

Town of Franklin



Planning Board

**February 22, 2021
Meeting Minutes**

Chair Anthony Padula called the above-captioned **Remote Access Virtual Zoom Meeting** to order this date at 7:00 PM. Members in attendance: Joseph Halligan, William David, Gregory Rondeau, Rick Power, associate member Jennifer Williams. Members absent: None. Also present: Michael Maglio, Town Engineer; Amy Love, Planner; Matthew Crowley, BETA Group, Inc.; Maxine Kinhart, Administrative Staff.

*As stated on the agenda, due to the continued concerns regarding the COVID-19 virus, the Planning Board will conduct a **Remote Access Virtual Zoom Meeting**. The Massachusetts State of Emergency and the associated state legislation allows towns to hold remote access virtual meetings during the COVID-19 pandemic crisis. 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 also provided on the agenda.*

7:00 PM Commencement/General Business

Chair Padula read aloud the Zoom platform call-in phone number and the Zoom link which were also provided on the meeting agenda.

A. Decision: Best Practice Guidebook – Stormwater Change

Mr. Maglio stated this item and the first two public hearings on tonight's agenda are related to changes the Town has to make regarding language in the existing bylaws being brought up to date to conform to the Town's current MS4 permit through EPA. He stated that the Conservation Commission already reviewed and approved these changes. The Planning Board needs to approve this; the guidebook will be updated.

Mr. Rondeau asked about the natural infiltration basins. Mr. Maglio stated this change has to do with the actual design criteria and how they are sized. Chair Padula asked about and Section 153-16 and about Section 185-31 which encourages the use of Low Impact Development and Green Infrastructure practices, and requires they be incorporated into the site plan to the maximum extent feasible. He stated that Franklin does not have a stormwater system where sewer is mixing in with stormwater; therefore, Franklin does not treat stormwater. As such, Franklin does not fall under those guidelines, so why are these being incorporated into the development practices. Mr. Maglio stated that there are a number of different bylaws. He reviewed the bylaw changes that have been approved by the Town Council. There is different language in different places that has to be approved regarding stormwater. The Town does not have a combined sanitary sewer and stormwater system as do other towns. However, he explained that the Town does treat stormwater. He explained the language in the current MS4 permit.

Chair Padula stated that the Town Council can vote for anything that they want. However, he is not going to recommend this. He noted that Governor Baker stated that small urban towns should satisfy MassDEP over the EPA regarding stormwater. Mr. Halligan noted the language in Section 185-31 includes the word "encourages" which is not mandatory. Mr. Maglio reviewed the language and confirmed that the language is from the permit and is what the Town should be following. Chair Padula stated that zoning does not reference stormwater management. Mr. Halligan stated he likes the word encourages as it allows the

Planning Board to determine what is best. Discussion commenced on the proposed language. Chair Padula stated this can be tabled until the next meeting.

Mr. Maglio stated that according to the permit, these changes are supposed to be in place by June 30, 2021. Chair Padula stated there are no penalties that the EPA can impose. He read aloud the proposed language as provided in the document in the meeting packet and pointed out the word “must” in numerous locations of the document. He stated that this is not encouraging, this is must. Mr. Crowley opined that some projects will comply already and some projects will be shy of the requirements. Mr. Maglio stated the changes will tighten up the criteria a little. Mr. Rondeau asked if surrounding towns were going through the same thing, and if some of the remaining sites in town would become non-developable. Mr. Maglio stated the MS4 permit applies to the vast majority of towns in Massachusetts. These design criteria apply to Franklin because we are in the Charles River Watershed. Mr. Rondeau confirmed the cost of doing business will go up in the Town of Franklin. Mr. Maglio stated there may be some additional costs for developers because of this. He stated that he does not see this changing new development projects much; however, it may impact redevelopment projects. Ms. Williams stated she supports everything that is being proposed. Mr. David indicated agreement.

Ms. Love noted that they should stay with the general business item and not move into the public hearing at this time. Chair Padula stated he does not like that it references subdivision regulations, and he will not recommend that the subdivision bylaws be changed. If Section 300-11 was removed, he would vote to recommend it. Mr. Taberner stated that one way or another the Town has to do something to appease the state and federal governments; he stated that Mr. Maglio and the consultants came up with the proposed changes. Mr. Halligan asked if the subdivision section could be eliminated as Chair Padula requested. Mr. Maglio stated the three sections could be voted on separately.

Motion to Approve Best Practice Guidebook – Stormwater Change. Halligan. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

B. Final Form H: Brookview – Pond Street

Ms. Love stated that the applicant filed their as-built plans for a Final Form H. There were a few more comments from BETA. Chair Padula asked if the applicant was requesting waivers. Mr. John Kucich with Bohler Engineering stated they are not requesting any new waivers. Mr. Crowley reviewed his comments on the site. He stated that the applicant has addressed the majority of items. He noted that there are a few outstanding issues which he reviewed that the design engineer stated will be taken care of once the weather improves. He reviewed a few other non-weather-related items that are outstanding.

Planning Board members discussed what changed from the original plan regarding the radius stones. Chair Padula asked why the project was finished knowing it did not conform. Why was this not caught during the base coat? Mr. Kucich discussed the gutter inlet stone on the basin. He reviewed the look of the sloped granite to the radius curve as to why the change was made. He stated that they probably did not think the change was significant enough to come in and ask the Planning Board. Chair Padula discussed the change and noted that it was less expensive for the developer to install without using rounding pieces; this was not something that was just mistaken. To do this for 12 units was not a mistake; it was intentional. Mr. Halligan asked how this affects the safety and drainage of the project. Mr. Crowley said the drainage will likely go where it is supposed to go. From a safety perspective, it is not a major concern.

Mr. Halligan confirmed this will never be a Town accepted road. Chair Padula stated when the base coat was in, it should have been caught and corrected. He asked about the retaining walls. Mr. Kucich stated the areas were flattened out instead of putting in the walls. Chair Padula stated the developer is supposed to come back to the Planning Board for a modification; they do not just do what they think is best. He stated this is something that should have been caught. Mr. Crowley stated the slopes seem stabilized and not excessive; the retaining walls do not seem necessary. Mr. Rondeau suggested the applicant plant additional trees as the

site was not completed as required. Mr. Kucich stated the paved lot is completed. A representative of Brendon Properties stated the road driveway stones not being put in was not intentional. However, they did not think the retaining walls were necessary. Chair Padula stated that there are inspections during construction. The applicant must be performing according to the plan. The Planning Board should not have to accept items that are not done to plan. It is not right to the people that pay for the engineers to inspect this for the Town during construction. Mr. Halligan stated he does not want to vote on a final with items outstanding.

Motion to Continue Final Form H, Brookview – Pond Street. Halligan. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

C. Limited Site Plan: 100 Financial Way

Mr. Doug Hartnett, principal of Highpoint Engineering, reviewed that they were in front of the Planning Board last November with a plan to subdivide the property at 100 Financial Park. There are currently two buildings on the site. They filed a Limited Site Plan to define the number of the parking spaces for each building; the 81-P ANR plan is to divide the parcel into additional conforming lots. There were concerns regarding zoning compliance and easements once they were subdivided. He reviewed the plans and the proposed new property lines. He discussed Lot 5A in regard to the zoning conformance chart; it conforms to all zoning except parking. He stated that Lot 5B is the warehouse. He reviewed the current lease agreement with the tenant and reviewed the parking spaces for each lot. He stated they are proposing to allow reduced required parking spaces for lot 5A from 722 spaces to 342 spaces and allow parking spaces greater than 300 ft. from the building for Lots 5A and 5B. He stated that they looked at the zoning bylaw and the existing utility and if easements were needed for the future property owners. He reviewed the easement documents. He stated the reciprocal easement agreement was provided to the Planning Board. He stated Form R in the application summarizes the request for waivers.

Ms. Love reviewed her memo to the Planning Board dated February 10, 2021. She noted the requested waivers for the spaces being over 300 ft. from the building. Discussion commenced regarding the request for the reduction of parking and the approved Site Plan. Mr. Halligan suggested an easement may have worked in this case. Mr. Hartnett stated this was the applicant's preferred method. Mr. Rondeau confirmed the applicant would have to return if a new tenant were to come in.

Motion to Approve the Limited Site Plan, 100 Financial Way. Halligan. Second: David. Chair Padula stated they are going to vote to retain reduction of 722 spaces to 342 spaces and allow parking spaces greater than 300 ft. from the building for Lots 5A and 5B. Halligan. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

D. 81-P ANR: 100 Financial Way

Ms. Love stated this pertains to the previous agenda item. This is to subdivide the property.

Motion to Approve 81-P ANR, 100 Financial Way. Rondeau. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

E. Final Form H: Dean Avenue

Mr. Halligan recused himself.

Mr. Crowley stated that this site had a number of partial Form H forms submitted previously. Therefore, the majority of the site is well established. BETA went out to the site recently. He noted there were some missing railings; however, he received correspondence that the applicant had discussed this with the building commissioner and handrailings were not needed to be installed. He confirmed the volume of the infiltration basin from the design engineer and stated that it looks to be installed within construction tolerance. He noted there was some damage to one of the dumpster enclosures; it will be repaired.

Mr. David asked about designated snow storage areas. He stated that today there were two dozen parking spots filled with snow; they did not put the snow where it belongs. Mr. Brain McCarthy of RJO'Connell & Associates stated that the current occupancy of the development still has a lot of vacancies. Therefore, at this time they put the snow in convenient locations knowing the spaces would not be needed. Mr. David stated that hopefully this will not become a normal practice. Ms. Williams asked about the plantings in front of the sound wall. Mr. McCarthy stated that what is out there are the final plantings, some of which are fast growing trees. He reviewed the plantings. Mr. David confirmed the jersey barriers were gone, and a guardrail was put there.

Motion to Accept Final Form H, Dean Avenue. David. Second: Rondeau. Roll Call Vote: Padula-YES; David-YES; Rondeau-YES; Power-YES; Williams-YES. Vote: 5-0-0 (5-Yes; 0-No).

Mr. Halligan re-entered the meeting.

7:05 PM **PUBLIC HEARING** – Initial
21-868 - Stormwater Management By-Law
Documents presented to the Planning Board are on file.

Motion to Waive the reading. Rondeau. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

Mr. Maglio read aloud and discussed the proposed bylaw to amend the code of the Town of Franklin at Chapter 185, Zoning. He noted the addition of paragraph G which encourages the use of Low Impact Development and Green Infrastructure practices. He stated that this language comes from the MS4 permit. This bylaw was referred to the Planning Board from the Town Council. Mr. Halligan stated that he liked the word “encouraged.” Ms. Williams stated that she thinks it is great to encourage the use of low impact development and green infrastructure practices. Mr. Maglio, in responses to Chair Padula’s question, explained low impact/green infrastructures which are types of stormwater structures. He stated that he agreed with Mr. Halligan that these practices would be encouraged, but do not fit into every situation.

Mr. Andrew Bissanti, Town Council member, stated that there are three proposed bylaws at this meeting. However, there will be a fourth bylaw coming for the utility fee. He stated that the utility fee/tax is proposed at \$18.66 per unit; however, a unit has not yet been defined. He stated that he is for green practices; however, he was a no vote on all three bylaws because the utility fee is coming right after these are passed. Chair Padula discussed that when the EPA writes the MS4 laws, it is done generically, not by region or climate area. It is all about pollution and phosphorus control. He discussed that often rain gardens are difficult to maintain and should not be used everywhere. He stated that this is a zoning issue; therefore, this would be a recommendation from the Planning Board, not an approval.

Motion to Recommend to the Town Council 21-868 - Stormwater Management By-Law. Halligan. Second: Rondeau. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

7:10 PM **PUBLIC HEARING** – Initial
S-21-01 Subdivision Stormwater
Documents presented to the Planning Board are on file.

Motion to Waive the reading. Halligan. Second: Rondeau. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

Mr. Maglio stated that this is the last of the stormwater items on tonight's agenda. He read aloud and discussed the proposed bylaw to amend the code of the Town of Franklin at Chapter 300, subdivision of land. He noted the proposed changes to the wording in paragraph 1. He stated only the Planning Board needs to vote on this; it does not go back to the Town Council.

Chair Padula stated this item should be sponsored by the Planning Board; however, it was sponsored by the Administration. He stated he would not go by MS4 regulations; he would go by MassDEP. He recommended not to approve. Mr. Halligan recommended to continue this item to a future meeting so the Planning Board members can study the issue. Mr. David agreed.

Motion to Continue S-21-01 Subdivision Stormwater to the next Planning Board meeting. Halligan. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

7:10 PM **PUBLIC HEARING** – Initial
S-21-02 Subdivision Street Lights
Documents presented to the Planning Board are on file.

Chair Padula stated that he did not know how this got on the agenda as this item is a subdivision regulation and should have been sponsored by the Planning Board, not the Administration.

Motion to Waive the reading. Halligan. Second: Rondeau. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

Mr. Maglio stated that the Town owns the street lights. All the fixtures have been updated to LED. However, the language in the subdivision rules and regulations still calls for high-pressure sodium vapor lamps and references a time that the Town leased the street lights. He noted the paragraphs that need updating. He stated that as new developments come in, the Town wants them to put in LED lights.

Ms. Love stated that there could have been a discussion under General Business about this item by the Planning Board before holding the public hearing; that can be done in the future. Planning Board members and Mr. Maglio discussed the proposed revised language including if the Town pays the electric bill for the street lights for a road that is not yet accepted by the Town. Mr. Maglio stated he would look into this further.

Motion to Continue S-21-02 Subdivision Street Lights to the next Planning Board meeting. Halligan. Second: Rondeau. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

7:15 PM **PUBLIC HEARING** – Initial
27 Forge Parkway
Site Plan
Documents presented to the Planning Board are on file.

Motion to Waive the reading. Halligan. Second: David. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

Ms. Love stated the applicant has filed a Site Plan Modification to add solar canopies in the parking lot. She stated that the applicant is not required to file with the Conservation Commission. DPCD has not asked BETA to review the plan; the Planning Board can decide if they would like BETA to review the project. She stated that the town engineer has provided a review on the Site Plan Modification. She stated that the

applicant has provided Site Plan Modifications showing the location of the canopies; the applicant plans to utilize the existing drainage subsystem that is already in place for any water runoff from the canopies.

Mr. Maglio reviewed his letter to the Planning Board dated February 12, 2021. He stated his concerns include how the proposed canopies will affect the existing drainage on the site. He stated that not enough details were provided with the applicant's proposal. He recommended the developer submit a more detailed plan and have BETA review this as it effects the drainage.

Mr. Crowley stated that the applicant has done recent improvements in the last year. Mr. Halligan asked about the bylaw regarding that over a certain square footage a Site Plan is required. Ms. Love stated 600 ft. The applicant has filed a Site Plan Modification. Mr. Halligan asked when was the original Site Plan done. Ms. Love stated she does not know. Mr. Halligan stated that with the addition of this, the property may not be able to drain to today's standards. Possibly, the Site Plan for the entire site may not be up to date. Mr. Maglio stated that probably this property has been through a few Site Plan Modifications.

Ms. Julia Magliozzo, representing the project developer Ecogy Energy, stated that she reviewed Mr. Maglio's letter and can provide what happens with the drainage. She explained diagrams showing how the drainage will flow off the modules. Ms. Love recommended continuing the hearing to the March 22, 2021 meeting. Mr. Halligan asked what happens with the snow weight on the structures. Discussion commenced regarding the structures.

Motion to Continue the public hearing for 27 Forge Parkway, Site Plan, to March 22, 2021. Halligan. Second: Rondeau. Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Rondeau-YES; Power-YES. Vote: 5-0-0 (5-Yes; 0-No).

Chair and Member Comments

Chair Padula discussed DPW Director Brutus Cantoreggi's concerns regarding the EPA, proposed stormwater changes, and MS6 permits. Chair Padula stated that last September a stormwater amendment was put through. The DPW went to the Town Council regarding a stormwater utility tax to be placed on homeowners. He stated that Franklin has the best stormwater management practices of all surrounding towns. There is a big push by EPA to push these expenditures onto towns to meet EPA's permitting rules and regulations. EPA is pushing education to make people aware of stormwater and stormwater pollution. Franklin is considered a small MS4 community. Franklin does not mix stormwater and sewerage as do some larger towns and cities. He stated that he tries not to get involved with Town Council's decisions; however, this effects stormwater and stormwater managements. He stated that the Planning Board is the enforcing board for stormwater management. He noted that all stormwater is contained onsite for all Site Plans. He does not agree with how this was put on the people. He does not believe that the whole community is aware of what the DPW Director is pushing. This is going to affect everyone. It is all about costs. He stated that the proposal is to put some of the costs onto taxpayers with a separate utility tax. He does not believe this tax is fair to the people. The Town makes money from water and sewer. Water and sewer rates keep going up. He explained that during COVID people have been home for almost a year. With people being home, the Town has been making even more money with water and sewer. The Town then added the CPA cost, along with tax increases, water and sewer increases, water bans, and a \$500,000 payment mistake. He does not believe it is right to tax the people for rainwater on their own property. If the people let this go, the people will then be taxed for their septic systems and leach fields. The utility tax should have gone on a ballot, and the people should have been allowed to vote for it. He thinks there should have been more investigation into the decision regarding the utility tax. He noted that the Town Council suggested that the proposed \$18.66 per unit fee would costs the average homeowner \$56 per year; he stated that he does not believe that. He stated that this Town makes money with water and sewer. He does not believe the utility tax is fair to the public or fair to the homeowners.

***Motion to Adjourn the Remote Access Virtual Zoom Planning Board Meeting. Power. Second: David.
Roll Call Vote: Padula-YES; Halligan-YES; David-YES; Power-YES. Vote: 4-0-0 (4-Yes; 0-No). Meeting
adjourned at 9:40 PM.***

Respectfully submitted,

Judith Lizardi,
Recording Secretary

******Planning Board voted on March 8, 2021 to accept the meeting minutes.***