

Town of Franklin



Conservation Commission

**January 26, 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, Jeffrey Milne, Richard Johnson (via Zoom), Michael Rein, Meghann Hagen, Mark LePage. Absent: Jeff Livingstone. Also present: Breeka Lí Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff.

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

Chair Gallagher announced that for the foreseeable future, the Conservation Commission will be holding sessions from 6 PM to 7 PM on the nights of regularly scheduled hearings where the we will be talking about the upcoming Open Space and Recreation Plan process.

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

GENERAL BUSINESS

Minor Buffer Zone Activities: 11 Julie Dawn Drive

Mr. Michael Mortimer (via Zoom) addressed the Commission for the removal of nine trees, one of which is felled and exists as a snag within the 100 ft. buffer zone but outside of the 25 ft. no-touch zone; two of the trees are located within the 25 ft. to 50 ft. buffer zone while the others are located within the 50 ft. to 100 ft. buffer zone. He stated that a tree fell through his roof about three years ago and they have had a few close calls since, so they had a tree company look at the trees of concern. The tree company recommended he reach out to the Commission before proceeding. He stated that Ms. Goodlander conducted a site visit and recommended that he submit an MBZA. He stated that there are two dead trees next to his driveway leaning toward the house, two trees in the backyard overhanging the house, and one broken tree in the backyard leaning high around the surrounding trees. He stated that this is all due to safety concerns. He stated that Ms. Goodlander recommended leaving all the stumps which they plan to do.

Ms. Goodlander stated that she had no concerns. She stated that for the record, he is outside of the 25 ft. buffer zone. She recommended approval with stumps left in place. She stated that the applicant would be mobilizing through the driveway.

There was a motion made by Richard Johnson to approve the Minor Buffer Zone Activity for 11 Julie Dawn Drive. 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.

Certificates of Compliance: 381 Prospect Street

Mr. Marcelo Alves (via Zoom) addressed the Commission.

Ms. Goodlander stated that she walked the site with Mr. Alves. The project is completed per plans, site conditions are per conditions, and there are no outstanding issues. She recommended approval.

There was a motion made by Meghann Hagen to approve the Certificate of Compliance for 381 Prospect 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.

PUBLIC HEARINGS

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

Ms. Goodlander stated that the applicant requested a continuance. Chair Gallagher asked Ms. Goodlander to go out and take a look to make sure about erosion controls.

There was a motion made by Mark LePage to continue the public hearing for the NOI for 74 South Street to February 9, 2023. 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.

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

Mr. Desheng Wang of Creative Land & Water Engineering (via Zoom), on behalf of the applicant, addressed the Commission for a “Friendly” 40B application with an existing ORAD; the project proposes one stormwater basin and 19 buildings located within the 25 ft. to 100 ft. buffer zone and one BVW/intermittent stream crossing. He stated that he wants to give the Commission an update since the first review. He stated that they had two working meetings. They reviewed the wetland crossing and stream crossing. He stated that they addressed outstanding issues and sent out final plans for the wetland crossing and stream crossing. He stated that for stormwater management, they went through it and ironed out most of the issues. He stated that Mr. Hassett is still working on a roof run-off issue.

Mr. Michael Hassett of Guerriere & Halnon, Inc. (via Zoom) stated that Mr. Wang provided a good summary. He clarified that the meeting was between Ms. Goodlander, BETA, and Guerriere & Halnon, Inc. staff. He stated that they are now revising the plans and will be submitting for a final plan review. Ms. Goodlander stated that between the two meetings the applicant and representatives are well aware and they are on a good path now.

There was a motion made by Michael Rein to continue the public hearing for the NOI for 0 Lincoln Street, Franklin Heights Parcel B to February 9, 2023. 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.

Mr. Wang asked when all materials need to be submitted for the next hearing. Ms. Goodlander stated one week before the meeting, February 2, 2023.

Public Hearing – NOI – 803 Washington Street CE159-1262

Mr. Arthur Borden of Arthur F. Borden & Associates, Inc. on behalf of the applicant addressed the Commission for the demolition of an existing single-family home and the construction of a new single-family home within the 100 ft. buffer zone to a BVW. He stated that the site is about 1.5 acres. The property record card indicates the house was built about 1900. The plan is to tear it down and bring in a new modular dwelling. He stated that there is no work proposed in the 25 ft. zone. They are not planning to expand the footprint of what is disturbed on the site currently; there is lawn there which is indicated on the plan. He

showed and reviewed the site plan. He stated that they received a peer review from BETA and they worked through those comments. He discussed the erosion controls. He stated that the septic system is in the front of the lot and the Board of Health approved the septic. The proposed building activity is that there will be more impervious coverage than what is currently there. He stated that to offset that increase they are proposing the roof into an infiltration system and the walkway from the garage to the rear entrance is proposed as pavers and they will infiltrate that. He stated that in the long run, there will be less runoff from the property than currently. He stated that yesterday they provided their response to BETA's second review.

Ms. Goodlander stated that typically the Commission does not allow silt fence. She discussed the silt fence and stated that she is okay if they install it knowing that full well that when they apply for their COC it is a requirement that it be removed in its entirety. She stated that BETA had time to review the response letter and so did she and there are only a handful of comments that need to be addressed and Mr. Borden addressed those in his letter; therefore, she would recommend approval with conditions. Mr. Johnson and Chair Gallagher said they had no problems with the silt fence. Ms. Goodlander stated that the applicant is also installing biodegradable wattles. She stated and reviewed the standard special conditions 20, 22, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 40, 41, 44, 46, 47, 50, 51, and 52 which is that the silt fence is removed upon the COC request after she inspects.

There was a motion made by Jeffrey Milne to close the public hearing for the NOI for 803 Washington 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.

There was a motion made by Jeffrey Milne to approve the NOI for 803 Washington Street with special conditions as noted above by Ms. Goodlander. 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 – Bent Street Lot 1 CE159-1257 – continued

Mr. Stephen Balcewicz of Land Planning Inc. (via Zoom) representing the applicant addressed the Commission for the construction of one single-family home with a septic system, driveway, and utility connections within the 100 ft. buffer zone to a BVW. He reviewed that at the last meeting there were some concerns regarding the rain garden and whether it was going to be constructed or not. He stated that after discussing it with the homeowner, the homeowner does not want to pursue that. So, those stormwater items have been removed from the plans. He noted that because they removed the rain garden, they were able to reclaim an additional 1,500 sq. ft. to 2,000 sq. ft. of forest, so he moved the tree line off to about 10 ft. from the proposed driveway. He stated that additionally there were some concerns about the seed mix that was going to be placed in the filter strip northeast of the driveway; he stated that it was confirmed by Ms. Goodlander and is on sheet two.

Mr. Milne stated that he is not hearing in this plan that there is anything that is going to resolve the water issues that they already have. Ms. Goodlander stated that they are exempt as it is a single-family home; they do not have to do any stormwater mitigation. Chair Gallagher stated that the Commission does not have discretion over whether or not to approve this project; the regulations make this exempt. Ms. Goodlander noted that they are installing a filter strip which is meant to help with infiltration. Chair Gallagher noted that where there are issues of this magnitude, it is the Town's responsibility to make sure that the infrastructure in the area is adequate to support this. Ms. Goodlander stated that she and Stormwater & Environmental Affairs Superintendent Derek Adams have gone out there several times. Mr. Adams explained that there is a culvert in the area that runs under Bent Street and discharges on the parcels between 14 and 16 Bent Street. He stated that the pipe is cracked and broken at the discharge side of it. There is an ownership issue regarding the pipe that was attempted to be addressed a number of years ago. He stated that there were discussions, but they fell short and the pipe remains broken which is the current state of the culvert. Chair Gallagher suggested that it

is within the Town's power to do an eminent domain taking of an easement to repair. Discussion commenced regarding the existing issue and fixing the problem.

Mr. Romuald Zulawnik, 95 Bent Street, abutter, stated that say it goes in and we are inundated with more water, who is going to be responsible. He stated that as it is, so far, because of the current rains, he has a literal stream running through his yard right now, and he cannot even walk to his shed. He stated that he is lucky he does not have a basement, but he cannot put in a sump pump. He stated that his neighbor's basement is flooded. He asked who is responsible. Chair Gallagher thanked Mr. Zulawnik for his participation in this process.

In response to Mr. LePage's question, Mr. Balcewicz discussed reasoning why the homeowner is not doing the rain garden.

Ms. Goodlander reviewed her recommended standard special conditions 20, 22, 21, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 40, 41, 44, 46, 47, 50, and 51.

There was a motion made by Meghann Hagen to close the public hearing for the NOI for Bent Street Lot 1 CE159-1257. 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.

There was a motion made by Mark LePage to approve the NOI for Bent Street Lot 1 CE159-1257 with special conditions as noted above by Ms. Goodlander. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 5-0-1. Roll Call Vote: Milne-Abstain; Johnson-Yes; Rein-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

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

Mr. John Shipe of Fairfield Residential addressed the Commission for an Abbreviated Notice of Resource Area Delineation (ANRAD) at 121 Grove Street to confirm the delineation of resource areas onsite. He reviewed that the ANRAD was submitted in November or December. He reviewed that in mid to late December, Ms. Goodlander, Mr. Chris Lucas of Lucas Environmental, and the Town's peer reviewer walked the site. He stated that on January 6, 2023, BETA Group issued a comment letter. He stated that earlier this week Lucas Environmental and Fairfield Residential submitted a response letter which he believes is in the meeting packet. He noted that Mr. Lucas should be attending the meeting although he is running late. He stated that his goal is not to spend time debating where wetlands are. He stated that he is confident in Lucas Environmental. He stated that he believes Mr. Lucas has listed clearly the reasons why the delineation is accurate.

Ms. Goodlander stated that she has not yet reviewed Lucas Environmental's latest iteration. She stated that she did have a chance to review BETA's comments. She stated that she put her three big sticking points in her agent's report. She stated that Mr. Jonathan Niro, environmental scientist of BETA, is in attendance at the meeting.

Mr. Niro stated that he did not do a complete review of Lucas Environmental's latest letter. He stated that we agree with 90 to 95 percent of Lucas's assertions that they presented including the vast majority of the wetlands were correctly delineated. He stated that there are three points of professional disagreement which he reviewed. He stated and discussed the following: 1. they believe there are some additional intermittent streams within the wetland complexes at the site, 2. the presence of additional wetlands at the site, and 3. which is the most contentious and the biggest sticking point, regards the wetland that was flagged as an isolated wetland pretty much dead-center of the site; the disagreement is that the two wetlands are connected.

He reviewed his reasoning that the two wetlands are connected and stated that he is happy to review the Lucas response letter and provide a more formal response.

Ms. Goodlander stated that she believes the isolated wetland is connected to the larger BWV complex; she stated that she stands by her science and defends that. She stated that she needs to review the Lucas letter. She stated that projecting and looking ahead, it is worth John going back during the normal growing season to re-delineate and not having the field mowed. She stated that otherwise, if this is BWV, to start thinking about the implications of that which she does not think are a lot. Mr. Shipe reviewed the noted concerns. Ms. Goodlander stated that they would have to do some clever shifting of buildings to ensure the isolated vegetative wetland which is part of BWV is protected. Mr. Shipe stated that they do want to move forward on a cooperative and collaborative level.

There was a motion made by Michael Rein to continue the public hearing for the ANRAD for 121 Grove Street CE159-1261 to February 9, 2023. The motion was seconded by Meghann Hagen 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 CE159-1263

Ms. Goodlander stated that the applicant requested a continuance to February 9, 2023.

Chair Gallagher stated that he opened the public hearing.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 30 Uncas Brook Row to February 9, 2023. 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 – RDA – Franklin Ridge

Ms. Goodlander stated that the applicant requested a continuance due to ample time for abutter notifications. She stated that after Chair Gallagher opens the public hearing, she will get everyone up to speed.

Chair Gallagher stated that he opened the public hearing.

Ms. Goodlander reviewed that this public hearing is the first hearing for a previously approved Request for Determination of Applicability for the Project “Franklin Ridge Senior Housing” located off Veterans Memorial Drive. She stated that the previously approved RDA expired and no work has occurred; however, the applicant is required to refile. She stated that they are refiling the same exact permit that they had three years ago. She stated that there has been no change with resources on their property.

There was a motion made by Mark LePage to continue the public hearing for the RDA for Franklin Ridge to February 9, 2023. 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.

Public Hearing – RDA – 4 Abbey Lane

Stormwater & Environmental Affairs Superintendent Derek Adams and Conservation Agent Breeka Li Goodlander addressed the Commission for a proposed beaver deceiver installation project on behalf of the Town of Franklin. The purpose of the project is to install sustainable, minimal-impact engineering controls, beaver deceivers, to prevent infrastructure damage due to beaver activities while simultaneously promoting and encouraging the ecosystem services beavers provide. Mr. Adams read from his letter to the Conservation Commission, dated January 5, 2023, which was provided in the Commission’s meeting packet, regarding the beaver deceiver installation project request for determination of applicability. He stated that it is his opinion that installing a flow device, otherwise known as a beaver deceiver, at this location is the best course of

action. Implementing minimal-impact engineering controls will be more effective and less disruptive to the natural environment while also successfully mitigating the hazard.

Ms. Goodlander reviewed that the proposed work will occur within bordering vegetated wetland (BVW), Dix Brook (perennial stream), inland bank, and the 200 ft. riverfront area. She discussed Keystone species, the food chain, and the exchange of energy. She stated that when you removed a Keystone species which is at the top, you can actually have ecosystem collapse. She stated that beavers are a Keystone species. She explained that beavers play a critical role in the environment. She stated that beavers only stay in one location for 10 to 15 years. She stated that Franklin historically traps the beavers. She stated that instead of trapping which can cost about \$800 each, they instead are suggesting a sustainable option which is much cheaper and is a temporary fix indefinitely. She stated that a 20-year study was done in Billerica and they installed numerous beaver deceivers and have saved money. She reviewed the specification sheets for the flow devices which were provided in the meeting packet. She stated that it is a three-part project; there are two dams within Dix Brook and then there is Forest Street. She reviewed how the beaver deceivers are installed. She stated that they are not proposing any ecosystem change. She stated that if they do not do this, they have to trap the beaver; this is a proactive measure. She stated that Natick has done this.

In response to Mr. Johnson's question, Ms. Goodlander stated that it works. Ms. Hagen asked if there is any information about other towns having any issues with the device such as beavers chewing through the plastic pipe and what is the cost. Ms. Goodlander said that beavers typically do not chew through the pipe. She stated that Mike Callahan, owner Beaver Solutions LLC, charges \$1,300 to install. Mr. Adams reviewed locations in Franklin where beavers have been trapped and/or located. Ms. Goodlander stated that for the RDA, she is looking for a negative determination that this is not causing adverse harm to those wetland ecosystems.

There was a motion made by Jeffrey Milne to close the public hearing for the RDA for 4 Abbey Lane. 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.

There was a motion made by Richard Johnson for a negative determination for the RDA for 4 Abbey Lane. 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.

GENERAL BUSINESS (continued)

Permit Modifications/Extensions: None.

Violations/Enforcement: None.

Minutes: January 12, 2023

There was a motion made by Jeffrey Milne to approve the meeting minutes for January 12, 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.

Discussion Items: Solitude Lake Management Year End Report – DelCarte Pond Treatment

Ms. Goodlander stated that in 2015, the Commission started to discuss chemically treating DelCarte for invasive species, and they started in 2016. She stated that every year Solitude Lake Management sends a year-end report based on their findings. She read aloud from their report. She stated that they have not talked about a 2023 invoice or contract. She reviewed that the report was based on the 2022 growing season which represents the sixth year of aquatic invasive species management conducted by Solitude Lake Management at the DelCarte ponds. The results of the surveys indicate that the overall density and growth of water chestnut continues to decrease. However, consistent management remains necessary to control the growth of

this invasive species. She stated that all things look good. She stated that her one comment regards the language in their summary for the post vegetation survey which she said she needs to confirm; she stated that she wants to know more about the biological stress that they had mentioned.

Mr. Milne asked if the ponds could be stocked with fish. Ms. Goodlander stated that the right question would be what are the implications of what they are treating on the fish that you are looking to stock. She stated that there are fish already in there. She stated that there are carp in the pond and they are invasive species. She stated that the current contract goes until the end of June. Chair Gallagher stated that he would be interested to hear what they say about the dissolved oxygen.

Chair and Commission Comments: None.

Executive Session: None.

There was a motion made by Richard Johnson to adjourn the meeting. 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.

The meeting adjourned at 8:33 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary