

Town of Franklin



Conservation Commission

**March 22, 2023  
Meeting Minutes**

*As stated on the agenda, due to the concerns regarding the COVID-19 virus, this meeting is available to be attended in person and via the Zoom platform. 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, Meghann Hagen, Mark LePage. Absent: Jeff Livingstone. Also present: Breeka L  Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff.

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

*Note: Agenda items taken out of order.*

**GENERAL BUSINESS**

**Certificates of Compliance: Strawberry Fields/7 Penny Lane SE159-917**

Attorney (name not provided) representing the seller stated that this is a development with an Order of Conditions that was put on for the entire Strawberry Fields subdivision for mostly sedimentation control. He stated that the subdivision has been built out and the Certificate of Compliance is outstanding. He stated that this is a title issue for the seller. He stated that he received a letter from the prior attorney and the town engineer acting on behalf of the Conservation Commission stating that everything looks fine; they just needed to let the grass grow and stabilize it. Ms. Goodlander stated that was in 2014. She stated that she conducted a site visit, and she recommended the Certificate of Compliance.

There was a motion made by Mark LePage to approve the Certificate of Compliance for Strawberry Fields/7 Penny Lane SE159-917. 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; LePage-Yes; Gallagher-Yes.

**Certificates of Compliance: 7 Penny Lane SE159-934**

Attorney (name not provided) representing the seller stated that this is for a septic system, but it is moot because they connected to sewer and never put in the septic system. In response to Chair Gallagher's question regarding if this is documented, Ms. Goodlander stated that there is an NOI for this, so it is fine.

There was a motion made by Mark LePage to approve the Certificate of Compliance for 7 Penny Lane SE159-934. 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; LePage-Yes; Gallagher-Yes.

**PUBLIC HEARINGS****Public Hearing – NOI – 74 South Street CE159-1259 – continued**

Ms. Susan McArthur of McArthur Environmental Consulting (via Zoom) and Matthew Moore, homeowner/applicant (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. 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. Ms. McArthur provided an update regarding the application. She stated that this is the second round of comments from BETA's peer review. She stated that they addressed those comments and revised the plan to show the date of the survey and method and have included the person responsible for maintaining the erosion controls at the site as well as their phone number on the plan. She stated that they have also cleaned up the site; there are no more stockpiles of woody debris or construction materials. She noted that the straw wattles have been removed. She stated that Mr. Moore sent an email with photographs to Ms. Goodlander. She stated that they provided a vernal pool statement, construction sequencing schedule, and the functions and characteristics statement.

Ms. Goodlander stated that she did not have an email regarding the construction sequencing schedule and the functions and characteristics statement. She stated that she believed Ms. McArthur but just does not have it. Ms. McArthur discussed that she sent a follow up letter on March 8.

Ms. Goodlander read aloud the following from her agent report:

Revised information was submitted by the Applicant on March 8. Below are comments (March 14, 2023) from BETA. Agent comments are in green.

A4. The Applicant has indicated that the plan does not provide sufficient space to include the Construction Sequence and Schedule. BETA defers to the Commission on whether they would like the Applicant to provide this information on the plans. Agent: The benefit to having the Construction Sequence and Schedule on the plans is for contractors to have necessary information on hand, in front of them and spelled out plainly, without needing to reference the OOCs. In other words, the Sequence and Schedule is a snapshot of the sequential steps that everyone involved in the Project needs to follow for compliance during construction. It is a requirement under 7.15 and 7.18.1.14 of the local Regulations. Historically, the Commission has approved projects without a Construction Sequence and Schedule in place, but has Conditioned that one be provided prior to the start of work. It is possible to Condition something to that effect for this Project.

W2 – BETA3. Stockpile and laydown areas are not depicted on the plans; however, the Applicant has indicated on the plans that no soil stockpiling will occur at any point during construction. The intent of this comment is to ensure that there is sufficient space within the proposed limit of work to support the proposed construction and is meant to encompass all construction support and staging areas. BETA defers to the Commission on whether these areas must be shown on the plans.

Agent: It is typical for construction projects to show stockpiling areas, especially in relation to resource areas. The benefit of having finalized plans that show stockpiling areas is to give contractors a definitive roadmap for this Project to be completed in compliance. This property has a history of stockpiling within resource areas without prior approval. It would be within the right of the Commission to require that these stockpiles be shown on an updated plan. To that point, it is possible to Condition that stockpiling occur outside of jurisdiction. The Commission has done this historically for other projects.

Chair Gallagher stated that he wanted confirmation on this point. Mr. Moore stated that as you look at the sequencing and the plan, the footings get dug, the retaining walls get poured. As filled dirt comes in, it goes to the place that it is going to be set, so there would be no need for stockpiling, and the space is so small that there is no room for stockpiling.

Ms. Goodlander continued reading aloud the following from her agent report:

W5 – BETA2: Although a cistern is no longer proposed, a detail has been provided on the plan for the newly proposed infiltration field. Because the proposed infiltration unit is subsurface, it is recommended that installation of this feature be witnessed by the Conservation Commission or their Agent.

Agent: Agreed – this should be Conditioned.

W6. ...use of straw mulch is not a permitted stabilization strategy in Franklin. The Applicant should propose additional interim stabilization methods.

Agent: Agreed – or at the very least, the Applicant should conduct their due diligence to exhaust other stabilization options and seek a Variance.

W10 – BETA3: ...the Applicant's Functions and Characteristics Statement did not discuss the Project's impacts on the following functions: Storm Damage Prevention, Water Quality, or Water Pollution Control. BETA defers to the Commission on whether the Functions and Characteristics Statement is sufficient to issue an Order of Conditions.

Agent: This is a requirement under 7.10 of the Regulations (excerpted below). Storm Damage Prevention: Address whether the project will have an adverse effect on the way that the wetland or flood plain will be able to minimize water and wind related impacts during large-scale storm events. Water Quality: This item must be addressed for both the construction and post construction conditions at the property. This item will address the quality of the surface water associated with the resource area being impacted by the project. Water Pollution Control: This item must be addressed for both the construction and post construction conditions at the property.

Additional Agent Comments: No response regarding plantings or seed from the Applicant. No confirmation that root balls from trees outside the footings of the barn will be kept in place. These can be Conditioned.

Mr. Moore stated that the root balls being removed are shown on the plans and are within the footings. He stated that regarding the reforestation of the area that was effected, it is their intent to leave the space to redevelop as wooded area. Ms. Goodlander stated that in the permit application it is written out that they are reseeded. Mr. Moore stated that they would put some type of stabilizing seed down. Ms. McArthur stated that they are putting the conservation seed mix down, but Mr. Moore is saying that any future growth that comes in they will let grow. Ms. Goodlander discussed this item. Mr. Moore stated that they would prefer that it is reforested naturally and be consistent with how the forests developed originally. Discussion commenced regarding the area. Mr. Moore discussed that the construction schedule was sent in a letter as it would not fit on the plan page. Chair Gallagher stated that they would be in favor of tossing an extra page on the plans so the details would be included on the plans. Discussion commenced on how the construction schedule would be attached to the plans. Mr. Moore confirmed that they would be removing all the stumps from the trees being cut down. He discussed that he does not understand the relevance of leaving root wads in the construction site area as they could not ensure the building if organic material was left under a

structural footing. Mr. Johnson stated that he agreed. Ms. Goodlander stated that it is a requirement that the construction sequencing schedule be put on the plans. Mr. Moore asked if the Commission would waive that considering this plan is already so busy. Ms. McArthur stated that the Commission already stated that it would be acceptable to attach the schedule to the plans as an addendum.

Chair Gallagher stated that all of these things can be added as conditions of approval; our goal is making sure that there is not any miscommunication. He stated that he does not see any of these things as that the applicant would have to return as a continuation of the hearing.

Commission members asked questions and made comments. Chair Gallagher discussed the approval being conditioned on additional information being provided. Ms. McArthur stated that the system they are installing will recharge to groundwater the clean rooftop runoff of the barn. Ms. Goodlander reviewed comments from the town engineer on the infiltration field. Mr. Moore discussed that there is not a basement being built in the barn, and he discussed the location of the footings.

Chair Gallagher stated that he would propose approving an issuance of an Order of Conditions which would be subject to our standard special conditions and subject to the following:

1. A condition that the construction sequence and schedule is appended to the plans and kept on site with the contractor.
2. A condition that if there is any future need for stockpiling that the locations of the stockpiling would need to be approved by the conservation agent. Ms. Goodlander stated that stockpiling locations would be shown on a plan even if outside of Conservation jurisdiction.
3. An additional condition that with respect to the infiltration field that during the installation of the infiltration field the conservation agent be notified and have an opportunity to be onsite for that.
4. An additional condition that the applicant shall use best efforts to identify alternative stabilization to the straw mulch that has currently been identified.
5. A condition that the applicant will provide prior to the start of site work additional detail with regard to BETA's comments on storm damage prevention, water quality, and water pollution control.

Ms. Goodlander stated that there will have to be a building permit for this so all of these requirements will have to be satisfied prior to the issuance of that building permit.

There was a motion made by Richard Johnson to close the public hearing for the NOI for 74 South Street CE159-1259. 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; LePage-Yes; Gallagher-Yes.

There was a motion made by Richard Johnson to approve the NOI for 74 South Street CE159-1259, as stated. 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; LePage-Yes; Gallagher-Yes.

Mr. Moore asked if the trees can be removed now while they are finalizing and getting the permit. Ms. Goodlander stated that she would say no because typically no work happens even for pools or sheds before the building permit is issued.

Chair Gallagher stated that he thinks this is not a question for the Commission; it is a question for the conservation agent and the building commissioner. He stated that he would defer to whatever their judgment is. Ms. Goodlander stated that she would ask the building commissioner tomorrow morning.

**Public Hearing – ANRAD – 121 Grove Street CE159-1261 – continued**

***Chair Gallagher recused himself.***

Ms. Goodlander stated that the applicant requested a continuance, but she would still like to have a discussion on meeting dates. Commission members discussed meeting dates; March 31, at 9:30 AM was agreed to.

There was a motion made by Mark LePage to continue the public hearing for the ANRAD for 121 Grove Street CE159-1261 to April 6, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

***Chair Gallagher re-entered the meeting.***

**Public Hearing – NOI – 25 Forge Parkway**

Mr. Philip Cordeiro of Allen & Major Associates representing the applicant, and Mr. Matthew Clark, owner of TMC Holdings & Development 2 LLC, addressed the Commission for the project that proposes to construct at 16,000 sq. ft. building addition, 17 additional parking spaces, and a paved contractor yard within the 100 ft. buffer zone to BVW, specifically within the 25 ft. to 100 ft. buffer zone; disturbance within the 25 ft. to 50 ft. buffer zone is limited to grading and disturbance within the 50 ft. to 100 ft. buffer zone includes grading, paving, and the proposed building addition. Mr. Cordeiro reviewed the site plan application and showed the plans. He stated that on the property or adjacent to it, they have two wetland resource areas which were flagged by Goddard Consulting about one year ago. He stated that no work is proposed within the local no-disturb buffer and only grading is proposed within the 25 ft. to 50 ft. buffer. He stated that they want to make sure they are putting forth a compliant plan with the local bylaw and also stormwater management standards. He stated that they have erosion control accounted for on the property. He reviewed the stormwater management system plan and discussed the location. He stated that it is a single-phase project. He stated that it is anticipated to be a relatively short duration project. He stated that they do not yet have a DEP number so they will be returning to the Commission. He asked if the Commission wanted to conduct a site visit.

Commission members asked questions. Mr. Cordeiro reviewed the disturbed and undisturbed areas as shown on the plans. Chair Gallagher asked about the machinery that will be stored regarding if they will have oil separators in the infiltration system. Mr. Cordeiro stated that they do not have oil separators. He discussed the plan to capture any type of oil leak in the catch basins which is part of the site maintenance plan. Chair Gallagher asked about the additional parking and if it was required by zoning. Mr. Cordeiro discussed that the parking is for a zoning requirement.

Mr. Jonathan Niro of BETA Group (via Zoom) stated that a site visit has been conducted by BETA, and they are working through the letter, currently. He stated that BETA should issue their letter with enough time for the applicant to review prior to the next meeting. He stated that he would confirm with Ms. Goodlander on the exact timeframe. Ms. Goodlander confirmed that she has not visited the site yet.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 25 Forge Parkway to April 6, 2023. The motion was seconded by Mark LePage and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Public Hearing – ANRAD – 1 Paddock Lane**

Mr. Mitch Maslanka, wetland scientist of Goddard Consulting (via Zoom), representing the applicant addressed the Commission for confirmation of the onsite wetland resources identified to include one BVW and one enclosed upland island. Mr. Maslanka shared his screen and provided a brief overview of the

delineation. He reviewed the location of the existing single-family house is at 1 Paddock Lane, and he reviewed the wetland line. He noted that DEP has not yet issued a file number.

Ms. Goodlander stated that she went to the site to review the delineation and said she has not yet reviewed the ANRAD. She stated that she has no comments at this time. She stated that BETA still needs to go to the site. She stated that the hearing will need to be continued.

Chair Gallagher asked what is the impetus/end goal for the ANRAD. Mr. Maslanka stated that at this time all they are trying to do is confirm the wetland boundaries on the site.

Ms. Joni Magee, 36 Palomino Drive (via Zoom), stated that she and ten of her neighbors are on Zoom and she asked what is the purpose of this. She stated that she does not understand what is happening. Ms. Goodlander explained what is an ANRAD and who is BETA Group. Chair Gallagher and Mr. Rein provided additional information regarding an ANRAD.

Ms. Renata Gilarova, 38 Palomino Drive (via Zoom), stated that she is an abutter to the applicant. She asked what are the next steps for the Commission and applicant. Ms. Goodlander stated that BETA has not gone to the site yet to review. She stated that she has been to the site but has not yet reviewed the application. She stated that DEP has not yet issued the file number. She confirmed this item would be continued to April 6.

Mr. KP Sompally, 42 Palomino Drive (via Zoom), asked about the process. Ms. Goodlander stated that the resources have already been delineated; the wetlands survey now needs to be confirmed. Chair Gallagher discussed the required notices for abutters.

There was a motion made by Jeffrey Milne to continue the public hearing for the ANRAD for 1 Paddock Lane to April 6, 2023. 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; LePage-Yes; Gallagher-Yes.

### **GENERAL BUSINESS (continued)**

#### **Minor Buffer Zone Activities: 12 Corey Way**

Mr. Michael Cummings, applicant (via Zoom), addressed the Commission for the approval of 40 yds. of fill/loam to raise the grade of existing disturbed lawn by 1 ft. to 1.5 ft. and the installation of a 10 ft. x 12 ft. shed within the 25 ft. to 50 ft. buffer zone and 200 ft. RFA.

Ms. Goodlander reviewed that the applicant proposes to hydroseed the fill immediately to promote soil stabilization and has requested a variance to fill two small depressions within the 25 ft. no touch zone with four to five yards of fill. She noted that the applicant has volunteered to lay some boulders to retain other fill areas to lessen the chance of washout. She stated that she recommended approval with conditions/parameters as described. She noted that the hydroseeding machine should hydroseed within the existing lawn only. Mr. Cummings stated that he would confirm that.

There was a motion made by Jeffrey Milne to approve the Minor Buffer Zone Activity for 12 Corey Way, subject to conditions to hydroseed the fill to promote soil stabilization, the standard MBZA conditions, and to issue the requested variance. 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; LePage-Yes; Gallagher-Yes.

#### **Minor Buffer Zone Activities: 4 Farm Pond Lane**

Mr. Kevin Donnelly, homeowner/applicant, addressed the Commission for a proposed 24 ft. above ground round pool within the 50 ft. to 100 ft. buffer zone. He stated that the area for the proposed pool is flat and the

contractor stated that only one to two inches of digging would be needed. He discussed the water runoff location. Ms. Goodlander confirmed that a large fit pit was in the proposed location of the pool.

There was a motion made by Richard Johnson to approve the Minor Buffer Zone Activity for 4 Farm Pond Lane. 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; LePage-Yes; Gallagher-Yes.

Ms. Goodlander stated that she wanted to comment that the previous homeowner was dumping all of their yard waste into the wetland. Mr. Donnelly stated that he was eager to get in there and clear it out as it is an eye sore.

**Permit Modifications/Extensions: None.**

**Certificates of Compliance: Amego School CE159-1200**

Mr. Scott Jordan of EcoTec (via Zoom) on behalf of the applicant addressed the Commission for the Certificate of Compliance to close out the permit extension/OOCs for the Amego School project which consisted of proposed boarding school residences, a multipurpose building for educational use, a maintenance building, and associated access driveways, parking, and utilities within the 25 ft. to 100 ft. buffer zone to BVW, vernal pool, and Zone II Wellhead Protection Area. He stated that the site is stable and they have an as-built plan.

Ms. Goodlander stated that she walked the site. She stated that there is a small area of riprap surrounding the footbridge that was not in the latest plan that the Commission approved; she stated that she thinks it is fine. She stated that the wattles can be removed. She stated that she noticed that there seems to be a lot of construction trash in the wetland such as packaging materials and Styrofoam. She asked that the debris and construction materials be removed. Mr. Jordan stated that he would pass along that information.

There was a motion made by Mark LePage to approve the Certificate of Compliance for Amego School CE159-1200. 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; LePage-Yes; Gallagher-Yes.

**Certificates of Compliance: Griffin Road CE159-1216**

Ms. Goodlander stated that this CoC is requested for a raingarden project within the 0 ft. to 100 ft. buffer zone. She stated that site conditions match previously approve site plans. She recommended approval.

There was a motion made by Michael Rein to approve the Certificate of Compliance for Griffin Road CE159-1216. 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; LePage-Yes; Gallagher-Yes.

**Violations/Enforcement: None.**

**Minutes: March 9, 2023**

There was a motion made by Richard Johnson to approve the meeting minutes for March 9, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 5-0-1. Roll Call Vote: Milne-Abstain; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Discussions: Franklin FlexSpace**

Ms. Goodlander stated that the applicant has a few site plan changes. She stated that she made the executive decision to not have them come back before the Commission as there were no changes to the respective buffer zones. Chair Gallagher stated that he had no issues.

**Chair and Commission Comments:**

Ms. Goodlander stated that she received an email for a violation at 561 Lincoln Street. She stated that there are three parcels next to each other. She stated that they are all shared between all residents and the property at parcel #1 utilizes property #2 even though they do not own property #2. She stated that there was an old access road for utility lines that went across Shepherd Brook, and there was a culvert underneath the access road. She stated that the access road has crumbled, and the culvert has broken and fallen in on itself. She stated that the resident a property #1 decided to replace the culvert in kind. She stated that she meant it is just a metal corrugated pipe with no backfill. She stated that property #3 called in on property #1 that they did this. She stated that she went to the property with the town engineer. She stated that it is a completely undersized pipe. She stated that they mentioned when she was onsite that they knew it had to be removed. She stated that there were conversations being had outside of herself. She stated that they needed to have it removed by yesterday. She stated that she drove by and it is still in place. She stated that they are going to get a letter to remove it. Chair Gallagher stated that they will be given one week to remove it or send Ms. Goodlander a detailed written response. Commission members asked questions and made comments. Chair Gallagher stated that this is in the category of a quasi-innocent mistake.

Ms. Goodlander noted the Earth Day Celebration at the DelCorte Conservation Area on April 23, from 9 AM to 1 PM. She noted the Eagle Scout project that is being done this weekend. Mr. Milne noted the ribbon cutting on March 25, for the SNETT trail. Discussion commenced regarding the Commission attending the SNETT event. Ms. Hagen provided information on what is needed for the Earth Day event. Discussion commenced on the event.

**Executive Session: None.**

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Mark LePage and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

The meeting adjourned at 8:30 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary