

Town of Franklin



Conservation Commission

**October 15, 2020  
Meeting Minutes**

*As stated on the agenda, due to the growing 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.*

Vice Chair Jeffrey Milne called the above-captioned meeting to order this date at 7:00 PM as a **Remote Access Virtual Zoom Meeting**. Members in attendance: Jeffrey Milne, Jeff Livingstone, Paul Harrington, Alan Wallach, Patrick Gallagher. Members absent: Bill Batchelor. Also present: Bryan Taberner, Director of Planning and Community Development; Maxine Kinhart, Administrative Staff.

**Commencement**

Vice Chair Milne announced this meeting will be conducted as a Remote Access Virtual Zoom Meeting. This meeting will be video recorded.

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

**PUBLIC HEARINGS:**

**Public Hearing – Continued - NOI – 469 Maple Street – Maple Hill Subdivision – To Be Continued**

Mr. Taberner stated the applicant requested a continuance to the November 5, 2020, meeting.

There was a motion made by Paul Harrington to continue the public hearing for the NOI for 469 Maple Street – Maple Hill Subdivision, to November 5, 2020, at 7:00 PM. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

**Public Hearing – Amended Order of Conditions – 225 Plain Street**

Mr. Jeff Kane, L.A.L. Engineering Group, on behalf of Paul Germano, addressed the Commission for a project that was issued an Order of Conditions in May 2020. The new owners of the property would like to amend the approved project to show a different configuration of the house. Mr. Kane reviewed that the impervious area and limit of disturbance will not change. The house is still outside of the 50 ft. no-impervious buffer zone to the protected isolated wetland nearby, and the house is outside of the 200 ft. Riverfront Area. The date of the Order's issuance will not change. He stated they will submit a new plan for the amended Order. He noted that there was 1,200 sq. ft. of work proposed in the original design in the 200 ft. riparian area; there will be 830 sq. ft. under the new plan. In the original plan there was 75 ft. to the wetlands; the current filing shows 82 ft. He stated that no worse impacts to the site were made in the new proposal.

Mr. Taberner stated Conservation Agent Jen Delmore provided notes on the project which he reviewed; the Agent recommended approval.

Commission members asked questions which the applicant answered. Mr. Kane stated they are requesting to use pervious pavement instead of pervious pavers. He explained a soil test was conducted and pavers tend to pop in this type of soil. Therefore, they changed it to pervious pavement; everything else is the same.

No motion, second, or vote was made to close the public hearing.

There was a motion made by Paul Harrington to approve the Amended Order of Conditions for 225 Plain Street. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

**Public Hearing – Continued - NOI – 22 Mount Street**

Mr. Taberner reviewed the filing for the construction of a 617 sq. ft. garage within the 100 ft. buffer zone to Bordering Vegetated Wetlands and within the 200 ft. Riverfront Area of an unnamed perennial stream. He stated that most of the activity is within the 100 ft. inner riparian zone with 30 sq. ft. of the work being within the outer riparian zone. No work will take place within the 50 ft. no-build buffer to the wetlands. The activity is 2.35 percent of the total riverfront area on site and is within a previously developed area containing a deck and lawn. An alternatives analysis was submitted. There is a utility easement on the other side of the house preventing that alternate location from being an option. Erosion control is proposed surrounding the activity. He stated that Conservation Agent Jen Delmore performed a site visit on September 23, 2020, and is in agreement with the resource area delineations. An unpermitted pile of soil relocated from the basement walkout area was noted within the buffer and the applicant has since put erosion control measures around the soil to prevent any sediment from migrating toward the wetland. DEP issued their number and comments stating this is not a redevelopment of a degraded area project and asked the applicant to comply with 310 CMR 10.58 (4)(d)1.a. which concerns the 100 ft. wide area of undisturbed vegetation. The applicant submitted a response on October 8, 2020; they will not be removing any vegetation during the project and they are proposing to plant six shrubs along the forest edge.

Ms. Debbie Anderson, representative for the applicants Jason and Jessica Correia, reviewed DEP's comments.

Mr. Taberner stated the Conservation Agent recommended approval with special conditions.

There was a motion made by Patrick Gallagher to close the public hearing for the NOI for 22 Mount Street. The motion was seconded by Paul Harrington and accepted with a roll call vote of 4-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-did not vote.

There was a motion made by Patrick Gallagher to approve the NOI for 22 Mount Street, with special conditions 20, 21, 24, 27-30, 34, 41, 44 and 51. The motion was seconded by Alan Wallach and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

**Public Hearing – Continued - ANRAD - 0 Cottage Street, 0 Cottage Court, 21 Peck Street**

Mr. Rich Whittington and Mr. Dan Wells of Goddard Consulting, on behalf of the applicant, addressed the Commission for the confirmation of 40 linear feet of Bordering Vegetated Wetlands and 910 linear feet of bank of an intermittent stream. Mr. Whittington stated this is a continuation of the application. The Commission was waiting for a DEP file number which was received this week. Mr. Wells stated DEP made a comment about adding information for 21 Peck Street to the plan regarding additional bordering vegetative wetlands. He stated that Guerriere & Halnon, Inc. submitted a new version of the plan to DEP and the Conservation Agent.

Mr. Taberner requested peer reviewer Ms. Lenore White of WSI speak on the project. Ms. White stated she did not see a revised plan but had recommended approval of the resource areas as shown on the August 11,

2020, plan by Guerriere & Halnon, Inc.; she has not seen a subsequent plan. Mr. Wells stated that the new plan was sent to Ms. Judy Schmidt of DEP today; Ms. Schmidt responded that she still was not certain the plan accurately reflects the lot for 21 Peck Street. He believes they have not satisfied DEP's request and Guerriere & Halnon, Inc. will have to submit another version of the plan to DEP. He stated that once Ms. Schmidt approves the plan, they will send a copy to Ms. White. Mr. Whittington stated that he believes Guerriere & Halnon, Inc. did not include the 21 Peck Street lot which is what DEP wants. Ms. White stated that this is unusual as the applicant usually decides the scope of the project. Mr. Wells noted that the parcel is listed in the application.

Mr. Gallagher commented that at the previous public hearing Mr. Arnold of Goddard Consulting discussed the intermittent stream versus perennial stream designation; Mr. Gallagher stated he agrees with Mr. Arnold's conclusion.

Ms. Jennifer D'Angelo, 34 Wachusett Street, stated she has been trying to coordinate a site visit with the applicant; she is hoping that will happen next week. She stated that she believes Conservation Agent Jen Delmore had requested Ms. White to be at tonight's meeting to provide clarity on the intermittent versus perennial stream designation. She asked if this was part of the Charles River Watershed. Ms. White reviewed the intermittent versus perennial stream designation issue. She reviewed the regulatory protocol of making such a determination and stated she did an analysis as well. She agreed that under the regulations, it would be considered intermittent. She stated that she does not know if it eventually flows downstream into the Charles River. She reviewed that the area being decided upon stops before Wachusett Street.

Mr. Taberner recommended continuing the public hearing.

There was a motion made by Alan Wallach to continue the public hearing for the ANRAD for 0 Cottage Street, 0 Cottage Court, 21 Peck Street, to November 5, 2020, at 7:02 PM. The motion was seconded by Paul Harrington and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

### **Public Hearing – Continued - NOI – Franklin Line Double Tracking Project (Phase II)**

Mr. Taberner confirmed the applicant was not present at tonight's meeting, and Conservation Agent Jen Delmore was told by the applicant that no one would be able to attend tonight's meeting; therefore, he recommended continuing the public hearing. Mr. Gallagher stated he would prefer to not vote until the applicant is present. Mr. Livingstone stated the Commission has voted many times to close hearings without the applicant present especially when all items have been resolved. If there are no issues, he would vote to close. Mr. Harrington asked Mr. Taberner if the Conservation Agent had indicated any outstanding issues. Mr. Taberner stated that Ms. Delmore would likely have recommended to close the public hearing; however, it is up to the Commission. Mr. Gallagher stated that if it is the practice of the Commission in the past to render a decision if no applicant is present, with no issues remaining, then he agrees with closing.

There was a motion made by Alan Wallach to close the public hearing for the NOI for Franklin Line Double Tracking Project (Phase II). The motion was seconded by Paul Harrington and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

There was a motion made by Paul Harrington to approve the NOI for Franklin Line Double Tracking Project (Phase II). The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

### **GENERAL BUSINESS**

#### **Minor Buffer Zone Activity: 100 Daniels Street**

Mr. Rick Goodreau of United Consultants on behalf of the applicant addressed the Commission for removal of an existing failed septic tank and installation of a sewer pump chamber and sewer connection line within 100 ft. to a wetland. The activity is within the 50 ft. to 100 ft. buffer zone. He reviewed the process for removal and installation. He stated a Site Plan has been provided, no trees will be removed, and erosion control is proposed between the activity and the resource area. All work is proposed to be done in a previously disturbed area.

Mr. Taberner stated that Conservation Agent Jen Delmore performed a site visit on October 8, 2020, and found no issues with the project; the Agent recommended approval.

There was a motion made by Alan Wallach to approve the Minor Buffer Zone Activity for 100 Daniels Street. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

**Permit Modifications/Extensions:** None.

**Certificates of Compliance:** None.

**Violations/Enforcement:** None.

**Minutes:** None.

**Discussion Items: Administrative Approvals**

Mr. Taberner noted there were two administrative approvals. The first is for 10 Cherie Lane for the removal of five hazardous trees that are leaning over the house. The trees are located on the edge of the 25 ft. buffer to the wetlands and the trunks are about 10 ft. off the house. One tree has already fallen on the house in the past. Conservation Agent Jen Delmore performed a site visit on August 6, 2020; the Agent recommended ratification of the administrative approval. The second administrative approval is for 1 Toni Lane for the removal of one hazardous tree leaning over the house right on the edge of the wetland line. The base of tree is about 15 ft. from the edge of the back deck. The tree will be removed in sections and disposed of off-site; the stump will remain. Conservation Agent Jen Delmore performed a site visit on October 8, 2020; the Agent recommended ratification of the administrative approval.

There was a motion made by Patrick Gallagher to ratify the two administrative approvals: 10 Cherie Lane and 1 Toni Lane. The motion was seconded by Paul Harrington and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

**Chair and Commission Comments:** None.

**Executive Session:** None.

There was a motion made by Paul Harrington to adjourn the Remote Access Virtual Zoom Meeting. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 5-0-0. Roll Call Vote: Harrington-Yes; Livingstone-Yes; Wallach-Yes; Gallagher-Yes; Milne-Yes.

The Remote Access Virtual Zoom Meeting adjourned at 7:55 PM.

Respectfully submitted,

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Judith Lizardi  
Recording Secretary