

Town of Franklin



Conservation Commission

**July 13, 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

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 (via Zoom), Jeffrey Milne, Meghann Hagen, Mark LePage (via Zoom). Absent: Jeff Livingstone, Richard Johnson, Michael Rein. Also present: Breeka L  Goodlander, Conservation Agent.

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

PUBLIC HEARINGS

Public Hearing – NOI – Spruce Pond Aquatic Management Program

Ms. Goodlander stated that she does not see that the applicant is present. She stated that she did not receive a request for continuance. She noted that the applicant received BETA’s review letter.

Mr. Jonathan Niro of BETA (via Zoom) stated that they issued their second letter the other day. He stated that the applicant, in response to BETA’s first letter, submitted a response memorandum and revised NOI application. He stated that the applicant addressed some administrative items, provided a sketch for the location site of some vegetation for existing conditions, and provided safety data sheets and product labels for proposed herbicides to be used. He stated that what remains to be addressed are some items for aquatic vegetation management products such as more detail on why certain chemicals were chosen over others, clarity on materials to be used near native vegetation ensuring they will be protected during treatment, and detail monitoring protocol and plan including how to establish baseline conditions and frequency of monitoring. He stated that as such, he does not recommend issuing the Order of Conditions at this time as the Commission needs to be provided with sufficient information.

Chair Gallagher asked Ms. Goodlander to take a minute to look at if there is any further response on the chemicals piece. Ms. Goodlander stated that she can take a deeper dive.

Ms. Hagen noted that at their last presentation, the applicant provided more information on the chemicals; she does not know if that was sufficient.

Ms. Goodlander stated that there is a discrepancy as to the information on the bottles of chemicals and what is on the EPA sheets. Chair Gallagher asked if we can draw on any other experiences such as other

towns using these chemicals. He stated that he feels the EPA is going to be more conservation than what the company puts on the label. Ms. Hagen confirmed these are different chemicals than used at DelCorte.

There was a motion made by Mark LePage to continue the public hearing for the NOI for Spruce Pond Aquatic Management Program to July 27, 2023, at 7:01 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – ANRAD – 1 Paddock Lane

Ms. Goodlander stated that the applicant requested a continuance to July 27, 2023. She stated that no revised plans have been received.

There was a motion made by Meghann Hagen to continue the public hearing for the ANRAD for 1 Paddock Lane to July 27, 2023, at 7:02 PM. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – Maplegate Solar North

Mr. Greg DiBona of Bohler Engineering (via Zoom) stated that they are going to have their environmental engineer give some additional testimony tonight, but he is running a little late. Mr. DiBona asked if this item could be taken later in the agenda. Chair Gallagher stated yes.

Please see below for additional information on this agenda item/public hearing.

Public Hearing – NOI – 100 Financial Park

Ms. Goodlander stated that the applicant requested a continuance. She stated that the applicant is still responding to Planning Board regarding traffic studies.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 100 Financial Park to July 27, 2023, at 7:04 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 15 Liberty Way

Mr. Scott Goddard of Goddard Consulting (via Zoom) addressed the Commission for a Notice of Intent for a proposed parking lot expansion within an isolated vegetated wetland and all associated buffer zones, including the 25 ft. no touch zone.

Mr. Jonathan Niro of BETA (via Zoom) reviewed the BETA letter. He stated that they conducted both a field review and regulatory review of the documents. He stated that BETA's letter was just issued. He stated that they focused on the existing conditions and resource area of boundaries. He stated that during the site visit, the isolated wetland was observed and demarcated by the applicant; however, they observed several other areas of hydric vegetation as well as hydric soils southeast and west of the isolated wetland. They also observed in the middle of the site a non-jurisdictional channel and other channels that are likely regulated as streams or as finger-like projections of fresh water. He stated that the applicant should identify those for the permitting process and for the accurate jurisdiction on the site. He stated that if there are interconnecting channels that are regulated, they would be required to file through the Act at the state level. He stated that they also requested a closer look at the existing infrastructure that is out there and associated with the isolated wetland. He stated that at this point, they strongly recommend the applicant take another look at the existing conditions of the site; once that is set, the remainder of the items can be discussed.

Mr. Goddard stated that they have not had a presentation opportunity yet for the public hearing. He stated that he would give a high-level view of the project and proposal. He shared his screen and discussed the plans. He showed an aerial photograph of the 15-acre parcel with the existing approximately 100,000 sq. ft. industrial building. He stated that the focus is on the northern part of the site as that is where the project is proposed which is an expansion of parking into the wooded portion of the site. He reviewed that a sewer line runs through an easement along a clearing on the site. He stated that there is a hodge-podge of stormwater-related infrastructure that exists out there. He stated that any wetland features or isolated wetland features or appearing of wetland features is present due to the existence of on or off-site stormwater management. He noted the location of a sewer feature and detention basin. He pointed out the location of the discharge and swales. He noted a random channel that does not emanate from or connect to a wetland resource area. He stated that BETA looked at the existing conditions. He showed and explained information on the BETA review letter and pointed out some of the stormwater basins, channels, swales, detention basin, and some other spots which he said were clearly created. He stated that these items exist, but it is a hodge podge for the permitting history. He stated that the project, at a very high-level, is pushing the purple squared-off area as an expansion for more parking on the site and some infrastructure expansion. He stated subsurface drainage that would meet DEP stormwater standards would be put in. He stated that this design provides a lot of infiltration and water quality benefits that prior iterations did not provide. He stated that they would capitulate to all BETA's requests and go back out to the site and mark off the area, but ultimately, it will be buffer zone or impacting man-made features.

Chair Gallagher stated that the next logical step is for Mr. Goddard and BETA to go out there together and to agree on what types of resources are out there and mitigation.

Mr. Niro stated he would reach out to Mr. Goddard and Ms. Goodlander.

There was a motion made by Mark LePage to continue the NOI for 15 Liberty Way to July 27, 2023, at 7:05 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – 10 Echo Bridge Road

Ms. Goodlander stated that the applicant requested a continuance. She stated that there are a few deficiencies in the narrative and most of them are plan related administrative critiques.

There was a motion made by Meghann Hagen to continue the NOI for 10 Echo Bridge Road to July 27, 2023, at 7:06 PM. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – Lot 1A Prospect Street

Chair Gallagher stated that he opened the public hearing.

Ms. Goodlander stated that the applicant requested a continuance.

There was a motion made by Jeffrey Milne to continue the NOI for Lot 1A Prospect Street to July 27, 2023, at 7:07 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – ANRAD – Veterans Memorial Drive

Chair Gallagher stated that he opened the public hearing.

Ms. Goodlander stated that Goddard Consulting did the delineation.

Ms. Nicole Hayes of Goddard Consulting (via Zoom) addressed the Commission for an Abbreviated Notice of Resource Area Delineation at the Town-owned property off Veterans Memorial Drive. She stated that they are confirming the wetland resources located on the site. She shared her screen and reviewed the plan. She noted that the Franklin DPW is the applicant for this. She stated that the resources on site consist of two isolated vegetation wetlands (IVW) which are both under the Town's bylaw only, and a bordering vegetated wetland (BVW) off site. She stated that she would be happy to do a site walk.

Ms. Goodlander stated that she is planning to continue her review of this on Tuesday of next week and next Thursday. She stated that Town Engineer Michael Maglio told her to take her time.

There was a motion made by Jeffrey Milne to continue the ANRAD for Veterans Memorial Drive to July 27, 2023, at 7:08 PM. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Public Hearing – NOI – Maplegate Solar North

Please note that this agenda item/public hearing was continued from earlier in the meeting (see information above) as the applicant was waiting for an additional team member.

Mr. DiBona stated that they were waiting for Dan Wells of LEC Environmental Consultants to join in, but Mr. Wells is covering another hearing tonight. Mr. DiBona stated that he would like to provide the history of what transpired over the last two-weeks regarding Jonathan Niro's letter. He stated their takeaway was that a wetland line needed to be adjusted. He stated that there was a small isolated wetland that was directly off the putting green near the main golf course. He stated that Mr. Wells went back onsite on July 5 and re-walked those areas, put in more flags, and identified the isolated wetland. Mr. DiBona stated that he sent out a survey crew to pick it up, and they received the updated file about two hours ago. He stated that what Mr. Wells was going to talk about tonight was our approach to that isolated wetland. The north portion of the golf course is approximately 80 acres. The small wetland is approximately 1,000 sq. ft. He stated that our approach going forward would be to fill that so we would be able to maintain the rest of the solar field development; if we need to, we would compensate someplace else on the site. He stated that we want to determine if that would be an appropriate approach for the Commission. He noted that there is another area that is not wetland and not jurisdictional and that it is only wet due to the operations for the golf course due to their golf cart cleaning. He stated that they have not yet provided detailed responses or updated plans; they will get that all in next week and return to the Commission on July 27.

Ms. Goodlander stated that Franklin has a 2:1 replication ratio. She stated that to fill an isolated wetland procedurally, a variance from the Commission is required and the replication needs to be in kind.

Chair Gallagher asked if there were any other open items from the applicant. Mr. Niro stated that there were some mitigation details needed. He stated that we will wait for the applicant's responses and revised plans and take it from there.

Mr. Wells (via Zoom) joined the meeting and stated that one of the BETA comments regarded an additional ponding area near the garage; he showed and reviewed an image of the location. He stated that the garage is an area where they wash vehicles, and the water goes into a man-made area. He stated that it is 408 sq. ft. in size, far from any wetlands, clearly manmade, and the only reason water is in there is from the wash area. He stated that his opinion is that it is not a jurisdictional wetland.

In response to a Commission member's question, Chair Gallagher stated that he does not know if it is in the Commission's purview to request to test the soil around the area. Mr. Niro stated that BETA's

comment was worded as it was so that the applicant could explore it. He stated that if the information about how the area was created is provided, BETA can review it. He stated that he does see the point that the applicant made.

Mr. Niro stated that he wanted to throw out a way to solve filling the isolated wetland. He stated that we do agree it is an area that is technically an isolated wetland. It does have some function to it as it holds some stormwater discharges. However, it is a relatively marginal area. He stated that one idea is that if the applicant fills it, there are identified areas where there is evidence of long-since altered wetlands upgradient. He stated that as mitigation, the applicant could consider restoring some of those areas. This could be a way to provide mitigation while meeting the bylaw requirements.

Mr. Wells discussed an item from BETA's letter regarding an intermittent stream within an identified wetland. He stated that he presumes it is not perennial based on the data obtained. Mr. Niro stated that he agreed; he presumes it is intermittent with no riverfront area. He does not think it is necessary for the purposes of this project to go out and flag it. Chair Gallagher stated that he agrees with Mr. Niro and Ms. Goodlander.

Chair Gallagher asked what are the next steps. Ms. Goodlander confirmed that the applicant is on the Planning Board agenda in July. She stated that she hopes the applicant can provide a response, updated plans, and a variance request. Mr. DiBona stated that they plan to get the responses and file the variance in next week. He would like to give the golf course notification if Mr. Niro or Ms. Goodlander need to come back to the site. Mr. Niro stated they would look at the revised flags on the plans; they may be able to corroborate the revisions; if they need to go to the site, they will provide notice. Ms. Goodlander stated that she agreed.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for Maplegate Solar North to July 27, 2023, at 7:03 PM. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.

Certificates of Compliance: None.

Violations/Enforcement: None.

Minutes: June 15, 2023

There was a motion made by Jeffrey Milne to approve the meeting minutes for June 15, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

Discussions: None.

Chair and Commission Comments:

Ms. Hagen confirmed no one was available for the Famers Markert tomorrow from 4 PM to 6 PM; Mr. Rein was going to do the 2 PM to 4 PM slot. She stated that she would reach out to Roger regarding the

time slots. She stated that she will let Roger know that next week the Commission will not be there. Commission members discussed dates they would be available for the Farmers Market.

Chair Gallagher stated that it would make sense to vote on chair and vice chair appointments at one of the upcoming meetings. He stated that he will not be seeking to be chair and will be stepping down from the Commission at the end of August. Vice Chair Milne stated that he would also like to step down. Chair Gallagher asked Commission members to let him know if there is any interest in the chair and vice chair positions. He suggested voting at the August 10 meeting. Commission members thanked Chair Gallagher for his time on the Commission.

Executive Session: None.

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Gallagher-Yes; Milne-Yes; Hagen-Yes; LePage-Yes.

The meeting adjourned at 7:08 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary