

Town of Franklin



Conservation Commission

**February 23, 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, 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.*

**PUBLIC HEARINGS**

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

Ms. Susan McArthur of McArthur Environmental Consulting (via Zoom) and Matthew and Sarah Moore, homeowners/applicants (via Zoom), addressed the Commission for an after-the-fact approval of unpermitted vegetation removal/brush cutting within the 25 ft. to 100 ft. buffer zone to BVW and for the construction of a proposed 3,240 sq. ft. barn, 460 sq. ft. of which is proposed within the buffer zone; an optional future 14 ft. x 60 ft. RV storage area and optional extension are also proposed within the buffer zone in addition to a gravel bump-out from the barn. The NOI proposes to remove an additional seven trees and their root mass, five of which are within the 50 ft. to 100 ft. buffer zone. Ms. McArthur provided an update regarding the application. She stated that they had filed at the end of October. She showed on the screen and reviewed the plans for the proposed barn. She reviewed that erosion control barrier has been installed around the work limits. She discussed that very little work would be within the 50 ft. buffer zone. She stated that the original proposal for a cistern has changed to a dry well. She reviewed that at the last hearing, the Commission requested the project be peer reviewed by BETA. She stated that BETA has since sent their comments to which the applicant responded. She stated that this afternoon, BETA sent back a response to the applicant's response; however, she has not had time to address it. She noted that there are a few items outstanding.

Mr. Jonathan Niro of BETA Group reviewed the response letter. He noted that BETA's response letter was issued today. He stated that the bulk of the comments raised in the original letter have been addressed with the plan that is in front of the Commission. He stated that largely all of the requirements under the state act have been satisfied. He explained that the outstanding items are related to some submission and plan requirements specific to the bylaw including construction sequencing spelled out on the plan,

depicting stockpile area, and providing bylaw functions and characteristics statement; the remainder of the comments have been addressed to date.

Ms. Goodlander stated that to piggyback off of Mr. Niro, she agrees that the process and scope of work, so that construction sequence, especially for how that grade will be raised, is deficient from the application and mobilization methods which is important to be known to ensure at least from an enforcement standpoint that they are not mobilizing out back toward the wetland and coming back around. She stated that additionally, there is some discrepancy between the plans and the narrative. She stated that the plans mention a paved driveway is to be installed as well, based on the narrative it is supposed to be gravel. She stated that so she just wants to make sure, especially for construction companies, that they are not paving, they are installing gravel, so I would like that to be updated. She stated that general inquiry food for thought, considering this was an existing forested and scrub shrub buffer zone, there is a change in eco-system type here by exclusively planting a conservation wildlife mix, I would encourage the applicant and representative to consider revegetating with native shrub species to preserve the natural character of this buffer zone as would be typical of a restoration plan stemming from an enforcement order. She stated that additionally, the applicant should review the success of a conservation/wildlife mix as an understory, herbaceous layer considering the amount of large pines and their canopies (e.g., Will this seed mix grow in shade? Will it be successful? Will the applicant continue to mow and reseed as necessary?). She stated that for the infiltration field, she is just curious since it is within the 25 ft. to 50 ft. buffer zone and this was previously naturalized, is it possible that this can become a more natural feature instead of using crushed stone. She stated that additionally, one of the applicant's responses to a BETA comment was straw mulch should be spread over bare soil until the site is stabilized. She stated that straw is typically not utilized within Franklin which is why I requested that the straw wattles on site be replaced with biodegradable wattles. She stated that the applicant should consider other methods to the best extent practicable. She asked Ms. McArthur if they have been replaced with the biodegradable compost socks.

Ms. McArthur stated they have not been replaced yet. Mr. Moore stated that in their plans they show the biodegradable sock filled with mulch. He stated that in our conversations and looking at the bylaw, the straw did not have any seeds that could contaminate, so we had not removed them and did not find them excluded in the bylaw. He stated that we were waiting until construction starts and we would put in the appropriate silt mitigation shown on the plans.

Ms. Goodlander discussed her site visit and stated she had a conversation with Mr. Moore about replacing those and he agreed to it. Mr. Moore stated that when they get a construction company, they planned to install those. Chair Gallagher stated that the circumstances are a little different here because of the restoration nature of it. Mr. Moore reviewed the comments and confirmed a construction sequence was wanted. Mr. Moore explained that we do not even have a construction company yet as we are working on seeking approval on this, so how would we do that. Ms. Goodlander stated that it is just explaining how you are going to do the project, from every step of the way, the who, what, where, when, how, why, essentially is what the narrative should describe. She stated that scope of work whether it is a single-family home or even if it is a pool, is included. Mr. Moore stated that they will see if they can get it put together. Chair Gallagher stated that he understood if there is not construction level detail as the applicant is not going in for a building permit right yet. Mr. Johnson noted that they are looking for a little sequencing; the applicant does not need a contractor involvement for this.

Ms. McArthur responded to some of Ms. Goodlander's items. She stated that the gravel drive originally was proposed to be paved and now it is going to be gravel which is on the plan now. Mr. Moore stated that the original plans show a turnaround into the buffer zone which has been removed; therefore, whether the driveway is gravel or paved it is outside of the Commission. Ms. McArthur stated that regarding the straw, she read from BETA's letter, item 6, which indicated a method such as straw mulch should be

provided. She stated that straw mulch was spread based on BETA's comment. Mr. Moore stated that in reviewing the bylaws, it did not specify that straw could not be used. Ms. Goodlander stated that it is in the conditions and she can send that to Mr. Moore. Ms. McArthur asked why the Commission is adamant that it not be used. Chair Gallagher stated that he thinks it is the Commission's prerogative in the context of an enforcement order that is leading to a restoration plan.

Ms. Goodlander noted in the original NOI narrative, and she had not seen any addendum to this, is that the NOI submission mentioned removing the trees within the buffer zone by bucking them up. She stated that it is also historic precedent of the Commission to leave the root mass in place so stumps would have to be left in place. She stated that if it is something they would like to do, please outline that clearly in an NOI submission or letter. Mr. Moore stated that based on where they are located, they would have to come out in order for them to build the building. Chair Gallagher stated that the applicant can send in an updated plan show that. Ms. McArthur showed where the trees are. Mr. Johnson stated that is what the applicant should mention. Mr. Moore stated that it would be updated. Mr. Moore discussed erosion controls and that the company makes them on site and they will not sell/provide them at this time due to the weather. He will have them installed when possible.

Chair Gallagher stated that the bulk of the comments relate to updates that need to be shown on the plans and consistency questions that can be addressed. He noted they talked about the erosion control. Mr. Moore stated that the soil pile that Ms. Goodlander asked to be removed during the site visit has been removed.

There was a motion made by Richard Johnson to continue the public hearing for the NOI for 74 South Street to March 9, 2023. 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.

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

Mr. Desheng Wang of Creative Land & Water Engineering, on behalf of the applicant, addressed the Commission for a Friendly 40B application currently in front of the Zoning Board of Appeals (ZBA) 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 they just received the third comment letter. He stated that all the stormwater comments are addressed. He stated that he would like to review three items. He discussed item W4 regarding using the proposed basins for erosion control. He stated that they agree with the recommendation that if they use it, they will not excavate it out completely, but leave probably three-quarters and use it for erosion control. He stated that they are not going to use the proposed stormwater basin as a primary erosion control. He stated that they have no problem to get it conditioned like that.

Mr. Jonathan Niro, environmental scientist of BETA Group (via Zoom), stated that it sounds like the right approach if the Commission is okay with conditioning.

Mr. Desheng reviewed item W8 regarding the slope stabilization. He stated that he provided a detailed cross section. He stated that they have been working with the contractor so they will monitor the construction and certify it; it will be part of the construction documents. He reviewed the top trench and stated that they will leave it a little flexible. He reviewed the plan. He stated that they also provided erosion control barrier. He stated that the production procedure and method can be implemented without any risk. He noted that the detail is on the third page and explained the procedure regarding the lip so the water will not go to the newly graded slope.

Mr. Niro stated that he agreed with Mr. Desheng's approach. He stated that they took a close look at this due to the steepness and the lateral extent of the slope. He discussed slopes in heavy precipitation events.

He stated that he thinks that the controls the applicant has in place coupled with the erosion controls at the base of the slope offer a pretty good measure to protect the adjacent resource areas from any sedimentation. He stated that he thought it would be beneficial and it could be conditioned that if the trench is permanent that it be added to the site plans.

Mr. Desheng discussed the dewater and water discharging point and stated that it could be added into the conditions. He stated that they would have a pre-construction meeting and get into the field to have the contractors there at the meeting. Mr. Niro stated that was a reasonable approach.

Ms. Goodlander stated that all three of us are in agreement and we are all comfortable with conditioning what has been stated here and put on record, so I would recommend approval with conditions and our standard special conditions, but we are doing a new process so I will draft them up; I will listen to the meeting recording, draft up those conditions, and you will sign them next time.

Chair Gallagher asked if there is any reason that we want to continue BETA's involvement in this. Ms. Goodlander stated that the Commission can condition that BETA conduct regularly scheduled site visits as well. She stated that she thinks that for a project this size, yes, it would be helpful. She noted that it would be at the expense of the applicant. She stated that it could also be done just for dewatering, for example. Ms. Goodlander stated that feasibility it will not be started to be built until after Open Space, so I will have much more time to be able to go out and do this type of oversight, especially construction oversight. Mr. Johnson asked about Ms. Goodlander's oversight. Ms. Goodlander reviewed her type of construction oversight preference. She stated that her personal preference is that there is oversight. She stated that she is volunteering herself as long as it is outside of Open Space. Applicant who was in the audience addressed the Commission and stated that they probably would not start until mid-April. Mr. Desheng noted the pre-construction meeting and also stated that they will not be starting until mid-April. Ms. Goodlander stated that the pre-construction meeting is coordinated by BETA. She stated that they can condition that at any point the Commission can request BETA's assistance or environmental monitoring. Applicant who was in the audience stated that he thinks that is a good way to handle it and to have it as an option.

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

There was a motion made by Jeffrey Milne to approve the NOI for 0 Lincoln Street, Franklin Heights Parcel B, subject to the Commission's standard conditions plus special conditions and address/incorporate BETA's comments on items W4, W8, and W9, plus an additional special condition that in the course of plan review and construction, if necessary, that we would have an opportunity to engage BETA for the limited purpose of confirming and taking a closer look in resolving, as needed. 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 – continued**

**Chair Gallagher recused himself.**

Ms. Goodlander stated that the applicant requested a continuance. She stated that BETA, Jonathan, myself, and all of us need to have a discussion in person about scheduling a site visit. She stated that the applicant is requesting everyone's availability for next week and the week of March 7, prior to the March 9 meeting. Discussion commenced on a site visit date; the morning of March 6 was selected. Ms. Goodlander stated that she would communicate the date. She recommended continuing the hearing.

There was a motion made by Richard Johnson to continue the public hearing for the ANRAD for 121 Grove Street CE159-1261 to March 9, 2023. 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 CE159-1263**

Ms. Goodlander stated that the applicant requested a continuance. She stated that BETA's letter came in today and they need time to review it. Chair Gallagher confirmed that the applicant said that the Board of Health approved the septic system.

There was a motion made by Meghann Hagen to continue the public hearing for the NOI for 30 Uncas Brook Row to March 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 – Grove Street Phase II Roadway Improvements**

Assistant Town Engineer Brooke Morganelli addressed the Commission for the construction of an approximately 6,000 ln. ft. shared use path along Grove Street with pavement and roadway geometry improvements, signage improvements, intersection improvements, and upgrades to the existing stormwater management infrastructure; the proposed work will occur within BVW, bordering land subject to flooding (e.g., floodplain) (BLSF), 200 ft. riverfront area (RFA), and the 100 ft. buffer one. Ms. Morganelli stated that this is a continuance of the Grove Street Phase I project. She stated that they had a MassWorks grant of \$2.2 million. She stated that the project will be continued from Tobacco Road to Kenwood Circle.

Ms. Goodlander stated that BETA, Jonathan Niro specifically, is the Commission's peer reviewer but is also BETA's wetland consultant for the DPW.

Mr. Jonathan Niro, environmental scientist of BETA Group (via Zoom), stated that this is a continuation of the Phase I improvements project that was before the Commission about one year ago. He reviewed the project and noted that funding will determine where this phase will stop. He reviewed the map of the existing conditions and environmental considerations. He noted that there are Town of Franklin groundwater wells in the area. He discussed that the project is for general roadway improvements and the shared-use path. He discussed that there will also be stormwater upgrades. He reviewed the location of the infiltration basin. He stated that there will be some good improvements to stormwater throughout the project area. He reviewed resource areas that are present including Mine Brook, riverfront area, vegetative wetlands, and a floodplain. He stated that he conducted a wetland delineation in late 2021. He stated that the bulk of the flagging is still out there. He noted and reviewed two primary areas of interest: one at the Mine Brook crossing and the other at the northern end near the unnamed perennial stream. He noted that in terms of riverfront, the Wetlands Protection Act offers a limited project provision for shared-use paths and non-motorized paths which allows for flexibility. He reviewed that there are some floodplain impacts. He reviewed some temporary wetland impacts and stated that they will be restored in place back to existing conditions. He reviewed the impacts at the northern end. He discussed the culvert as shown on the plans. He stated that the bulk of them are temporary impacts to construct the shared-use path, and there is a small area of permanent impacts. He discussed the Town's bylaw and the Wetlands Protection Act and said that they tried to avoid such impacts, but as noted in the narrative, previous iterations of the plan involved a greater number of impacts and they have now reduced it to 29 sq. ft. which cannot be avoided. He stated that they are proposing right along the same wetland at least a 2:1 replication area. He stated that they are complying with the MA stormwater standards to what is the

furthest extent practicable in redevelopment. He stated that under this design there will be no impacts to the streams including Mine Brook.

Ms. Goodlander stated that as Mr. Niro was presenting, it occurred to her that for the temporary wetland impacts, is it something that flat mats could be used. Mr. Niro stated that may be a possibility. He discussed the area and noted that some of the areas are open water. He stated that they will minimize impacts to vegetation. Ms. Goodlander stated that it was an exhaustive effort and is an accomplishment that it is only 29 sq. ft. She stated that the DEP number came in. She stated that this is a very meaty project. She stated that this hearing can be continued if the Commission needs time to digest it. She stated that she has no other comments.

Commission members asked questions and made comments. Ms. Morganelli stated that they are hoping to get to Kenwood Circle this time, but eventually, they would like to get the shared-use path all the way to Beaver Street. She stated that the stoplights on Washington Street have a mid-May delivery; everything is so backordered. Chair Gallagher discussed the MassWorks program. Mr. Niro responded to a question regarding enabling access to the path. He stated that he thinks based on the slopes that the use of guardrails should funnel people down the trail. Ms. Morganelli noted future plans for possible additional parking.

Mr. Steven Rossetti, 235 Grove Street, asked if weathered steel guardrails can be considered because the look would go with the look of the street. Ms. Goodlander asked if there are any interesting stormwater designs proposed for this project. Representative for the applicant who did not identify himself (via Zoom) stated that they have proposed six tree filters, and in addition, they have connected the southern portion of phase II into the infiltration basin that was constructed as part of phase I. He noted a traffic calming method.

Chair Gallagher stated that he would like to continue this item as it would give people a chance to have questions or comments.

There was a motion made by Mark LePage to continue the public hearing for the NOI for Grove Street Phase II Roadway Improvements to March 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.

## **GENERAL BUSINESS**

### **Minor Buffer Zone Activities: 11 Berkeley Drive**

Ms. Elizabeth Dobrutsky, owner, (via Zoom) stated that they had an issue with a tree and were lucky the tree did not hit the house. She stated that they are requesting permission to remove the other five large white pines in the area for safety. Ms. Goodlander stated that she gave administrative approval for the trees to be removed with stumps left in place.

There was a motion made by Meghann Hagen to ratify the administrative approval of the Minor Buffer Zone Activity for 11 Berkeley Drive. 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.

**Permit Modifications/Extensions: None.**

### **Certificates of Compliance: 3 Peppermill Lane**

***Mr. LePage recused himself.***

Representative who did not identify himself stated that this was an Order of Conditions that a previous developer obtained. The property has been subdivided a couple of times. He stated that his clients owned 3 Peppermill Lane and sold it last week conditional on coming to the Commission to seek compliance. He stated that their request is for the Order of Conditions in order to clear up the title.

Ms. Goodlander stated that typically for subdivisions like this that are archaic, this is from 1988, best practice is for myself to write a letter just noting for the Registry that the Certificate of Compliance is well past due and it can be released, but sometimes, the buyer's lawyer pushes back a little bit and this is where we are now. She read aloud from her agent's report and stated that this Certificate of Compliance is for a property built in 1988, of which a Certificate of Compliance was never requested. The property owner is looking to sell the property and needs a signed Certificate of Compliance for sale.

Commissioners, please note that site conditions generally reflect the permitted plan, sans a shed within the 50 ft. to 100 ft. buffer zone that was never permitted. The buyers are aware of the jurisdiction they have on their property and will coordinate with Conservation for any work within the buffer zone in the future. She recommended approval of the Certificate of Compliance.

There was a motion made by Richard Johnson to approve the Certificate of Compliance for 3 Peppermill Lane. 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; Gallagher-Yes.

***Mr. LePage reentered the meeting.***

Chair Gallagher and Ms. Goodlander discussed having certificates of compliance conditioned.

**Violations/Enforcement: None.**

**Minutes: February 9, 2023**

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

**Discussion Items: None.**

**Chair and Commission Comments: OSRP? Spring Event? MACC Conference?**

Ms. Goodlander stated that the Recreation Department has Earth Day. She suggested moving it a week before or after for the Commission. She noted a business that wants to do community service hours and would like to do some sort of planting event. She stated that since the Recreation Department is doing a cleanup, maybe the Commission could do something else. Ms. Hagen discussed a support group that she is part of with area Moms, and they are trying to do an annual event; she discussed some of their ideas for children for their Environmental Extravaganza. Discussion commenced regarding dates and locations for a Commission event. Commission members agreed April 23<sup>rd</sup> is a good day. Ms. Goodlander stated that Franklin Future Leaders, a group of about nine children ages 6 to 11 years, volunteered, in donation from Town Council member Melanie Hamblen, to grow all of the grasses for the turtle nesting habitat at DelCorte. Ms. Goodlander stated that the group has to plant the grasses themselves, so that is something we could tie into April 23<sup>rd</sup>. She stated that she will coordinate with the group. Chair Gallagher suggested doing the planting on a different weekend. He asked Ms. Goodlander to talk to Ryan, Derek, and others to see about April 23<sup>rd</sup>, and stated that we can see if we want to do it at DelCorte or elsewhere. Chair Gallagher noted the conference. Ms. Goodlander stated that the conference starts the first week of March. She stated that people can register even throughout the conference. Ms. Goodlander stated that she and

Chair Gallagher are presenting for the DelCarte biodiversity project. She stated that Mr. Jeff Livingstone has been awarded an environmental service award through MACC.

**Executive Session: None.**

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

The meeting adjourned at 8:39 PM.

Respectfully submitted,

Judith Lizardi  
Recording Secretary