

Town of Franklin



Conservation Commission

**May 4, 2023
Meeting Minutes**

As stated on the agenda, 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

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 (via Zoom), Jeffrey Milne, Jeff Livingstone, Richard Johnson, Michael Rein, Meghann Hagen. Absent: Mark LePage. Also present: Breeka Li Goodlander, Conservation Agent; Tyler Paslaski, Administrative Assistant.

Chair Gallagher reminded all that the Commission is continuing the Open Space and Recreation Plan process with the goal of getting a draft plan in a month or so; there is a public hearing on the draft plan scheduled for June 5, 2023. He noted that there is more information on the plan on the Town's website. He stated that they welcome comments and feedback. He stated that they have rescheduled the Commission's Earth Day celebration to May 7, from 9 AM to 1 PM, at DelCarte conservation area; all are welcome.

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

PUBLIC HEARINGS

Public Hearing – NOI – Spruce Pond Aquatic Management Program

Chair Gallagher noted that the applicant and/or representative was not present. Ms. Goodlander stated that she has had no correspondence with the applicant. Chair Gallagher requested Ms. Goodlander to send the applicant an email noting that the Commission expects them to be present or to notify the Commission if they will not be present. He noted that this is an after-the-fact NOI project.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for Spruce Pond Aquatic Management Program to May 18, 2023 at 7:01 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Public Hearing – NOI – 25 Forge Parkway

Chair Gallagher stated that the applicant requested a continuance. Ms. Goodlander stated that the applicant provided a response to BETA two days ago on the Planning Board stormwater side. She stated that typically, the Commission leaves stormwater to the Planning Board unless it is within the Commission's jurisdiction.

There was a motion made by Richard Johnson to continue the public hearing for the NOI for 25 Forge Parkway to May 18, 2023 at 7:02 PM. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Public Hearing – ANRAD – 1 Paddock Lane

Ms. Goodlander stated that she has not heard from the applicant regarding a request for a continuance. She stated that the applicant, BETA, and she were going out to a site visit tomorrow, but it had to be rescheduled and is to be determined. Mr. Johnson requested to go on the site visit. Ms. Goodlander stated that she would include Mr. Johnson in the emails. Chair Gallagher stated that if more than three Commission members wanted to attend the site visit, they would have to post it as a meeting.

Mr. KP Sompally, 42 Palomino Drive (via Zoom), stated that he appreciates what the Commission does for the community. Chair Gallagher stated that the Commission is just looking at the provided delineation on this application. The Commission does not have a specific project that they are looking at.

There was a motion made by Meghann Hagen to continue the public hearing for the ANRAD for 1 Paddock Lane to May 18, 2023 at 7:03 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Public Hearing – NOI – Maplegate Solar North

Attorney Allison Finnell of Brown Legal PLLC (via Zoom) representing the property owner Maple Gate Realty Trust stated that the parcels of land are those that make up the existing Maplegate Country Club. The applicant for the project is NextGrid Mescalbean, LLC for a proposed solar array. She stated that the current application is only in respect to the northern parcel which represents approximately 62 acres of the overall site. She stated that at tonight's meeting Mr. John Kucich of Bohler Engineering (via Zoom) and Dan Wells of LEC Environmental Consultants (via Zoom) are present.

Mr. Kucich stated that it is a large and straightforward project. He shared his screen and reviewed the map of the area showing the existing golf course, the Bellingham town line, and the wetland. He discussed that the work for the solar array is proposed within the 100 ft. buffer zone, including the 0 ft. to 25 ft. no disturb zone. He stated that it is buffer zone only work. He stated that all the work is in Franklin. He discussed that the solar arrays are scattered throughout the site. He stated that they have worked with the fire department regarding the access. He discussed that they are reducing approximately three acres of impervious area as part of the project with a conversion to a native meadow. He described and showed the buffer zone areas on the map. He showed where they are proposing to put the erosion control barrier.

Chair Gallagher stated that the Commission has just started digging into this. Ms. Goodlander stated that BETA has not yet gone out to the site. She noted that there is work within the 0 ft. to 25 ft. no disturb zone limited to an erosion control barrier. She stated that she needs from Mr. Kucich a variance request asking for the variance for the erosion controls. She stated that she does not have the colored version of the map that Mr. Kucich showed with all the buffer zone impacts. Mr. Kucich said he would send it to Ms. Goodlander.

Commission members asked questions. Mr. Kucich reviewed the impacts as shown on the map. He pointed out where the wetlands are shown on the aerial view map. He explained and pointed out the existing paths going through the site and the parking field that will be torn up and replaced with meadow mix ground cover. He discussed the tree removal. He stated that he does not think that they break out the tree removal in the buffer zone area. He stated that the majority of the tree removal is not in the wooded

area; he showed on the map areas having tree removal. He noted that a lot of tree removal is between two fairways. Chair Gallagher stated that there are some pretty mature trees on the property. He stated that anywhere there is an impact in the buffer zone, the Commission would want to take a look at it and how it is being mitigated.

There was a motion made by Michael Rein to continue the public hearing for the NOI for Maplegate Solar North to May 18, 2023 at 7:04 PM. The motion was seconded by Richard Johnson and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Public Hearing – RDA – 160 Grove Street

Mr. Steven Bostich of Land Planning, Inc., representing the applicant, addressed the Commission for a Request for Determination of Applicability for a sewer extension within the existing paved right of way approximately 87 ft. from the nearest BVW boundary line. He stated that they would like to extend approximately 500 ft. of sewer line up Grove Street and provide sewer stubs for 160, 162, and 158 Grove Street. He stated that this sewer extension has been before the Town Council. He reviewed the proposal. He stated that all catch basins within the right of way should have silt bags installed.

Ms. Goodlander noted that this is an exempt minor buffer zone activity. She asked if the open trenches will be backfilled at the end of each day. Mr. Bostich stated yes. Ms. Goodlander stated that she is fine with it and recommended approval.

Chair Gallagher confirmed the location/address for the RDA application. Mr. Bostich stated that he was asked by engineering to provide stubs for the addresses mentioned. He stated that they are providing the capability for connection for those properties in the future. He stated that all overseeing of the installation of the sewer lines would be done by the town engineer. He pointed out that the property has an existing NOI Order of Conditions.

There was a motion made by Meghann Hagen to close the public hearing for the RDA for 160 Grove Street. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

There was a motion made by Meghann Hagen to approve the RDA for 160 Grove Street with a negative determination. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Public Hearing – NOI – 2 Elm Street

Chair Gallagher stated that he opened the public hearing.

Ms. Karon Skinner Catrone (via Zoom) representing applicants/owners Robert and Anne Valluzzi addressed the Commission for an after-the-fact Notice of Intent for partial work/fill within BVW and associated buffer zone. She stated that the applicants are seeking approval to install an above-ground pool and discuss the proposed restoration and/or replication work for the fill within BVW. She discussed that the applicants have already installed a substantial slope toward and on top of BVW. She stated that the owners pulled a building permit which was issued on September 12, 2022, for the garage and retaining wall. She stated there was no communication with the applicants that an Order of Conditions was required for this work. As such, the applicants built the garage, put in the retaining wall, and put in the slope, and then Ms. Goodlander informed them that an Order of Conditions was required. She discussed the meeting she had with Ms. Goodlander at the site. She stated there is no DEP number. She stated that she would like to discuss where they should go from here.

Chair Gallagher stated that he thought there was a lot to unpack here. He stated that this is going to require a lot of collaborative thinking. He stated that until anything is authorized by Ms. Goodlander or the Commission, that no further action should be taken out there.

Ms. Goodlander stated that there were photos in the Google drive. She stated that a slope was installed that is pretty deep that goes up to the wetland line and goes into BVW. She stated that she suggested to Ms. Skinner Catrone that the slope needs to be pulled back to determine where the wetland boundary is and then we can do the buffer zone and then talk about the retaining wall, the pool, and a fence. She stated that the applicant has offered to remove the slope and build the retaining wall as it is being removed. She stated that the pool is partially within the 25 ft. no touch zone. She stated that Chair Gallagher is right that this is an onion; there are lots of layers to this. She stated that the applicant has proposed to do some replication/restoration on the northwest portion of the property. She stated that the local filing fee and BETA review fee were waived as the applicant had contacted them; she stated that they tried to work with the applicant. She stated that she still needs the variance request.

Chair Gallagher asked if there was a particular reason that the pool was sited in that area. Mr. Robert Valluzzi, owner, stated that to the left of where the pool is proposed are two very large maple trees that they wanted to save. He explained the location of the retaining wall and the proposed above-ground pool. He stated that the pool with the dimensions as listed was already purchased and he cannot give it back now. He noted that the pool, by building code, has to be 10 ft. off any structure which would be the deck and corner of the garage. Chair Gallagher stated that he appreciates Mr. Valluzzi's collaboration on this issue. He stated that he and Ms. Goodlander talked about not authorizing the entire project up front, but authorizing what would be necessary for the retaining wall first. He stated this needs to be reviewed by BETA.

Mr. Valluzzi discussed the need to determine where the edge of the wetland is. He discussed the footings for the garage are down six-plus feet; there needs to be fill there. He noted that the garage is 28 ft. x 40 ft. and has a drive through door. He stated that he went to the Conservation Office before starting the project; he thinks they were between conservation agents. He was given a good faith answer. He stated that he would not have proceeded with this had he known.

Ms. Goodlander stated that from wetland flag 7 to wetland flag 5 she is generally okay with; it is wetland flag 5 to wetland flag 3 where all the fill is that it is iffy. She stated that the garage should be okay. She showed some aerial photographs taken prior to the garage being added. Mr. Valluzzi explained the landscaping of the property and why the fill was needed for the proposed project.

Chair Gallagher stated that they need to determine where the wetland line is. He stated that this public hearing will be continued.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 2 Elm Street to May 18, 2023. The motion was seconded by Richard Johnson and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activities: 12 Addison Avenue

Ms. Goodlander stated that she would speak for the property owner regarding this MBZA for proposed vegetation work including cutting a fallen birch tree which is partially located within BVW and existing

lawn. She reviewed that the applicant proposes to cut and remove portions of the tree located within the lawn and leave behind the portions of the tree that are within BVW. The applicant also proposed to vista prune vegetation surrounding utility boxes. She stated that she believes the vegetation surrounding the utility box is invasive and is multiflora rose and oriental bittersweet and should be eradicated. She recommended approval.

There was a motion made by Jeffrey Milne to approve the Minor Buffer Zone Activity for 12 Addison Avenue. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 1 Green Street

Mr. Roger Trahan, owner/applicant, addressed the Commission for an MBZA for proposed buffer zone restoration work within the 100 ft. buffer zone to BVW and 200 ft. riverfront area to Mill Brook. The proposed work includes pulling by hand or shallow tilling to remove the roots of oriental bittersweet and mugwort which are invasives and some poison ivy during dry weather. Disturbed areas will be stabilized immediately with a native seed mix and/or native herbaceous plugs. He stated that he is seeking a variance to work within the 0 ft. to 25 ft. no disturb zone.

Ms. Goodlander reviewed that all of this work is considered an exempt minor buffer zone activity under 310 CMR 10.02(2)(b)(2)(d). She stated that typically she does not like tilling, but when working with invasive species it is important to get them out so she will be okay with the tilling. Mr. Trahan explained the area where he would possibly do tilling. Ms. Goodlander stated that if we have a thunderstorm, she would like to stabilize it in some way. Mr. Trahan said okay.

Chair Gallagher stated that he did not have any issues with what Ms. Goodlander suggested and it seems appropriate. Ms. Goodlander stated that during the Open Space and Recreation Plan she had brought up making it easier for residents to do these kinds of projects such as waiving filing fees. Mr. Johnson stated that he thinks this is a good idea. He stated that if we do not do something about it, the invasives will take over.

There was a motion made by Richard Johnson to approve the Minor Buffer Zone Activity for 1 Green Street. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Permit Modifications/Extensions: None.

Certificates of Compliance: None.

Violations/Enforcement: 305 Union Street

Ms. Goodlander stated that she has not gotten any updates. Chair Gallagher stated that the Commission will need to extend this for another 30 days.

There was a motion made by Richard Johnson to approve the extension of the enforcement order for another 30 days for 305 Union Street. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 5-0-1. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Abstain.

Minutes: April 20, 2023

There was a motion made by Jeff Livingstone to approve the meeting minutes for April 20, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; Gallagher-Yes.

Discussion: 137 Mastro Drive

Ms. Goodlander stated that they threw out the hard copy, so the Commission needs to sign again.

Chair and Commission Comments:

Chair Gallagher stated that it would be helpful for Commission members to be at DelCorte on Sunday at 8 AM to set up. Commission members discussed who will be attending. Chair Gallagher stated that he will pick up food on Saturday and drop it off. Ms. Goodlander thanked Mr. Roger Trahan for the 45 bee boxes that will be given out at the event. She explained how the bee boxes were made. She stated that she and others planted two blueberry bushes and native grasses at the turtle habitat. She stated that prior to the Commission hearing they were talking about the Farmers Market which starts in June and that they were awarded a community table. She stated that she, Michael, Jeff, and Roger were talking about the schedule and it was brought up that maybe they could share the table with the Agricultural Commission every other week. Chair Gallagher stated that he thinks it would be great if the Commission were able to staff it. He suggested putting a sign-up sheet on the Google drive to make sure it can be staffed. Ms. Goodlander stated that the Farmers Market is four hours.

Discussion: Franklin Flexspace

Ms. Goodlander stated that the applicant had site plan changes and violations. She stated this is about the third time that Franklin Flexspace has come back before the Commission with a violation. She stated that in this case there were some site plan changes, and the Commission needs an updated site plan, and then there was a violation of unpermitted tree removal of one tree that is within the buffer zone. She explained the location of the tree.

Mr. William Hommel stated that the tree was not removed. He stated that when they did all the clearing that tree was setting there and no one knew it was partially cut and after a windstorm, it fell over. He showed a picture. He stated that it was not intentional. He showed a picture of the wall. He stated that he left the tree where it fell; he can take it out if they want.

Ms. Goodlander stated that the tree is in the buffer zone which is in the jurisdictional area, and the Commission must be notified. She stated that they got a phone call. She stated that considering how many people are watching this project, considering the amount of times he has had to come back to the Commission, and considering the site plan changes that have occurred, with the subsurface propane tanks to the above-ground propane tanks, she just thinks it would be probably in the best interest of the applicant to every step of the way communicate any of those changes, communicate any work within the buffer zone that was not previously permitted with the Conservation Department and Conservation Commission so that we need to have an open line of communication so when abutters call me I can say yes I know what is going on instead of saying I do not know what is going on let me talk to the applicant.

Mr. Hommel stated that within one day of the tree falling over he called Ms. Goodlander. Chair Gallagher stated that Bill could copy him on emails as well for a second set of eyes confirming that we are in the loop. Ms. Goodlander discussed the propane tanks. She stated that any changes to the site plan still needs to come before the Commission.

Chair and Commission Comments (*continued*):

Ms. Hagen stated that on Saturday we are having the Environmental Extravaganza on the Town Common from 11 AM to 2 PM. She stated that there will be 13 different centers set up and nine different organizers providing environmental topics. The age group focus is 12 years old and under. She stated that it is a free event for the community.

Executive Session: None.

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

The meeting adjourned at 8:37 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary