

Town of Franklin



Conservation Commission

**October 13, 2022
Meeting Minutes**

As stated on the agenda, due to the concerns regarding the COVID-19 virus, this meeting will be conducted as a remote/virtual Conservation Commission meeting. In an effort to ensure citizen engagement and comply with open meeting law regulations, citizens will be able to dial into the meeting using the provided phone number, or citizens can participate by using the Zoom link provided on the agenda. This meeting will be held in the Council Chambers of the Municipal Building for citizens wishing to attend in person.

Commencement

Vice Chair Jeffrey Milne called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: Jeffrey Milne, Jeff Livingstone, Richard Johnson (via Zoom), Michael Rein, William Batchelor, Meghann Hagen. Absent: Patrick Gallagher. Also present: Breeka L  Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff.

Note: Documents presented to the Conservation Commission are on file.

PUBLIC HEARINGS

Public Hearing – RDA – 0 Lincoln Street, Franklin Heights

Mr. Batchelor recused himself.

Mr. Desheng Wang of Creative Land & Water Engineering, on behalf of D. Bruce Wheeler of Oliver Crossing Realty Trust, addressed the Commission for soil testing at 0 Lincoln Street, Franklin Heights Parcel B, for the proposed roadway and stormwater basin areas. Two of the stormwater basin test pits and three of the roadway test pits will be located inside the 100 ft. buffer zone but outside the 25 ft. no touch zone. The proposed work will require the temporary crossing of an intermittent stream and bordering vegetated wetlands (BVW) using steel plates and matting. No vegetation removal is proposed, and erosion and sedimentation control are proposed. He reviewed the provided plans and explained the location of the proposed test pits.

Ms. Goodlander stated that this is soil testing for the proposed roadway and stormwater basin areas. She stated that some of the soil test pits are within the 25 ft. buffer zone. She explained that the proposed work is exempt under 310 CMR 10.02(2)(b)(2)(g). She stated that the reason the applicant is before the Commission is for the temporary crossing through state and locally regulated areas which is why the applicant is presenting an RDA. She stated that she recommended approval considering that the testing is for exempt activities. She stated that the applicant will be installing erosion and sedimentation controls and using mats with no vegetation removal. She stated that she would like to remind the Commission that they approved an ANRAD for this type of work as well.

There was a motion made by Michael Rein to close the public hearing for the RDA for 0 Lincoln Street, Franklin Heights. The motion was seconded by Richard Johnson and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes.

There was a motion made by Michael Rein to approve a negative determination for the RDA for 0 Lincoln Street, Franklin Heights. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes.

Public Hearing – NOI – 0 Lincoln Street, Franklin Heights

Mr. Desheng Wang of Creative Land & Water Engineering, on behalf of D. Bruce Wheeler of Oliver Crossing Realty Trust, addressed the Commission for a Friendly 40B application currently in front of the Zoning Board of Appeals (ZBA) with an existing ORAD. He stated that the 40B was approved some time ago, and this is a new filing for a modification for the layout and number of units from 72 to 60 units. He reviewed and explained the roadway, stormwater management design, and the proposed wetland crossing. He discussed that the wetland crossing is 947 sq. ft. and proposed replication is more than 2:1. He discussed the intermittent stream crossing. He stated that even though it is a 40B project, they met the local bylaw for replication. He stated that for stormwater, they meet all the stormwater standards of the state.

Mr. Michael Hassett of Guerriere & Halnon Inc. stated that the stormwater is primarily handled through a catch basin and drain conventional system that directs the water to one of two infiltration basins and meets all applicable state and local stormwater standards. He pointed out the overflow discharge to the wetlands. He stated that peak rates and total runoff volumes are reduced from or equal to the pre-development conditions. He stated that there is no reliance on the existing Franklin Heights infrastructure.

Ms. Goodlander stated that she would like to parrot what Mr. Wang said. She stated that under Friendly 40B applications, the locally regulated bylaw does not apply but can be recommended. She stated that this applicant is adhering to the bylaw. She discussed that on the submitted WPA Form, the project proposes to alter 947 sq. ft. of BVW and replace 2,140 sq. ft. She noted that this is contradictory to the site plans. She reviewed that per the site plans, 947 sq. ft. is proposed with a designation of approximately 360 sq. ft. of alteration proposed under the intermittent stream crossing and 157 sq. ft. of alteration proposed for construction. She asked where the remaining square footage is as it is not apparent; she asked if it is assumed to be BVW fill surrounding the crossing. Mr. Wang explained the proposed alteration. He discussed the proposed stream crossing.

Ms. Goodlander stated that as this is a Friendly 40B, peer review is not automatically triggered; if the Commission would like a peer review, they can request it. She stated that as the project has not yet received ZBA approval, the Commission should withhold approval until it is received. Commission members agreed informally, without a vote, that peer review is recommended. Mr. Hassett stated they would be willing to do peer review. Ms. Goodlander stated that BETA has already provided the scope for peer review; the applicant would need to send money for the review and then BETA can get started. She stated that something should be available for the next hearing. Mr. Hassett stated that they are scheduled for a decision from the ZBA in mid-November.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 0 Lincoln Street, Franklin Heights, to October 27, 2022, at 7:01 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes.

Mr. Batchelor re-entered the meeting.

GENERAL BUSINESS**Friendly 40B Discussion and Recommendation: 121 Grove Street**

Mr. John Schipe of Fairfield Residential, Mr. Robb Hewitt of Fairfield Residential, Mr. Chris Lucas of Lucas Environmental, Mr. Brian McCarthy of RJ O'Connell & Associates, and Ms. Janice Hurst of Fairfield Residential addressed the Commission for a proposed Friendly 40B application that has not yet gone before the ZBA. Mr. Schipe stated that they are the group that completed the project on Dean Avenue known as Station 117. He provided an overview of the proposed Friendly 40B project. He stated that they have provided schematic designs. He stated that Mr. Lucas will review his determinations of the jurisdictional areas on this 32-acre parcel. He stated that there are no neighbors other than the state park; there are some wetlands and intermittent streams. He stated that with Town support they will move forward and file an NOI and possibly an ANRAD.

Mr. Lucas showed and provided a description of the existing conditions and general resource areas and provided the general layout of the proposed plan. He stated that there are two parcels, one which has existing structures. He reviewed that the back portion of the site is heavily forested. He stated that National Grid's substation right-of-way is at the south of the property. He stated that there are no areas of critical environmental concern on the site, and there is a small portion of the site that is a wetland protection area. He stated that a delineation was completed. He explained and showed on a drawing that there are two bordering vegetative wetlands on the site: one with two intermittent streams, and the other has an upland island in the middle. He stated that the streams were determined to be intermittent. He stated that all documentation will be provided when they come in for the NOI. Mr. Schipe discussed that their project could drain by gravity, but in working with the Town, the applicant could possibly install a tank on their property to temporarily hold the wastewater and then discharge it during an opportune time during the day if necessary.

Mr. Lucas reviewed that they are looking at five (5) four- and five-story buildings, a centralized clubhouse, proposed stormwater basins, and 330 units with 83 units, which is 25 percent, restricted to households of low income in accordance with the Department of Housing and Community Development. He stated that it will look similar to the construction of Station 117 in Franklin. He stated that in order to access this area and construct the buildings, they need to cross the wetland; access is not feasible through the town forest. He reviewed the proposed crossings, the proposed culvert, and the proposed mitigation. He stated that they are well below the 5,000 sq. ft. of impact as they are approximately 500 sq. ft. or less of impact to the wetland. He discussed the requirement for a second crossing to get to building 1; he explained the proposed location. He reviewed emergency vehicle access. Mr. Schipe stated that they are not contemplating signal lights on Grove Street; however, a traffic study will be performed along with a peer review of the study. He discussed the stormwater management system they did on Dean Avenue that complied with all Mass DEP requirements and that they also worked closely with the Town to incorporate the Town's comments.

Ms. Goodlander read aloud the following from her agent's report: This discussion is for a proposed Friendly 40B application that has yet to go to the ZBA. Under new protocols, the Conservation Commission has the opportunity to familiarize themselves with the project over two hearings to provide recommendations to the ZBA to optimize and improve proposed Friendly 40B applications. If, and once the applicant receives ZBA approval, the applicant will then apply for an RDA, NOI, etc. This discussion does not give project approval. The goal of this discussion is for the Commission to make recommendations regarding the project for the ZBA. The Commission chair will draft and sign the agreed upon recommendations which the agent will liaison and deliver internally. This discussion is the first discussion for a Friendly 40B application at 121 Grove Street. The project proposes 330 units over 31.4

acres with two wetland/stream crossings and the proposed fill of an isolated vegetated wetland (IVW). Additional grading work is proposed within the 25 ft. no touch zone. The applicant has delineated two BVWs, three intermittent streams (locally regulated), and an IVW (locally regulated) within the project area. Considering this is an application for the ZBA, the applicant has not submitted field delineation forms and relevant calculations to the Commission at this time so wetland data collected, proposed impact numbers, etc., are not included. The applicant is requesting of the ZBA a waiver from the locally regulated Wetlands Protection Bylaw (Chapter 181) jurisdiction over all locally regulated resources, alternatives analysis, replication plan and protocols (i.e. the 2:1 replication ratio), and the required submission of construction sequence and schedule. The applicant has proposed that they are open to an ANRAD if the Commission requires or an NOI depending on the level of Town support. The delineation for this project occurred at the end of April and at the beginning of a drought. Any delineation occurring within a drought subsequently designates resource areas as problematic (i.e. wetland in which indicators of one or more parameter may periodically be lacking due to normal seasonal or annual variability). In other words, this delineation occurred outside of normal environmental conditions, and it is recommended that caution is taken when reviewing projects during these times. While onsite in October, I delineated the IVW, and it is my opinion that it is much larger in size than what is depicted on site plans, and there may be cause to include it into the larger BVW complex. I identified redox features within the first six inches of the soil at soil boring holes, dominant facultative-wetland (FACW)/obligate (OBL) plants, and drainage patterns outside of the flagged wetland area which connect to the larger BVW complex. I cannot compare my findings with what the applicant witnessed during the April delineation without the data forms. Upon reviewing StreamStats, I can confirm that the streams onsite are considered intermittent, subsequently lacking protection under the WPA. Lastly, building upon my desktop and field review and given the impacts to locally regulated areas, I am concerned with downstream affects and loss of connectivity for the onsite, and offsite, BVWs that receive hydrology and have a consistent hydraulic connection with the current wetland systems.

Commission members asked questions and made comments. Mr. Batchelor stated that due to the drought, they are not going to get an accurate reading on streams and wetlands and that should be taken seriously, and BETA should certainly give us the information that we will need to make judgments on this project. Mr. Livingstone, Mr. Rein, Mr. Milne, and Ms. Hagen stated agreement. Mr. Batchelor asked Mr. Johnson if he agreed with Ms. Goodlander's recommendations. Mr. Johnson stated I do. Mr. Batchelor stated that the recommendations of the agent should be taken seriously. In response to questions, Mr. Schipe stated that it was a pretty large parcel, so there are opportunities to provide some additional replication. He stated that at this point it is schematic design, and he believes it is safe to say that there are waivers that they may request. He stated that any place that they can respect the 25 ft. no-touch zone, they would be happy to do that. Ms. Goodlander explained why she was concerned about the downstream effect.

Vice Chair Milne asked the applicant if there was any chance that they would consider scaling down the project in terms of size. Mr. Schipe stated that there are probably opportunities to scale back the extent of work in the 25 ft. buffer zone; again, that is part of the design development process. Mr. Lucas stated that when he did the delineation, the site was pretty much underwater at the time. Vice Chair Milne stated that right now, the Commission would like to see a peer review. Ms. Goodlander stated that the Commission is not making recommendations at this time, that will be at the October 27, 2022, hearing. She stated that this was just an introduction to the project and to ask the applicant questions.

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: Villages at Oak Hill CE159-1164

Mr. Andrew Thibault of Goddard Consulting (via Zoom) addressed the Commission for a three-year extension of the Order of Conditions. He stated that last fall they came before the Commission regarding Special Condition #23 of the Order of Conditions which was to provide the Commission with a performance report every year until a Certificate of Compliance is issued for the site. He stated that during that time, it was discovered that a few of the restoration areas on the site did not meet the standards, so they had a planting plan approved for the areas. He stated that work was not able to be set up before the weather turned last fall, so those plantings were not put in. He stated that he and Ms. Goodlander met on the site this summer to look at the areas. He stated that he and Ms. Goodlander agreed that most of the areas will require the same plantings that were originally proposed; there are a few areas that they will propose to leave alone. He stated that at this time, their Order of Conditions is set to expire this month, so they submitted a request to extend that for three years. He stated that Goddard has been working on a new restoration plan to bring to the Commission; it is almost done.

Ms. Goodlander confirmed that she went on the site with Mr. Thibault. She stated that she agreed that the restoration/replication areas for the project have yet to achieve 75 percent coverage of proposed species. She recommended an extension; she thinks three years is adequate.

There was a motion made by William Batchelor to approve the permit extension for Villages at Oak Hill CE159-1164, for three years. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes; Batchelor-Yes.

Certificates of Compliance: 176-210 Grove Street

Ms. Goodlander stated that the applicant is seeking a Certificate of Compliance for their NOI. She stated that she visited the site and site conditions are per the plans. She recommended approval.

There was a motion made by William Batchelor to approve the Certificate of Compliance for 176-210 Grove Street. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes; Batchelor-Yes.

Certificates of Compliance: 6 Wood Haven Drive

Ms. Hagen recused herself.

Ms. Barbara Elliott, homeowner, addressed the Commission for a Certificate of Compliance for their NOI. She stated that the pool was installed in 2004. She stated that they sold their house but did not get the Certificate of Compliance. She stated that she thinks that they adhered to everything.

Ms. Goodlander stated that the site conditions are per the plans. She recommended approval.

There was a motion made by William Batchelor to approve the Certificate of Compliance for 6 Wood Haven Drive. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Batchelor-Yes.

Ms. Hagen re-entered the meeting.

Violations/Enforcement: 305 Union Street

Ms. Goodlander stated that she received the second installment of the 30-month updates. She stated that the applicant sent an email stating that they had a setback on their plan to use a crane to remove the items from the cistern on October 3, 2022. The applicants met with representatives from several crane

companies to provide information to get estimates on removing items from the cistern. The crane representatives all stated that they did not have the proper apparatus to lift the items out of the cistern, and this type of apparatus is being phased out of the crane industry. She stated that the applicant is still exploring other options of removing items from the cistern. Ms. Goodlander recommended continuance for another 30 days. Commission members made comments about the delay. Ms. Goodlander stated that this issue has been ongoing since May 5, 2022. Discussion commenced regarding the cistern. Ms. Goodlander stated that she has spoken with the town attorney on this item; it is recommended that the Commission does not impose fines. She stated that it is recommended that the Commission keep the enforcement order and not close it.

There was a motion made by William Batchelor to continue the violations/enforcement for 305 Union Street, for 30 days, November 10, 2022. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes; Batchelor-Yes.

Violations/Enforcement: 74 South Street

Ms. Goodlander stated that this is an enforcement order for the unpermitted removal of shrubs, sapling, herbaceous vegetation, and leaf litter within the 25 ft. to 100 ft. buffer zone. She stated that the violation was brought to the Conservation Department on July 5, 2022. She stated that she went to the site and did a quick delineation and found the wetland was higher up than what GIS shows because as we all know that GIS is not accurate. She stated that she put some flags up along the wetland boundary and marked out generally approximately the 25 ft. no touch zone. She stated that she advised the property owner to install a silt fence and submit an after-the-fact Minor Buffer Zone Activity (MBZA) application as soon as possible. She stated that she has reached out to the homeowners several times. She stated that she received a draft plan, but it used the flags she installed. She suggested the applicant hire a wetland scientist; however, an MBZA has yet to be submitted. She stated that the enforcement order is requiring the property owner to submit an after-the-fact MBZA by the end of day on October 25, 2022. Commission members discussed the filing of an after-the-fact MBZA.

There was a motion made by William Batchelor to file the enforcement order as noted for the violation for 74 South Street. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Yes; Batchelor-Yes.

Minutes: September 15, 2022 & September 29, 2022

There was a motion made by William Batchelor to approve the meeting minutes for September 15, 2022. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 5-0-1. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Yes; Hagen-Abstain; Batchelor-Yes.

There was a motion made by William Batchelor to approve the meeting minutes for September 29, 2022. The motion was seconded by Michael Rein and accepted with a roll call vote of 4-0-2. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Livingstone-Abstain; Hagen-Abstain; Batchelor-Yes.

Discussion Item: Fairmount Farm

Ms. Goodlander stated that she spoke to Chair Patrick Gallagher on this item. She stated that as a requirement of the enforcement order, the Commission conditioned that they receive seasonal reports. She stated that considering that Fairmount Farm is a resident and a working active farm, she went ahead and gave administrative approval for CJ, the applicant, to prepare it instead of having to hire someone. She stated that she coached CJ on the preparation.

Discussion Item: Franklin Flex Space

Ms. Goodlander stated that this is a discussion item to provide an update on things that are happening at Franklin Flex Space. She stated that the applicant is present at the meeting. She stated that BETA went out and did their quarterly walk and they noticed that the retaining wall which was previously approved in the existing permit has a different slope. She stated that BETA sent an email to various departments and also would like to know from the Commission if they consider this a plan change, and if the applicant would need to come back for a public hearing. She stated that also, for transparency purposes, when she was onsite, she noticed that the straw wattles being installed were not biodegradable. She stated that she let the applicant know that was not on their conditions. She stated that she did approve them as they were already installed. She stated that she has not been receiving bi-monthly, every other week, inspection reports. She stated that she requested them and received them this afternoon.

Mr. Bill Hummel, applicant, stated that the slope was 1:1 and now it is 2:1. The applicant showed and explained a plan. He discussed the soil compaction. Ms. Goodlander stated that the inspection report for the Commission would be a very high-level construction inspection. The applicant stated that he has daily reports that he keeps onsite. Ms. Goodlander stated that BETA stated that the retaining wall was installed before a stamped plan was submitted; now the stamped plans are submitted. The applicant discussed that they wanted to wait for all three phases to be designed before getting the wet stamp, but they did get the phase I stamp. The applicant discussed and showed the slope of the retaining wall on the plans. The applicant provided photographs. Ms. Goodlander reviewed that this is just a discussion to see if the Commission would consider this to be a plan change. Mr. Livingstone stated that it does not really change the mechanics of the project. Ms. Goodlander stated that the applicant has been very cooperative.

Chair and Commission Comments:

Ms. Goodlander stated that this Saturday is DPW's Touch a Truck event. She stated that she will be there as a representative for the department and for the Commission. She stated that next Saturday is the DelCarte event. She stated that the Conservation website is continually changing and being updated.

Executive Session: None.

There was a motion made by William Batchelor to adjourn the meeting. The motion was seconded by Michael Rein. No roll call vote taken.

The meeting adjourned at 8:38 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary