

Town of Franklin



Conservation Commission

**January 12, 2023  
Meeting Minutes**

*As stated on the agenda, due to the concerns regarding the COVID-19 virus, 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, Richard Johnson (via Zoom), Michael Rein, Meghann Hagen, Mark LePage. Absent: Jeff Livingstone, William Batchelor. Also present: Brecka LÍ Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff.

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

Chair Gallagher announced that during this year's Conservation Commission meetings the Commission will also be featuring ongoing discussions in connection with the Town's 2023 Open Space and Recreation Plan process. He stated that those meetings will start at 6 PM on the regularly scheduled meeting night; the public is welcome to attend, and the meeting will be recorded. He stated that he had a discussion with Recreation Director Ryan Jette tonight and is looking forward to hearing input from stakeholders.

Chair Gallagher noted that tonight's agenda items would be taken out of order.

**GENERAL BUSINESS**

**Permit Modifications/Extensions: Franklin Ford**

Mr. Rick Goodreau of United Consultants, on behalf of the applicant, addressed the Commission for a field change/site plan change. He stated that they had come before the Commission last in 2022. They were working with the Conservation Commission and Planning Board on a site plan approval. He stated that the Conservation Commission closed their public hearing and issued an Order of Conditions. However, the peer reviewer, BETA, came up with a few more comments that necessitated some changes. He stated that he prepared a cover letter outlining the five changes that were made along with the latest set of plans approved and endorsed by the Planning Board. He reviewed the five changes: 1. the pond outlet location was revised to the north of the infiltration pond, the outlet was revised to a headwall, and the riprap energy dissipater was revised; 2. the parking lot grading in the vicinity of the infiltration pond was revised and catch basin 5 was relocated to allow for the regrading; 3. the building addition roof was directed to the infiltration pond to provide treatment; 4. the pond was increased in size to address the additional rainfall requested to be modeled as well as accommodate the building addition roof; and 5. the 25 ft. to 50 ft. buffer zone disturbance was revised from 1,429 sq. ft. to 1, 896 sq. ft. which is in the gravel area to allow for the pond outlet headwall and riprap, and the 50 ft. to 100 ft. buffer zone disturbance was revised from 8,501 sq. ft. to 8,231 sq. ft.

Ms. Goodlander stated that it is only an increase of 197 sq. ft. total disturbance from previously approved plans. She reviewed that the impacts are negligible, are occurring in existing disturbed areas, and are a byproduct of stormwater engineering. She recommended approval without needing to refile or amend the previously approved Order of Conditions.

Chair Gallagher stated that the approach that Ms. Goodlander proposed makes sense.

There was a motion made by Jeffrey Milne to approve the modification requested and as outlined by Ms. Goodlander for the permit modification for Franklin Ford. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

### **PUBLIC HEARINGS**

#### **Public Hearing – NOI – 74 South Street CE159-1259 – continued**

Chair Gallagher stated that the applicant requested a continuance.

There was a motion made by Mark LePage to continue the public hearing for the NOI for 74 South Street to January 26, 2023, at 7:01 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

#### **Public Hearing – NOI – 0 Lincoln Street, Franklin Heights Parcel B CE159-1260 – continued**

Chair Gallagher stated that the applicant requested a continuance.

There was a motion made by Richard Johnson to continue the public hearing for the NOI for 0 Lincoln Street, Franklin Heights Parcel B to January 26, 2023, at 7:02 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

#### **Public Hearing – NOI – 803 Washington Street**

Chair Gallagher stated that the applicant requested a continuance.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 803 Washington Street to February 9, 2023, at 7:01 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

#### **Public Hearing – NOI – Bent Street Lot 1 CE159-1257**

Mr. Stephen Balcewicz of Land Planning Inc. (via Zoom) representing the applicant Mr. Kelliher, addressed the Commission for the construction of one single-family home with a septic system, paved driveway, and utility connections within the 100 ft. buffer zone to a BVW. He discussed that since the last time they were before the Commission, he submitted a revised set of plans per comments made by BETA's review which was submitted to the Commission. Since then, there have been no additional updates to the plan. He noted the rain garden.

Ms. Goodlander stated that since the last hearing, the applicant submitted additional information in response to the agent and BETA. As this is a single-family home, the applicant is under no obligation to provide stormwater management under state or local regulations; however, the applicant has provided designs for an onsite rain garden and roof infiltration system to meet stormwater standards to the best extent practicable. BETA reviewed the designs and their comments are as follows, to the best extent practicable: ●The applicant should provide 2' separation in their rain garden design to the estimated seasonal high groundwater table. If

this cannot be achieved, the designer should consider providing an impermeable liner and underdrain (if grades allow) to allow the rain garden to function as a filtering bioretention area. ●In conjunction with the comment above, the installation of an underdrain should be considered (if grades allow) to ensure that the rain garden does not retain water for 72 hours or longer. At a minimum, the engineer of record should observe soils during construction to confirm final design criteria. ●The O&M plan should include provisions to address water that stands for 72 hours or longer in the rain garden. Aside from the above comments, the applicant has submitted adequate information for the project to be conditioned by the Conservation Commission. She recommended approval with standard special conditions 20, 21, 24, 27, 28, 29, 30, 34, 41, 44, and 51. Additional conditions include any discussed during the hearing based on the above comments, such as “the applicant shall submit underdrain designs to the Conservation Agent and Commission prior to the start of work.”

Mr. Balcewicz discussed the rain garden and stated they were trying to show an area that could be a rain garden. He stated that they were not contracted with the owner to design stormwater management facilities. He stated that they showed some infiltration for the roof. He asked the Commission to condition that they provided calculations to infiltrate some roof runoff and also condition the rain garden. He noted that the only soil tests taken were outside of his company. He noted that if it is determined throughout construction that this is not a viable location for the rain garden, they still stand behind the grass filter strip as filtration for the driveway. He stated that the rain garden is a means to filter any runoff from the driveway.

Ms. Goodlander stated that she would amend the seed mixture in the filter strip as traditional lawn grass is awful for infiltration. She asked if the applicant was going to do the rain garden or filter strip. Mr. Balcewicz discussed the proposed seed mix as listed on the plans.

Mr. Milne stated that at the last meeting they heard from a neighbor regarding water runoff. He asked if any of the items discussed tonight will mitigate that problem. Ms. Goodlander stated that both the rain garden and filter strip can help mitigate that, but the applicant is under no obligation to do it. Mr. LePage asked if the applicant would put in the rain garden. Mr. Balcewicz stated that he would discuss this with the homeowner; they are leaving it up to the homeowner. Ms. Goodlander confirmed that there is no requirement for the homeowner to do this. She stated that she would like something documented that the applicant is either doing this or not doing this. Chair Gallagher stated that the abutters and others in the neighborhood have interest in this. However, the Commission cannot require the applicant to do this. He stated that he does not have an issue with saying that the applicant is going to do good faith efforts. He stated that he would like more certainty about how likely is it that it is a viable approach for the owner and if the applicant is amenable to a continuance. He stated that it seems like the Commission needs a little more input on this.

Mr. Romuald Zulawnik, 95 Bent Street, abutter, stated that he believes that if the applicant does not put it in, the water will inundate everyone in the area. He discussed that the area floods and he ends up with all the water. Chair Gallagher stated that Ms. Goodlander and Town Engineer Michael Maglio have had conversations about this, and the water situation needs to be looked at from a town infrastructure perspective. He suggested that Ms. Goodlander put this on Mr. Maglio’s list to look at to see if there are any options for expanding capacity to help the water issues in the area.

Ms. Goodlander stated that she and DPW staff have been to the area to look at this. Mr. Johnson asked if the owner is aware of the rain garden recommendation from BETA. Ms. Goodlander said yes. Chair Gallagher stated that the Commission would like to hear a little more on this regarding the rain garden, filter strip, or any of the other alternatives, and if this is a likely scenario or not.

Mr. Balcewicz confirmed continuing the meeting to January 26, 2023, and noted that he would speak to the homeowner regarding the rain garden and have the answers by the next meeting.

There was a motion made by Michael Rein to continue the public hearing for the NOI for Bent Street Lot 1 CE159-1257 to January 26, 2023, at 7:04 PM. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Public Hearing – ANRAD – 121 Grove Street CE159-1261**  
***Chair Gallagher recused himself.***

Ms. Goodlander stated that the applicant requested a continuance. She stated that she has not reviewed BETA's latest letter. Since the last hearing, the applicant, BETA, and the agent met on site to review site conditions. BETA submitted a peer review on January 6, 2023. The applicant and agent have yet to submit a response and review.

There was a motion made by Michael Rein to continue the public hearing for the ANRAD for 121 Grove Street CE159-1261 to January 26, 2023, at 7:05 PM. The motion was seconded by Mark LePage and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes.

***Chair Gallagher re-entered the meeting.***

**Public Hearing – NOI – 30 Uncas Brook Row**

Chair Gallagher stated that this is the first public hearing for this item and that he opened the public hearing. He stated that the applicant requested a continuance.

There was a motion made by Richard Johnson to continue the public hearing for the NOI for 30 Uncas Brook Row to January 26, 2023, at 7:06 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**GENERAL BUSINESS (continued)**

**Minor Buffer Zone Activities: 6 Georgia Drive**

Mr. Kevin Baldwin of Ethical Tree Services, representing his clients Ms. Heather Conway and Mr. Joseph Diluzio, addressed the Commission for the removal of four boxelder maples due to boxelder bug infestations within the 25 ft. no touch zone. He stated that the trees would be removed to near ground level with stumps left in place.

Ms. Goodlander reviewed that the applicant will mobilize over the existing turf lawn during winter with mats to minimize soil compaction. She stated that she recommended approval. Mr. Baldwin discussed damage that would be done if they were to use foliar sprays.

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

**Minor Buffer Zone Activities: 727 Lincoln Street**

Ms. Goodlander reviewed that this MBZA is for a ratification of an administratively approved permit, emergency authorization, for the removal of seven trees within the 100 ft. buffer zone, four of which are within the 25 ft. no touch zone to the jurisdictional stormwater infrastructure of a culvert. She stated that she conducted a site visit and discussed the stream area. She recommended ratification.

There was a motion made by Meghann Hagen to ratify the Minor Buffer Zone Activity approval for 727 Lincoln Street. The motion was seconded by Mark LePage and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Certificates of Compliance: 381 Prospect Street**

Ms. Goodlander stated that the applicant requested a continuance to January 26, 2023.

There was a motion made by Mark LePage to continue the Certificate of Compliance for 381 Prospect Street to January 26, 2023. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Violations/Enforcement: 305 Union Street**

Ms. Goodlander reviewed that per the Representative on January 11, 2023, "I have been in contact with the asbestos designer who plans to have a draft plan available for internal review to Margaret's team next week. His goal is still to have a plan ready for submittal to MassDEP before the end of January. You will be given a copy of this plan when it is submitted." She recommended extending the Enforcement Order for 30 days.

There was a motion made by Richard Johnson to extend the enforcement order for 30 days for 305 Union Street. The motion was seconded by Michael Rein and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Violations/Enforcement: Lot 5 Prospect Street**

Ms. Goodlander reviewed that this enforcement order is for an erosion control violation of an existing Order of Conditions. She discussed that the applicant has since complied with the order and has resolved the issue. She recommended ratifying and closing out the enforcement order.

There was a motion made by Jeffrey Milne to ratify and close out the enforcement order for Lot 5 Prospect Street. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Minutes: December 15, 2022**

There was a motion made by Jeffrey Milne to approve the meeting minutes for December 15, 2022. The motion was seconded by Richard Johnson and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

**Discussion Items: 160 Grove Street**

Ms. Goodlander stated that this project was before the Commission and approved; however, the applicant has some field changes. This discussion is an update for a field change for a portion of previously approved work outside of Conservation jurisdiction for the Hennep facility (DEP# 159-1218). This update is to keep the Commission current throughout the construction of the facility and the future final as-built plan.

Mr. Dave Choplinski on behalf of the applicant, the Contractor's Superintendent Marc Finch, and Mr. Bill Halsing of Land Planning addressed the Commission. Mr. Choplinski reviewed the proposed changes. He reviewed that the property used to be a dump site. He stated that the owner wants to be a good steward of the property. He stated that the building was L-shaped, and in the nook of the building was a greenhouse. He discussed that in thinking about safety issues, they changed the glass greenhouse in the nook of the building; they put a second floor in the nook and moved the greenhouses. He explained that the building is now a rectangle. He stated that they shrunk the building from three stories to two stories. He stated that they were originally going with a pre-fab building. However, Covid hit and the supply chain was a hurdle, so they now have a steel framed metal building. He stated that these changes were submitted to the Planning Board. He reviewed the exterior and stated that the impervious area has been reduced by about 1,700 sq. ft., and they

have more than sufficient parking. He reviewed that the metal building is on the site and the area has been rough graded. He stated that the fencing around the perimeter is complete, and the detention ponds for stormwater are complete. He stated that BETA has inspected this.

Ms. Goodlander stated that the changes in the buffer zone are the CO2 tank that was on a previously approved parking space, so there is no net increase of impervious surface. She explained that this stormwater is not under the purview of the Commission. Mr. Choplinski stated that he would leave a copy of the stormwater report even though it is not in the Commission's jurisdiction.

Chair Gallagher stated that he agreed that there is nothing further that the Commission needs to do right now. He asked Ms. Goodlander keep the Commission posted if there are any other changes.

Mr. Choplinski asked for clarification of the process in moving forward. He stated that are going for a revised building permit. Ms. Goodlander stated that the applicant will have to coordinate with Gus Brown of the Building Department and Amy Love of the Planning Department, but she can sign off for Conservation. She stated that the applicant was just presenting tonight on any changes; she wanted to keep the Commission up to date.

**Discussion Items: Madalene Village**

Chair Gallagher stated that this proposal was before the Commission about 1.5 years ago for a proposed housing development off Peck Street adjacent to Fletcher Field. He stated that primarily, the applicant was requesting from the Commission permission to relocate an intermittent stream that was onsite. The Commission denied the permit on the basis that there are no standards established under the Wetlands Protection Act for relocating an intermittent stream which was based on previous Conservation Agent Jen Delmore as well Lenore White of WSI. He stated that the applicant is appealing that to determine if DEP will issue a superseding order which they have the right to do. By virtue of filing for a superseding order, which is a state permit, the applicant triggered a review under MEPA. He stated that there was a recent public meeting on the MEPA application which he and Mr. LePage attended. He stated that there is currently a public comment period on the MEPA application. He stated that he wanted to get feedback from the Commission. He stated that he thinks the MEPA application is directly related to something under the Commission's jurisdiction, so it may be appropriate to submit a comment letter.

Mr. LePage reviewed a few things that he said he thought was interesting. He reviewed the proposal to relocate the intermittent stream. He stated that the applicant would be storing the water in the back corner which could develop a problem for the neighbor. He stated that there are culverts draining from Fletcher Field which are draining into the current intermittent stream. He stated that he is not clear how they are going to do that; it may be an area of concern. He stated that he is concerned about where all the water is going to end up from a storage capacity.

Mr. Milne stated that the Commission rejected this project because of the attempt to relocate the stream. He stated that Ms. White was adamant against it. He stated that he thinks it would be a bad thing for the Town if this does get approved.

Ms. Goodlander stated that the original permit was denied because there is no performance standard for replicating this. She stated that in their presentation, there is significant invasive species around the stream and it has already been disturbed. She stated that in parroting off of Jennifer Hughes, the MEPA reviewer, their latest design for the stream has right angles so they are essentially shifting the stream down. She stated that right angles are not very apparent in nature. She stated that their replication is not natural. She stated that to parrot off of Mark, they are proposing to use it as stormwater drainage. She stated that they had a wetland replication and erosion control plan which she found very interesting from a creative standpoint; however, there is no standard to do it. She stated that they are doing this as a requirement under MEPA; they are

providing public hearings. She noted that they were proposing a retaining wall; they would need to get a structural engineer. There is a lot of technical design comments for that from MEPA.

Mr. Milne asked if anything major was changed in their plan from a year ago. Ms. Goodlander stated that she could not speak to that; she does not want to get involved in the appeal process. She said she can follow up and check on that. Chair Gallagher stated that procedurally if they were changing anything in the design, they would have to come to the Commission for that. Mr. Milne stated that he thinks the Commission needs to respond to it. Ms. Goodlander encouraged the Commission to take on the leadership role. Chair Gallagher stated that was his thinking as well. He shared his screen and reviewed the plan. He pointed out the right angles and the detention pond. Ms. Goodlander stated that she has all the information in the Google drive including all Ms. White's memos. Chair Gallagher stated that he does not think it is the Commission's role to interject themselves in DEP, but he does think that it is helpful to educate the MEPA office which is a separate office even if their comment letter is as simple as giving a narrative and attaching the letters from Ms. White which were the basis for their denial. Commission members stated agreement with Chair Gallagher.

Chair Gallagher explained that the goal of MEPA is disclosure, and DEP cannot issue a superseding order until MEPA finishes their review. Discussion commenced on where rerouting an intermittent stream has occurred. Chair Gallagher reiterated that he thinks the Commission's decision was based on that there are no standards for doing this sort of replication as it is not even allowed. Ms. Goodlander stated that in instances like these she operates as the Commission's consultant. She stated that she thinks it is hard keeping her bias out of it; all humans are fallible. She stated that however, to that point, if it would help the Commission, she can definitely type up her notes and send them to all of you and you can use that to frame your letter. Commission members asked to see her notes.

**Chair and Commission Comments: None.**

**Executive Session: None.**

There was a motion made by Michael Rein to adjourn the meeting. The motion was seconded by Mark LePage. No roll call vote was taken.

The meeting adjourned at 8:39 PM.

Respectfully submitted,

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Judith Lizardi  
Recording Secretary