

**Franklin Conservation Commission
Minutes of Meeting
December 1, 2016**

To: Town Clerk
cc: Members
File

Members Present: B. Batchelor, T. Henrichon, P. Harrington, S. McLean, Angela Gelineau, George Russell, Conservation Agent
Members Not Present: J. Livingstone, Nick Shuler.

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 – RDA – 82 Elm Street – Graf

Mr. Russell stated the applicant requested to continue the hearing to March 9, 2017.

There was a motion made by Scott McLean to continue the public hearing for the RDA for 82 Elm Street to March 9, 2017 at 7:15 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 656 King Street – Wegman Companies

Chairman Batchelor stated that since the Commission has not received the peer review report this agenda item will be continued to December 15, 2016 at 7:30 PM.

Ms. Deborah Murphy and Mr. Paul Murphy, 17 Forest Street, addressed the Commission. She noted they were at the last meeting as well. She stated that for the Commission's consideration she provided a letter dated November 22, 2016. She reviewed BETA's scope to address the drainage concerns and would like the Commission to include the information in this letter as it is relevant to determine if the drainage system is operating correctly.

Mr. Russell stated the directive to the peer reviewer, BETA Engineering, was to review the entire drainage system onsite. He assumes this will consider all the original and/or secondary drainage calculations that were submitted for the new project as well as installation, pipe sizes, etc. The charge is to make sure the drainage system is working as it should.

Ms. Murphy stated that since the peer review is not complete she is hoping they will consider the items in the November 22, 2016 letter. She stated that as requested by the former Conservation Commission chairman, she submitted a set of three CDs that was made for each commissioner and for the files; she would like that information to be considered. She noted the information is in Mr. Russell's file. As well, there have been modifications to the original plans that she would like to have considered, as built plans,

orders of conditions, and storm water management regulations. These are to govern the maintenance and the site development and should be considered during the peer review.

Chairman Batchelor stated that as explained at the last meeting, he cannot speak to what happened in the past when he was neither a Commission member nor chairman. He stated the issue before the Commission is clearly for the site only. Any collateral issues to that can be addressed in a civil lawsuit. This Commission will not influence a peer review; it is independent. Since it is paid for by this Commission, the Commission cannot influence it.

Ms. Murphy stated she is not asking the Commission to influence it, she is asking the Commission to include pertinent documents from the files and go to the site to make sure the site is as it says in the files.

Chairman Batchelor stated it is his understanding that the peer review is for a select purpose only which is the drainage onsite.

Ms. Murphy stated that on the BETA review report it said they were going to be looking at her property also. She stated the orders of conditions should be looked at completely as they are not signed off.

Chairman Batchelor stated the orders of conditions are being managed by and paid for by the Commission. He stated that as such, he highly recommended Ms. Murphy retain counsel, and quite honestly at this point the Commission cannot help her.

Ms. Murphy stated the Commission should be helping her, but they are refusing to help her.

Mr. McLean explained that Ms. Murphy is asking about the scope of the review; she is not talking about if the Commission can stop the drainage. He stated that Mr. Russell indicated that in looking at her suggestions, they would be in the scope of the review.

Mr. Russell stated no. The scope of the review is limited to if the drainage system is working as designed, was it installed as designed, and is the new work being proposed going to solve the problem of basin #1 not draining properly. To undertake, in his opinion, what Ms. Murphy is suggesting, requires a complete revision of the scope of services to BETA to expand it and the applicant is paying for that. Given that the partial certificate of compliance has been issued, those issues are, in essence, in the past; the Commission has made that decision. If the Commission opens that, in essence, the Commission is saying that every Commission decision made is open to review. He stated the scope of this review is the whole drainage system; basin #1 is what prompted the application. He stated that the Commission expanded that at Ms. Murphy's request to review the entire drainage system on the site.

There was a motion made by Scott McLean to continue the public hearing for the NOI for 656 King Street to December 15, 2016 at 7:30 PM. The motion was seconded by Angela Gelineau and accepted with a vote of 5-0-0.

Public Hearing –NOI – 2 Ruby Lane – James Vallee Living Trust

Mr. Rick Goodreau of United Consultants, Inc. addressed the Commission for regrading rear yard and installing loam and hydroseeding. He provided the certified mail receipts. He stated this came about by an inspection by the Commission's agent. Some work was being completed and a permit had not been obtained. The work was primarily the construction of a retaining wall located outside of the jurisdictional area and some regrading and replanting of the lawn not outside of jurisdiction. Once they became aware of this, the area was wrapped with erosion control barrier compost sock and they had the wetlands delineated. Approximately 600 sq. ft. of area had been graded, loam applied and replanted.

Mr. Russell stated he agreed with Mr. Goodreau's statements. He noted that they put down erosion control immediately. The slope has been stabilized. At this point in time the project is complete. The grass grew even in the drought. He sees no problem with issuing the NOI.

There was a motion made by Scott McLean to close the public hearing for the NOI for 2 Ruby Lane. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

There was a motion made by Scott McLean to approve the NOI for 2 Ruby Lane with special conditions #27, 29 and 44. The motion was seconded by Angela Gelineau and accepted with a vote of 5-0-0.

Public Hearing – Continued - NOI – 0 Pond Street – Baystone Franklin

Mr. Russell stated this application is currently before the Planning Board. There will be significant modifications to the plans. No revised plans have been submitted to the Commission. Therefore, in communication with applicant, this hearing should be continued to December 15, 2016.

There was a motion made by Scott McLean to continue the public hearing for the NOI for 0 Pond Street to December 15, 2016 at 7:35 PM. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Public Hearing – NOI – Lot 330-12-2 Mount Street – Hearn
Chairman Batchelor recused himself.

Mr. Russell stated this was advertised on the agenda as Lot 330-12-2 Mount Street. Since that time a street address has been assigned as 4 Mount Street.

Ms. Joyce Hastings of GLM Engineering addressed the Commission for the construction of a single-family dwelling. She noted the applicant was present at the meeting. She has filed an NOI for 4 Mount Street. She reviewed the scope of the project. It is an existing developed lot with two barns which occupy approximately 8,000 sq. ft. on the property. They filed the NOI because the applicant is proposing to clean up site, demolish barns, and construct a single-family dwelling in area in front of where barns are now. There is a wetland area in the front of the property to the north of the project. The house, septic system, and infiltration for the roof runoff will all be outside the 100 ft. buffer zone; the existing gravel driveway is within the 100 ft. buffer zone. They are going to utilize the existing driveway which comes from Mount Street. The driveway is currently compacted gravel; proposing to stabilize that and pave a 10 ft. driveway that goes to the house. They will place an erosion control barrier that runs all the way down the driveway and down the gravel track to the far corner so the entire wetlands are protected from the proposed project. The total property acreage is 8.5 acres. The house and septic system will disturb close to 2 acres. As such, filed application with town engineer under the stormwater bylaw. In response, they added infiltration for roof runoff and a drainage/outlet pipe. The barn being removed is 8,200 sq. ft.; the house being constructed is 3,800 sq. ft. They will put in gravel apron during construction before it is paved. She stated they have finished the revisions with the town engineer. There will be a private well.

Mr. Russell stated all his concerns have been addressed; he recommended special conditions upon approval.

There was a motion made by Scott McLean to close the public hearing for the NOI for 4 Mount Street. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

There was a motion made by Scott McLean to approve the NOI for 4 Mount Street with special conditions #20, 22, 24, 27-30, 34 and 44. The motion was seconded by Paul Harrington and accepted with a vote of 4-0-0.

GENERAL BUSINESS

Chairman Batchelor recused himself.

Minor Buffer Zone Activity: Franklin Heights - Trees

Mr. Brian Thompson of The Property Managers, property managers of Franklin Heights Condo Association, addressed the Commission. He noted he was before the Commission in September to have two trees cut down. He was advised at that time they needed to get a letter from a certified arborist declaring the trees are a life and property danger. Reilly Tree Company provided the certification that the trees need to come down.

Mr. Russell stated the Commission has gone on record stating they do not want to use an MBZA to modify an NOI unless the applicant can justify a direct threat to health and safety. This meets that test.

There was a motion made by Scott McLean to approve the MBZA for Franklin Heights, the tree removal. The motion was seconded by Angela Gelineau and accepted with a vote of 4-0-0.

Permit Modification: The Key Project – West Central Street

Mr. Russell stated it was his recommendation that the applicant present the issue to the Commission; the final decision is up to the Commission. This project is moving so quickly and there may be other changes to the site that it may be better to do the NOI modifications all at once; this change plus the others that are coming. This can be considered a briefing.

Mr. Philip Cordeiro of Allen & Major Associates, representing WP East Acquisitions, the owner and builder of the Key Project on West Central Street, addressed the Commission. He reviewed the construction plan. The area of discussion is focused on the depressed area near the secondary entrance onto West Central Street where it just nicks the 100-ft. buffer area. The intent of this depression was to save some onsite trees. But, there were not any trees to save in the area. So, the depression is an outlet for stormwater coming from West Central Street. It collects some of the runoff. The area will have a protective guardrail along the top. They are proposing that eliminating the guardrail will be better for everyone; to do so they would need to eliminate the depression which is the field change they are requesting. He would like to fill in the hole and then landscape it in keeping with the rest of the project. He noted it is a conveyance and not a stormwater management area. They will install some hard piping to route the stormwater back to the rear of the property. There is a jurisdictional area for the Commission. It has been submitted to Gus Brown, Building Commissioner. They would like to put all site changes together and then come back before Commission with all of them for an amendment to the order of conditions. It is his opinion that this is a relatively minor change. He asked Commission to allow work to continue with a clear understanding they will file an amendment to the order of conditions in accordance with policy including abutter notifications. They would put in the fill and piping now and landscape in the spring. He also provided a plan for another change they were considering. He stated there is a 3,200 sq. ft. dog park at the back of the property. They would like to change the shape of the dog park and add a playground area for children living in the buildings. They need to figure out what the area will look like.

There was a motion made by Scott McLean that the proposed modification before the Commission tonight on the Key Project be allowed to go forward, vis a vie the fill, provided there is a formal NOI amendment into the Commission agent by February 1, 2017. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

Minutes:

There was a motion made by Scott McLean to accept the minutes for the October 27, 2016 meeting. The motion was seconded by Tara Henrichon and accepted with a vote of 5-0-0.

There was a motion made by Scott McLean to accept the minutes for the November 10, 2016 meeting. The motion was seconded by Tara Henrichon and accepted with a vote of 4-0-1. (Ms. Gelineau abstained.)

Discussion Item: Education and Outreach

Mr. Russell stated the letter to the realtors was developed and reviewed. The amendments will be incorporated into it. As soon as the flyers come in, the letters will be distributed.

Discussion Item: Utility Exemptions

Mr. Russell stated the representatives from National Grid were before the Commission a few meetings ago. The Commission directed them to consult with the town attorney for his interpretation of a utility exemption under the local bylaw. His opinion, in essence, is that unless there is egregious violation of the wetland resource area, the utility companies are exempt from the local bylaw.

Mr. McLean stated they would not know if it were egregious until it has already happened. What happens if Commission does believe it is egregious, does the Commission sanction?

Chairman Batchelor remarked that the judgement would be up to the State and not the Commission.

Mr. Russell stated he would have to look at it, bring it to the attention of DEP central office in Worcester, and bring it to the attention of the Town Council and Commission to look at the state regulatory process and the local regulatory process at the same time. His feeling is if the State says there is no violation, then there is not going to be a local violation either. He noted that National Grid will give notice that they are going to do work for vegetative management. It is the Commission's job to monitor it.

Commission members agreed they would have to bring situations they thought were egregious to the attention of the town attorney.

Signed Minor Buffer Zone Activity & Orders of Conditions

Minor Buffer Zone Activity – Franklin Heights – Tree Removal
Orders of Conditions – 2 Ruby Way – James Vallee – CE159-1145
Orders of Conditions – 4 Mount Street – Hearn – CE159-1146

There was a motion made by Scott McLean to adjourn the meeting. The motion was seconded by Paul Harrington and accepted with a vote of 5-0-0.

The meeting adjourned at 8:15 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary