinion. He stated someone will be in touch with the property owner about the time/date of the visit.

Discussion: Oriental Bittersweet Removal Girl Scout Project Update

Ms. Sonia Griffin-Hazlett, Girl Scout, addressed the Commission and explained her progress in her Girl Scout project for oriental bittersweet removal. She provided a handout to Commission members. She stated there is still more to work on. She said she may have to do another bottle and can drive to raise funds to print more pamphlets.

Chairman Batchelor asked if the handout could be put on the website as it is excellent information.

Mr. Russell stated the handout could be scanned and put on the website as a pdf. He stated the additional booklets Ms. Griffin-Hazlett provided could be put in his office.

Chairman Batchelor suggested Ms. Griffin-Hazlett provide her name on the booklet before the back page or highlight her name to make it more visible. He stated Ms. Griffin-Hazlett did an outstanding job on the oriental bittersweet project; congratulations.

Commission members asked questions about the project.

Violations/Enforcement: 586 Maple Street

Mr. Russell stated the background of this issue is provided in the Commission members' packets. He has met with both the husband and wife onsite and in the office. He has generated letters indicating this is gone from a \$210 permit and a wetlands scientist to a \$50 permit and administrative approval. But, he cannot get the property owners to file the permit. They came into the office to get their building permits as they are putting on an addition which is originally why he went to the site. When the homeowners came in to get the building permits they talked with Mr. Russell who explained the issues and problems. Mr. Russell assumed the homeowners would follow procedure and file the permit. This has been pending since February and there has been no action. Therefore, he requests the issuance of the enforcement order. He noted he has no right to go on the site, but he has been back to the site and knocked on the door a few times. He noted this is one of the ones he would approve administratively as long as they would remove the non-vegetative debris.

Commission members asked questions about the issue.

Chairman Batchelor stated what else can we do.

Mr. Russell stated he felt, but could be mistaken, that their attitude was that this is my property and I can do what I want. He stated this is an easily solvable issue.

Commission members informally agreed they had no problem issuing an enforcement order on this.

There was a motion made by Jeff Livingstone to issue the Enforcement Order for 586 Maple Street. The motion was seconded by Jeffrey Milne and accepted with a vote of 4-0-0.

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

Orders of Conditions – 85 Elm Street – Botchis – CE159-1184

Amended Orders of Conditions – Lot 2 Marine Way – Boudreaux – CE159-1112

Certificate of Compliance – 59 Anthony Road – Norian – CE159-1162

Determination of Applicability (Negative) 430 Partridge Street – Anderberg

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Jeff Livingstone and accepted with a vote of 4-0-0.

The meeting adjourned at 8:16 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary