

Town of Franklin



Conservation Commission

**November 10, 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

Chair Patrick Gallagher called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: Patrick Gallagher, Jeffrey Milne, Richard Johnson (via Zoom), Michael Rein, William Batchelor, Meghann Hagen. Absent: Jeff Livingstone. 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 – NOI – 33 Charles River Drive (No DEP #)

Ms. Susan McArthur of McArthur Environmental Consulting (via Zoom) and Mr. Vance Perone, homeowner/applicant, addressed the Commission for the installation of a proposed 18 ft. x 36 ft. in-ground swimming pool, patio, and pavilion within existing disturbed lawn. Ms. McArthur stated that portions of the work will be within the buffer zone to a wetland resource area. She reviewed that the property contains a two-story home with an attached garage, paved driveway, back deck, shed, playset, landscaped lawn, and existing stockade fence. She explained the location of the wetland resource area. She stated that there is a drainage easement as well. She stated that the wetland is a bordering vegetated wetland. She showed and explained the location of the 100 ft. buffer zone. She stated that Mr. Perone received permission from the DPW to design this within the easement; there will be room to get around if they have to access the basin. She stated that the proposed project will have safety fencing around the pool per code and an erosion control barrier will be installed. She stated that 2,650 sq. ft. of work is proposed within the 100 ft. buffer zone; of that, 2,168 sq. ft. is within the 50 ft. buffer zone. She reviewed that the proposed work is exempt under 310 CMR 10.02(2)(b)(2)(e) as it consists of the conversion of lawn to uses accessory to residential structures such as decks, sheds, patios, pools. She reviewed the Franklin regulations. She noted the house was built in 1997.

Ms. Goodlander stated that Ms. McArthur touched on all the points she was going to make. She added that there is no DEP number yet; therefore, the hearing would need to be continued to the December 1, 2022, meeting. Mr. Batchelor asked if the proposed fence is in the 25 ft. buffer. Ms. Goodlander stated that the fence came with the property and must be treated as existing. Mr. Perone stated that the fence was there when they purchased the house in 2017. Chair Gallagher stated that the wetland could have moved. Ms. McArthur stated that there will be earthwork with the digging of the pool.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 33 Charles River Drive, to December 1, 2022. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Chair Gallagher apologized for continuing the public hearing before taking public comments.

A resident stated that her property is located below the applicant's property. She stated that her concern is where all the water will go as it was said that there will be no regrading of the property.

Ms. McArthur stated that the property does slope to the wetland resource area. She stated that it will drain under the fence to the resource area and they are putting in a pool which holds water. She stated that she does not see that anything would reach the resident's property; it will go to the resource area.

Ms. Goodlander stated that she agreed with Ms. McArthur. She stated that generally all the water drains toward the wetlands. She stated that there is an existing playground area that will be removed. She stated that for pervious to impervious, it is almost a one-off from what is there already to what is being proposed. She stated that this did not trigger a BETA review, but if the Commission would like to investigate that stormwater runoff, they can trigger a BETA review; it would be at the expense of the applicant.

Chair Gallagher stated that this item was continued to December 1, 2022. He recommended that Mr. Perone and Ms. McArthur determine if there is a way to address this or mitigate this through the design, and the Commission will follow up at the December 1st meeting.

Public Hearing – NOI – 74 South Street (No DEP #)

Ms. Susan McArthur of McArthur Environmental Consulting (via Zoom) and Matthew and Sarah Moore, homeowners/applicants (via Zoom), addressed the Commission for an after-the-fact approval of unpermitted vegetation removal/brush cutting within the 25 ft. to 100 ft. buffer zone to BVW and for the construction of a proposed 3,240 sq. ft. barn, 460 sq. ft. of which is proposed within the buffer zone; an optional future 14 ft. x 60 ft. RV storage area and optional extension are also proposed within the buffer zone in addition to a gravel bump-out from the barn. Ms. McArthur reviewed that the NOI proposes to remove an additional seven trees and their root mass, five of which are within the 50 ft. to 100 ft. buffer zone. She reviewed that an enforcement order was issued by the Commission in October 2022 for this unpermitted work. She stated that an erosion control barrier has been installed. She reviewed the location of the house, garage, driveway, back deck, and in-ground swimming pool as shown on the provided plan. She explained the type and location of the wetland resource area. She stated that it was delineated on October 6, 2022. She showed the location of the trees to be removed. She reviewed that the location of the barn would be within the 100 ft. buffer zone; some grading is proposed. She stated that the debris piles will be removed off site. She reviewed rooftop runoff from the barn with a cistern. She reviewed the Franklin wetland regulations and the impervious surfaces.

Mr. Moore explained that the RV storage was like a lean-to area; he confirmed that they would like to do all items listed on the NOI. Ms. Goodlander stated that this was sent to BETA for scope and fee. She stated that it was previously undisturbed and it is now disturbed. She stated that she would connect with Ms. McArthur to schedule a site visit. Ms. McArthur confirmed the DEP file number has not been received.

Chair Gallagher stated that while the Commission typically does not ask for peer review for residential projects, given the nature of the property, this has a little more sensitivity. Commission members asked questions and made comments. Mr. Moore explained how they plan to sift through the construction debris piles and remove it off the property. He explained that they will probably need to bring in some fill based on the slope for the barn. He stated that under the RV storage, they would prefer to pave it, but they could do gravel. Chair Gallagher asked about the grading and noted that it looks like a pretty substantial amount. Mr. Moore reviewed that in the back corner they would need to bring in fill and slope it properly. Ms. Goodlander stated that her initial thoughts are that this is a large project; they are bringing in 1,200 cu. yds. of fill. She stated that she would like to see final plans for the Commission such as if it will be a lean-to and if it will be paved. She stated that considering the amount of fill, it is important to have BETA's stormwater review. Chair Gallagher stated that he agreed that the Commission would like to see more detail. Ms. Goodlander stated that she initially approved a silt fence; however, as they are getting into the freeze, the silt fence should be removed and biodegradable compost socks installed.

Ms. McArthur confirmed that the Commission would like the proposed grading on the plan.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 74 South Street, to December 1, 2022. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Public Hearing – NOI – 0 Lincoln Street, Franklin Heights – continued

Mr. Batchelor recused himself.

Mr. Desheng Wang of Creative Land & Water Engineering, on behalf of the applicant, addressed the Commission for a Friendly 40B application currently in front of the Zoning Board of Appeals (ZBA) with an existing ORAD. The project proposes one stormwater basin and 19 buildings located within the 25 ft. to 100 ft. buffer zone and one BVW/intermittent stream crossing. He stated that they received the peer review comments and they are going through them. He discussed the proposed wetland crossing.

Mr. Jonathan Niro, environmental scientist of BETA Group, and Mr. Gary James, engineer of BETA Group who did the stormwater review, addressed the Commission. Mr. Niro stated that as this is a 40B project, they only reviewed it within the realm of the Mass Wetlands Protection Act and not under the Franklin regulations. He stated that they primarily focused on the resource area crossings and replication work. He reviewed the details of their peer review. He asked that the applicant provide information regarding that the crossing they choose is with minimal impacts to the site. He explained that the site is surrounded by a wetland complex. He recommended that the applicant disclose all impacts, not just permanent impacts. He stated that they had questions on the stream crossing and how it would fit into the overall sequencing of the project. He stated that the stream crossing represents the only entrance and egress to the site. He stated that they took a close look at the proposed wetland replication area. He discussed that had some concerns regarding the grades. He stated that it looks like there is significant disturbance in the buffer zones. He noted that the applicant clarified some of the measurement units when determining compliance. He stated that the crossing proposed by the applicant is a preferable design according to the standards. He pointed out that Standard 5 and Standard 6 of the stream crossing standards were not addressed. He explained his concerns regarding the proposed channel. He stated that they seek additional comments on items including site stabilization, construction phasing, and the 2:1 slope at the rear of the site.

Mr. James reviewed the stormwater. He stated that the applicant is proposing two infiltration basins; BETA had many comments on the design. He stated that they had issues with items, including but not limited to, setbacks, test pit data, performance of the entirety of the system in a 10-year event, and other

components of the basins. He stated that a concern is the back yards are all lower than the front yards of the homes so a lot of the grading will end up where the water will flow, and it was not shown how they will collect the runoff.

Mr. Wang discussed that they will clarify and make the details clearer. Mr. Michael Hassett of Guerriere & Halnon Inc. stated that they were reviewing the comments and revising the stormwater plans. He stated that they did soil testing last Friday. He stated that information would be incorporated and provided to BETA. He asked the Commission for permission to correspond directly with BETA so they can quickly respond to comments and discussion. Ms. Goodlander stated that she would like to be present with any meeting. Chair Gallagher encouraged them to all sit down together virtually or in person to talk through the questions.

Ms. Goodlander stated that she agreed with the presentation and the provided letter. Chair Gallagher asked about the stream crossing and if it was going to be fully built out or if there was going to be a temporary condition during construction. Mr. Wang stated that they are still contemplating the best way to do the work; they would like to do the construction during the dry season.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 0 Lincoln Street, Franklin Heights, to December 1, 2022. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Mr. Batchelor re-entered the meeting.

GENERAL BUSINESS

Minor Buffer Zone Activities: 99 Highland Street

Mr. Bill Yadisernia, representing the applicant, addressed the Commission for a residential 14 ft. x 24 ft. shed installation project within existing, disturbed lawn within the 50 ft. to 100 ft. buffer zone, approximately 70 lf. up gradient from the BVW boundary. He stated that the shed will be prefabricated. He reviewed that the total area of disturbance is 576 sq. ft. with the foundation of the shed on a concrete slab at grade; minor excavation is proposed of not more than 2 ft. below finish grade. He stated that they are proposing to do the work in December. He explained the location of the proposed shed. Ms. Goodlander stated that she had no questions or concerns.

There was a motion made by Michael Rein to approve the Minor Buffer Zone Activity for 99 Highland Street subject to standard conditions. The motion was seconded by William Batchelor and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: Spring Street, MECO-Pole Installation

Ms. Carolyn Gorss, wetland scientist with BSC Group (via Zoom), representing the Massachusetts Electric Company, addressed the Commission for the proposed installation of one utility pole, associated anchor, and grounding mat at 60 Spring Street ("Spring Street Solar") within the 100 ft. buffer zone to BVW, approximately 75 lf. from the BVW boundary. She stated that this is an after-the-fact MBZA application. She showed and described a map of the area. She stated that this work was part of a larger solar project. She stated that as they were closing out the work, it was noticed that this pole was not included in the applicant's RDA or Order of Conditions. So, the applicant consulted with Ms. Goodlander and it was determined that an after-the-fact MBZA be submitted for the installation of the pole. She

explained that the work is considered exempt under the Wetlands Protection Act. She noted that compost socks were installed.

Ms. Goodlander confirmed that the pole was already installed.

There was a motion made by Meghann Hagen to approve the Minor Buffer Zone Activity for Spring Street, MECO-Pole Installation. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 1 Wadsworth Farm Road

Mr. Mark Marinelli, owner, addressed the Commission for a residential tree removal project on the boundary of the 25 ft. no touch zone to a locally regulated intermittent stream and corresponding diffuse wetland. He explained that he would like to have the work done in the back of his house which borders a small stream of running water. He would like to have the trees taken down as they have gotten so large that they tower over his house; during inclement weather branches fall onto his house.

Ms. Goodlander stated that she conducted a site visit and confirmed that the trees are on top of his roof. She stated that for the clearing, the applicant should stay within the lawn area. She asked that the applicant dispose of the bittersweet rather than leaving it on the property in the wetland.

There was a motion made by Jeffrey Milne to approve the Minor Buffer Zone Activity for 1 Wadsworth Farm Road. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 30 Brook Street

Mr. Steve Reynolds (via Zoom) addressed the Commission for a residential tree removal project within the 100 ft. buffer zone to BVW and inland bank, and the 200 ft. riverfront area (RFA) to an unnamed perennial stream. He stated that he has a large maple tree in the back of his house that has a large split that is 8 ft. to 10 ft. up from the ground; it is all rotted in the middle. He stated that he is afraid the tree is going to fall over and it has a slight lean toward the house.

Ms. Goodlander stated that she conducted a site visit and the tree is hazardous. She recommended approval. She stated that the stump should be left in place. Chair Gallagher asked about the other trees that require pruning. Mr. Reynolds reviewed the trees that are requested to be pruned.

There was a motion made by William Batchelor to approve the Minor Buffer Zone Activity for 30 Brook 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: DelCorte Concrete Tank and Pad Removal

Ms. Goodlander addressed the Commission for the removal of the concrete tank and pad, to the greatest extent practicable, at the DelCorte conservation area. She reviewed that an MBZA is being filed because the proposed work will occur within the locally regulated 25 ft. no touch zone and the 25 ft. to 50 ft. buffer zone to a pond. A variance request to conduct work is included in the proposal. All of the proposed work is considered exempt under 310 CMR 10.02(20(b)(2)(d) and (f) as the work consists of the plantings of native species of trees, shrubs, or groundcover, but excluding turf lawns and the conservation of impervious to vegetated surface, provided erosion and sedimentation controls are implemented during construction. The concrete is proposed to be removed in the winter and revegetated early spring with similar vegetation to the surrounding area. Erosion and sedimentation controls will be installed as

necessary. She stated that it has a historical piece to residents, and she is looking for suggestions such as a bench or a rock.

Commission members asked questions and made comments. Mr. Milne asked about not removing it. Ms. Goodlander stated that the old tank used to house minnows as a hatchery. Ms. Hagen asked if the tank could be altered and made into a planter. Ms. Goodlander noted that kids like to sit on it. Mr. Batchelor stated that he is not in favor of taking it out; it has sentimental value for people. Mr. Rein suggested leaving it and planting in it. Ms. Hagen suggested painting it. Ms. Goodlander suggested continuing this item. Mr. Johnson said he is not sure where it is on the site. Chair Gallagher stated that he appreciated the historical and sentimental value in it. Mr. Milne noted that it should be a memorialization of Mr. Ernest DelCorte as he gave this property to the town. Discussion commenced on the pad and the tank. Chair Gallagher suggested tabling this item for now.

Minor Buffer Zone Activities: 11 Squibnocket Road

No applicants were present for this item.

There was a motion made by Meghann Hagen to continue the Minor Buffer Zone Activity for 11 Squibnocket Road. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Permit Modifications/Extensions: None.

Certificates of Compliance: 1256 West Central Street

Mr. Jamin Patel (via Zoom) addressed the Commission for the restoration site for this project which has reached greater than 75 percent coverage of proposed wetland species.

Ms. Goodlander stated that she went to the site when she first started and some of the plants were not there or did not survive; she asked the applicant to replant which he did. She stated that they are thriving or budding now. She stated that she is comfortable with approving the COC.

There was a motion made by Michael Rein to approve the Certificate of Compliance for 1256 West Central Street. The motion was seconded by William Batchelor and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Violations/Enforcement: 305 Union Street

Ms. Goodlander noted that no update has been given by the applicant. Chair Gallagher asked that Ms. Goodlander follow up with the applicant. He stated that the Commission has been extending this by 30-day increments on the enforcement order. He noted that they would like DEP to be the driving force on this.

There was a motion made by Jeffrey Milne to extend the enforcement order for 30-days for 305 Union Street. The motion was seconded by William Batchelor and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Minutes: October 27, 2022

There was a motion made by Meghann Hagen to approve the meeting minutes for October 27, 2022. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-1. Roll Call Vote: Milne-Abstain; Johnson-Yes; Rein-Yes; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Discussion Item: 10 Populatic Street

Ms. Prema Popat, owner (via Zoom), addressed the Commission for a discussion for a previously approved project within the 100 ft. buffer zone to BVW and inland bank and the 200 ft. RFA; part of the project required slope stabilization of the applicant and an official report from an arborist/forester providing details on proposed plantings. Ms. Popat stated that before they were able to stabilize the bank, they ran into another issue that there is another tree that is becoming uprooted near the area they were going to stabilize. There is danger that the tree is going to be totally uprooted. She stated that she would like to discuss the possibility of removing that tree and leaving the stump in place. She stated that she sent some pictures to Ms. Goodlander to share.

Ms. Goodlander stated that she has yet to go to the site; she thinks that should happen. She said that this was before her time. She stated that the report has yet to be submitted; she thinks she should talk to that person. She stated that she thinks she will go out next week. She said that once she is onsite, she will feel more comfortable if it should be cut or otherwise. Chair Gallagher stated that he remembers that the stabilization was going to be challenging. He stated that he thinks an arborist should weigh in on this. He stated it should be determined if an NOI is necessary. Ms. Goodlander stated that she can do emergency authorizations for many things. She asked the applicant if they can meet with her next week; the applicant stated yes.

Discussion Item: 237 Pleasant Street

Chair Gallagher stated that this is a discussion for a Friendly 40B project located at 237 Pleasant Street; the applicant has been invited to present in front of the Commission to receive a letter of support for their ZBA process.

Mr. John Harding of The Community Builders, Inc., Rev. Kathleen McAdams, Director St. John's Episcopal Church of Franklin, and Mr. Kevin Hebard of Langan Engineering & Environmental Services addressed the Commission. Mr. Harding narrated a slideshow presentation that he had already presented to the ZBA. He stated that this is the site of the current St. John's Episcopal Church; it is about a 20-acre site. He stated that the church will stay in place, but they will develop some affordable housing on the site. He noted that The Community Builders also developed and still manage Eaton Place in Franklin. He reviewed the location of the Pleasant Street property and discussed a rendering which showed the seven new buildings. He stated that all the units will be affordable and income restricted. He reviewed and showed a map of the current site, driveway entrances and exit, grades, slopes, and wetlands which are on the far west of the site. He reviewed and showed the proposed condition with the seven 2 to 3 story residential buildings with parking, driveway, site amenities, stormwater, and utilities. He stated that it avoids wetland resource areas and buffer zones. He reviewed the proposed condition plantings and showed pictures of the proposed trees and shrubs; he noted that the landscape plan is not finalized yet. He showed renderings of the proposed project. He stated that this is an affordable housing project that will be funded through state subsidy sources, so there is still a long process; the estimate is construction start in 2024. He reviewed that they have discussed with other town staff the possibility of a few public parking spaces to provide access to DelCorte. He pointed out the location of the adjacent DelCorte property. He stated that he does not think anyone on the DelCorte trails would see any of this project. Chair Gallagher stated that he was most interested to hear about opportunities for connectivity with DelCorte. He noted that the Commission does not have formal jurisdiction here. He suggested they reach out to the conservation agent for discussions regarding the parking spaces and specifics of the connectivity.

Discussion Item: Administrative (Agent) Approvals – October 2022 – 2 Blueberry Lane

Ms. Goodlander stated that this is an administrative approval for the proposed installation of a 120 sq. ft. shed on skids and pavers to replace an existing shed within the locally regulated 100 ft. buffer zone to an intermittent stream (runoff/stormwater system). Minor excavation is required to stabilize the shed, and all work is proposed within existing lawn. She stated that she recommended ratification.

There was a motion made by Meghann Hagen to ratify the Administrative Approval for 2 Blueberry Lane. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

Discussion Item: Open Space and Recreation Plan (OSRP) Discussion/Presentation

Director of Planning and Community Development Bryan Taberner stated that the DPCD has started to work on updating the open space and recreation plan. He stated that the last one was done in 2016; the Commission was the lead agency on the plan. He stated that he hopes that will be the case again. He stated that he spoke with Chair Gallagher about it and he seems to be in agreement. He stated that we are doing this a little different this year; we created a full staff working group internally. He explained that for instance staff will be working on updating maps and Recreation Director Ryan Jette will be involved. Mr. Taberner stated that what we would like to do on the Commission end is have a meeting once a month where he will provide an update and possibly have stakeholders come in and talk about the issues related to open space and recreation. He stated that they will be getting input in a variety of ways including that the public will be able to see this on TV every month, a survey will be put out, and there will be three public hearings on this. He stated that they are putting together a list of accomplishments from the last plan and there were many. He stated that he hopes the draft document will be done late May/early June with a 30-day public comment period. The hope is to get the plan done and signed off on and sent to the state by the end of September of 2023. He stated that written public comment will be accepted any time and will be documented to put in as an attachment at the end of the plan. He stated that the hope is that in the first quarter of next year they will be forming a town-wide master plan committee and this document will fit in with that. He reminded the Commission that he will be before the Commissions once a month and if they have any comments, please let him know. Commission members asked questions and made comments. Mr. Taberner noted that there will be a website for this set up very soon. He discussed that if they were not doing this plan, the master plan would not be as detailed in open space and recreation; this plan gets into more specifics. He reviewed that the adoption of the Community Preservation Act is another funding source; however, they must also think of other funding sources that they have. He noted that there are always a lot of expenditures associated with recreation.

Chair and Commission Comments

Executive Session: None.

There was a motion made by William Batchelor to adjourn the meeting. 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; Hagen-Yes; Batchelor-Yes; Gallagher-Yes.

The meeting adjourned at 9:06 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary