

Town of Franklin



Conservation Commission

**January 6, 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, second floor of the Municipal Building, for citizens wishing to attend in person.

Commencement

Vice Chair Jeffrey Milne called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: Jeffrey Milne, Jeff Livingstone, Andrew Mazzuchelli, Patrick Gallagher (via Zoom), Richard Johnson (via Zoom). Absent: William Batchelor. Also present: Bryan Taberner, Acting Conservation Agent; Tyler Paslaski, Administrative Assistant.

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

PUBLIC HEARINGS

Public Hearing – Continued - NOI – Washington Street Map 304 Lot 064

Mr. Taberner stated that the applicant sent a request via email a few hours ago requesting a continuance to the next meeting.

Ms. Karen Miller, 246 Washington Street, stated that generally when a public hearing is continued it is posted on the Internet so the public is aware. She asked why this did not happen. Mr. Taberner stated that if they were notified prior to a few hours ago, they would have let everyone know. He stated that he would try to put the information on the Internet in the future. Ms. Miller stated that on this piece of property it was her understanding that years ago when it came before the boards, it was a requirement that they hook into town sewer; however, it does not seem to be the requirement this time. She asked how that determination is made. Mr. Taberner stated that was not a Conservation Commission responsibility.

Mr. Livingstone clarified the wording on the agenda of a public hearing being continued. Mr. Taberner stated that if the public hearing is indicated as continued on the agenda, it refers to the public hearing being continued from a previous meeting. Mr. Gallagher noted that at this time residents can utilize Zoom to make public comments.

Mr. John Marguerite, 213 Washington Street, stated that he did not know what kind of impact studies have been done to date. He stated that he understands that there is supposed to be some kind of plan identification approved by DEP; it is considered a flood plain. Ms. Lenore White, wetland consultant of WSI, stated that there is a flood plain out there; however, the project is not proposed to be within the flood plain. She stated that there is a minor retaining wall or spillway for one of the structures that disturbs about 400 sq. ft. of that flood zone but that is going to be replicated or compensated for on that

same property. She stated that everyone who files an NOI must send a copy of the notice to DEP; DEP then issues a file number. She believes the file number has been issued. If there is an appeal to the project, then DEP would get involved; but there is no appeal at this point. Mr. Marguerite stated that he noticed the applicant is still digging holes. Mr. Taberner stated that there is nothing new that has been received. He stated that there is a 100 ft. buffer that touches one of the buildings. He asked for the law regarding the no touch area. Mr. Livingstone stated that typically the 25 ft., 50 ft., and 100 ft. buffers are flagged before the project begins. He reviewed the buffer zone areas and stated that the closer it gets to the wetland, the higher the level of stringency of what can and cannot be done. Mr. Marguerite stated that he is worried about the animals down there; there has to be some type of protected area. Mr. Taberner stated that if there is reason to go on site and meet with someone, that will certainly be done; he can arrange for Ms. White to go on site.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for Washington Street Map 304 Lot 064 to January 20, 2022, at 7:01 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes.

Public Hearing – Continued – NOI – 10 Populatic Street

Mr. Taberner stated that the applicant requested a continuance to the next meeting.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 10 Populatic Street to January 20, 2022, at 7:02 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes.

Public Hearing – RDA – Countryside Lane (Map324 Lots 003-004)

Mr. Taberner stated that the former acting conservation agent, Ms. Becca Solomon, conducted a site visit and recommended a Negative 5 Determination, exempt activity. The proposed work is for the purpose of restoring the effectiveness of the retention basin. He stated that the applicant would like to do the required maintenance to keep the system running.

Mr. Joel D’Errico, owner, stated that DPW wanted him to perform some maintenance on it. He stated that he noticed some plants and spoke to Ms. Solomon about it. Mr. Livingstone stated that this is a very common thing, and it comes up all the time.

There was a motion made by Jeff Livingstone to close the public hearing for the RDA for Countryside Lane (Map324 Lots 003-004). The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes.

There was a motion made by Jeff Livingstone to approve a Negative 5 Determination for the RDA for Countryside Lane (Map324 Lots 003-004). The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes.

Vice Chair Milne called a short recess.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.**Certificates of Compliance: 4 Georgia Drive, CEI159-1173**

Mr. Taberner stated that the applicant is requesting a Certificate of Compliance for the construction of some retaining walls. He stated that Ms. Lenore White of WSI conducted a site visit on January 6, 2022. Ms. White provided a summary of findings. She stated that she spoke with the homeowner and reviewed the back of the property. She stated that she took photographs of the property. She stated that it looked fine today. She stated that the as-built plan was submitted. The plan showed that one of the walls was a little closer by a few feet than shown on the plan. It was work permitted on the 25 ft. to 50 ft. buffer zone; however, there was not work beyond the 25 ft. area. She recommended a Certificate of Compliance. She noted that she saw some deposits and dumping of organic debris such as grass clippings and leaves in the wetland area. Mr. Taberner stated that he agreed with Ms. White. He stated that he would like to meet with the homeowner and talk about the problem with the leaves in the wetland areas; he noted that this was not excessive dumping.

There was a motion made by Jeff Livingstone to approve the Certificate of Compliance for 4 Georgia Drive, CEI159-1173, with the stipulation that Mr. Taberner is going to discuss the issue of dumping of debris in the wetland area with the homeowner. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 3-0-2. Roll Call Vote: Milne-Yes; Livingstone-Not Asked to Vote; Gallagher-Yes; Mazzuchelli-Not Asked to Vote; Johnson-Yes.

Violations/Enforcement: 27 Sophia Circle

Mr. Paul Desimone of Colonial Engineering stated that the client called him because they were refinancing or selling the home. He stated that the house was built in the 1990s. There was an Order of Conditions which was found during a title search. Colonial Engineering did a topography of the lot. The Order of Conditions was for the driveway to go through a wetland area and to fill it and replicate a small area off to the side to compensate for that. However, the replication area was not done. He stated that after the topography was done, he met with Conservation Agent Jen Delmore; they walked the site. He stated that Ms. Delmore determined that an NOI needed to be filed. Mr. Desimone stated that DEP frowns upon having two open DEP numbers on one site. Therefore, he suggested filing a Certificate of Compliance and then filing the NOI, which he did. He stated that the Certificate of Compliance was denied which made sense. He then met with Acting Conservation Agent Becca Solomon. Ms. Solomon suggested that she would issue an Enforcement Order and Mr. Desimone would have the problem fixed. Mr. Desimone stated that he agreed. He stated that the area is about 200 sq. ft. He has been trying to determine where to get wetland soils to grow wetland plants. Mr. Taberner stated that the plan notes that the current area will be brought down to an elevation of 187 and filled back with wetland soil to an elevation of 187.5. Mr. Desimone asked for help to determine where to get said wetland soil.

Ms. White stated that generally wetland soils are a mixture of organic and mineral. Often, landscape yards can make a mix and a lot of times they recommend using a mix of clean leaf litter and mineral soils to a combination of what is found in wetland soils. However, trying to find a small amount is not easy. Mr. Desimone stated that he would call around and ask. Mr. Gallagher suggested continuing this item so Mr. Desimone could provide more details on the specific request from the homeowner. Mr. Taberner stated that Ms. Solomon noted that it is recommended that the plan be revised to include monitoring periods and expected mortality of the plantings. Ms. White stated that generally when there is a restoration project, it is monitored for at least two growing seasons and one thing to look for is if any of the plants have died; if so, the conservation agent usually would request those plants be replaced. Mr. Gallagher requested that Ms. White review the enforcement order and provide clarity as to what it is that the Commission is being asked to vote on. Mr. Desimone stated that he agreed.

Minutes: December 2, 2021 and December 16, 2021

There was a motion made by Jeff Livingstone to approve the meeting minutes for December 2, 2021. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 3-0-2. Roll Call Vote: Milne-Yes; Livingstone-Not Asked to Vote; Gallagher-Yes; Mazzuchelli-Not Asked to Vote; Johnson-Yes.

There was a No Motion or Second Made to approve the meeting minutes for December 16, 2021. A roll call vote of 5-0-0 was taken. Roll Call Vote: Milne-Yes; Livingstone-Yes; Gallagher-Yes; Mazzuchelli-Yes; Johnson-Yes.

Discussion Item: Agent Approval - 38 Miller Street

Mr. Taberner stated that there were two agent approvals. The first was an MBZA that was filed by the property owner for the removal of four trees deemed to be hazardous within the buffer zone of a wetland area. Of the four trees, all were extremely damaged, with the largest having a split down the middle, one located near a utility pole with root rot and expected heart rot, one entangled in both street and house wires, and the fourth having a snagged crown with a large branch hanging vertically. Because all four trees presented an immediate hazard, administrative approval was given for them to be removed with the condition that the stumps remain and any wood be taken either out of the buffer zone or off the property.

There was No Motion, Second, or Vote Taken to Ratify the administrative approval.

Discussion Item: Agent Approval - 336 Maple Street

Mr. Taberner reviewed that an MBZA was filed by the property owner for the removal of four trees deemed to be hazardous within the riverfront area of a perennial stream. Of the four trees, one had been wind thrown and was being held up only by another proposed for removal which was hollow and suffering from severe heart rot. The other two trees were additionally leaning towards the house and had several snapped limbs which had fallen onto the driveway in previous storms. Due to the immediate risk of the trees failing and damaging the property and residents' safety, administrative approval was granted with the condition that the stumps be left and the wood removed from the property as the entire parcel was within riverfront area.

There was No Motion, Second, or Vote Taken to Ratify the administrative approval.

Chair and Commission Comments: None.

General Business: Update on Spring Street RDA - Tree Removal

Mr. Taberner stated that National Grid sent the Commission a letter related to the work going on at the solar farm in that area as they needed to do some tree removal on the actual roadway. He stated that National Grid did make a previous filing. However, this is an additional area, and they wanted to make the Commission aware they were doing the additional work. He read aloud from the letter which stated that therefore, they are planning to perform this work as exempt maintenance in accordance with provisions of the Wetlands Protection Act. He stated that he did a site visit and confirmed it was maintenance. He noted that a diagram of the location of the work was provided. He stated that any trees that are removed on a scenic road are coordinated with DPW and the Tree Warden. Mr. Gallagher stated that he believes this type of work is exempt under the Wetlands Protection Act. Ms. White stated that right of way work is generally exempt. Mr. Taberner reviewed the location of the project. He stated that he would send a copy of the letter to the DPW Director.

Executive Session: None.

There was a motion made by Jeff Livingstone to adjourn the meeting. The motion was seconded by Andrew Mazzuchelli. No Vote Taken.

The meeting adjourned at 7:53 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary