

Town of Franklin



Conservation Commission

**March 9, 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, Richard Johnson, Meghann Hagen (via Zoom), Mark LePage (via Zoom). Absent: Jeffrey Milne, Jeff Livingstone, Michael Rein. Also present: Breeka Lí Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff.

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

Note: Agenda items taken out of order.

GENERAL BUSINESS

Discussion Items: Eagle Scout Project - DelCarte

Eagle Scout Sibi Dinakaran discussed that he would be doing a project at DelCarte. He stated that the project will consist of three parts: trail cleanup, mending the trail, and installing posts at the main trail junctions. He stated that the posts would be made of wood and have anti-littering signs on them. He stated that he plans to do this on the weekend of March 17, 2023.

Ms. Goodlander requested that he go with her to DelCarte to mark the areas of the project. Chair Gallagher thanked the Eagle Scout for the project.

There was a motion made by Richard Johnson to endorse the Eagle Scout project at DelCarte. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

PUBLIC HEARINGS

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

Ms. Goodlander stated that today she received an updated plan and letter which she has not had a chance to review; therefore, she had no comment. She stated that they removed the silt fence as requested; the straw wattles are still in place. Chair Gallagher asked Ms. Goodlander to follow up with applicant as they were requested to remove the straw wattles.

There was a motion made by Richard Johnson to continue the public hearing for the NOI for 74 South Street to March 22, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Public Hearing – ANRAD – 121 Grove Street CE159-1261 – continued

Chair Gallagher stated that he is recused from this item. He stated that as such, there is not a quorum to discuss this item.

There was a motion made by Richard Johnson to continue the public hearing for the ANRAD for 121 Grove Street CE159-1261 to March 22, 2023. The motion was seconded by Mark LePage and accepted with a roll call vote of 3-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes.

Chair Gallagher re-entered the meeting.

Public Hearing – NOI – 30 Uncas Brook Row CE159-1263 – continued

Mr. Bill Halsing of Land Planning, Inc. addressed the Commission for a Notice of Intent to replace a failing cesspool with a new septic system and upgrade the existing foundation under the existing single-family home with approximately 4,000 sq. ft. of impact within the 100 ft. buffer zone. Mr. Halsing reviewed that since the last meeting, they have received comments from BETA and those comments were addressed.

Mr. Jonathan Niro, BETA Group, reviewed that they provided comments which were responded to by Land Planning. He stated that each comment that was brought up was addressed adequately. He stated that the only outstanding comment is the delineation of the bank at Uncas Pond on the plans. He stated that the plans show a surveyed edge of water as the edge of the resource area; however, as bank is defined, it is a terrestrial separation between the water and the land. He stated that they did a site visit and observed that the location of the edge of water that at the time it was surveyed and when they saw it were within 5 ft. to 10 ft. of each other. He stated that he feels that the applicant has provided sufficient information to the Commission to issue an order on the project. Ms. Goodlander stated that she was comfortable with that. She stated that they can close the public hearing, she will draft the conditions, and it can be signed at the next hearing.

Chair Gallagher stated that he was comfortable with the standard special conditions and having a note acknowledging that for the delineation there is a discrepancy between the regulatory definition and what is shown on the plans.

There was a motion made by Meghann Hagen to close the public hearing for the NOI for 30 Uncas Brook Row. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

There was a motion made by Meghann Hagen for an order of conditions for the NOI for 30 Uncas Brook Row subject to standard special conditions and a caveat regarding the discrepancy in the delineation. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-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 they would be milling and overlaying the road this year and depending on funding they will see how far they can get with the shared use path.

Chair Gallagher reviewed that this was discussed at the last meeting, but he wanted to give members of the public another opportunity to discuss it at this meeting as well.

There was a motion made by Richard Johnson to close the public hearing for the NOI for Grove Street Phase II Roadway Improvements. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

There was a motion made by Richard Johnson to approve the order of conditions for the NOI for Grove Street Phase II Roadway Improvements subject to standard special conditions 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36, 37, 38, 39, 40, 42, 43, 44, 46, 47, 49, and 50, and additional condition 52: The Conservation Agent and/or Commission shall review the dewatering setup in the field as recommended by the applicant in the NOI submission. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Public Hearing – NOI – 25 Forge Parkway

Chair Gallagher stated that he opened the public hearing.

Ms. Goodlander stated that the applicant requested a continuance based on legal ad circulation. Chair Gallagher noted that a DEP number is still needed.

There was a motion made by Mark LePage to continue the public hearing for the NOI for 25 Forge Parkway to March 22, 2023. The motion was seconded by Richard Johnson and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

GENERAL BUSINESS (continued)

Minor Buffer Zone Activities: 47 Southgate Road

Mr. Brian Thayer, property owner, addressed the Commission for an after-the-fact filing stemming from a buffer zone violation which includes the cutting/removal of three trees, the placement of a 10 ft. x 20 ft. shed, and stockpiling vegetative debris within the 25 ft. to 50 ft. buffer zone. The MBZA also proposes to install a steel rod fence partially within the 25 ft. buffer zone to demarcate the property boundary, install an 18 ft. x 23 ft. aboveground pool, and cut two additional trees with stumps left in place. Mr. Thayer read from a prepared document which was provided in the meeting packet and he reviewed in detail his request to clean up the rear of his property, install a fence, cut stumps to ground level, cut two trees, permit a shed, and install an above-ground pool.

Ms. Goodlander stated that she was at the site. She reviewed that there was a wetland complex and a culvert. She stated that some of this is after-the-fact and some of it is new such as the fence and pool. She stated that it is all less than 1,000 sq. ft. She recommended approval for work with restoration components. She noted the fence would be within the 25 ft. buffer zone. She stated that however, to prevent future violations and stockpiling near the wetland complex, the fence probably makes sense. She stated that the pool would be within the 50 ft. to 100 ft. buffer zone. She stated that for the most part, it is all existing, disturbed.

Commission members asked questions. Mr. Thayer discussed the location of the existing fence and stated that he would not be removing that fence. Chair Gallagher stated that as far as any new plantings, that does not need to be decided tonight, but stated if you can continue to coordinate with Ms. Goodlander on those. In response to Ms. Hagen's question about the proposed fence location within the 25 ft. buffer zone, Ms. Goodlander stated that usually 25 ft. is a no-touch zone. She stated that this area is a culvert that was installed by the Town, but an easement was never acquired so over the years with personnel changes, it fell through the cracks and this area is very disturbed. She stated that while we typically do not allow things in the 25 ft., this fence was an existing fence in the 25 ft. and to prevent any more change around this culvert and in this resource, it is probably better to demarcate it off permanently.

There was a motion made by Richard Johnson to approve the Minor Buffer Zone Activity for 47 Southgate Road. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 45 Southgate Road

Mr. Russel Nilsen, property owner, addressed the Commission for an after-the-filing stemming from a buffer zone violation which includes the in-situ replacement of a steel rod fence and the removal of two trees within the 25 ft. to 100 ft. buffer zone and vegetative debris stockpiling within the 0 ft. to 25 ft. buffer zone. He reviewed that the MBZA also proposes to remove two additional trees and the lateral movement of an existing shed. He stated that he purchased the home last year. He discussed that they want to have a safe fence for the children as they grow. He stated that there are trees that are growing at a tilt that he is weary of; he does not want them falling.

Ms. Goodlander stated that any arborist would deem the trees as hazardous. Mr. Nilsen stated that he would plant trees to replace the trees that would be cut down. Mr. Goodlander asked if it would be possible to top the trees and leave some of the stump. Mr. Nilsen stated yes. Ms. Goodlander stated that would be her recommendation. Commission members asked questions. Ms. Goodlander recommended conditioning an approval that a planting plan be provided to the Commission.

There was a motion made by Meghann Hagen to approve the Minor Buffer Zone Activity for 45 Southgate Road with conditions as set forth by Ms. Goodlander. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 12 Corey Way

Ms. Goodlander reviewed that this is for the approval of 40 yards of fill/loam to raise the grade of existing disturbed lawn by 1 ft. to 1.5 ft. and the installation of a 10 ft. x 12 ft. shed within the 25 ft. to 50 ft. buffer zone and 200 ft. RFA. She reviewed that there is an existing berm running parallel to the river which would naturally contain the proposed fill. She reviewed that the applicant proposes to hydroseed the fill immediately to promote soil stabilization. She stated that she and Assistant Town Engineer Brooke Morganelli met at the site today and discussed potential runoff issues. She noted that after her discussion with Ms. Morganelli, she does not think that even erosion controls are necessary as the berm will contain it. She noted that the applicant is looking to raise it 1 ft. to 1.5 ft. Discussion commenced regarding a variance on the fill for the depression. Ms. Goodlander stated that a wetland would be created. She noted that the property owner is not present at the meeting. Chair Gallagher noted that it would be best to continue this item until the next meeting date. He asked Ms. Goodlander to ask the applicant to attend the meeting for a discussion; however, he did not see any issues with the proposal.

There was a motion made by Richard Johnson to continue the Minor Buffer Zone Activity for 12 Corey Way to March 22, 2023. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Minor Buffer Zone Activities: 9 Maple Tree Lane

Mr. Christopher Driscoll, property owner, addressed the Commission for an after-the-fact filing stemming from a buffer zone violation which includes the cutting/removal of nine trees and vegetative debris stockpiling within the 50 ft. to 100 ft. buffer zone. He stated that they have many trees that seem to be falling. He stated that he bought the home in September of the past year and have been trying to settle in. During a recent storm a tree fell and hit a portion of the house and damaged the house. A branch of one of the larger oak trees, about 100 ft., fell off and struck the ground near the house and broke an irrigation line underground. He stated that a licensed tree company evaluated the trees on the property and they took down some of the rotted trees. He stated that the trees are down and this is an after-the-fact application. He stated that there is still a lot of debris in the yard and they would like to clean it up. He stated that the tree company offered to take the trees away and dispose of them; however, he asked that the trees remain on the property as he would like to use the wood. He stated that the shed was significantly damaged due to the tree falling.

Ms. Goodlander stated that the wood would be considered a stockpile, but the wood is not treated. She stated that she is comfortable where it is if the applicant does not want to move it. She mentioned that when they are mobilizing though if they bring more machinery, because it is/was wet, have them put mats down so there will not be ruts and revegetate.

Commission members asked questions. Mr. Driscoll stated that some of the stumps were removed. Ms. Goodlander stated that it is still very messy and substantial. She stated that if the root balls are already out, then it should be filled and seeded, otherwise the stumps should be left in place. Chair Gallagher stated that safety is at the top of the hierarchy of things that the Commission cares about. He asked that the applicant continue to coordinate with Ms. Goodlander. Ms. Goodlander stated that the applicant should coordinate with her if they want to plant anything.

There was a motion made by Mark LePage to approve the Minor Buffer Zone Activity for 9 Maple Tree Lane. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Permit Modifications/Extensions: 33 Charles River Drive CE159-1258

Mr. Vance Pirone addressed the Commission for a permit modification approval; for the previous permit approval, the applicant was required to show a finalized stormwater plan to the Commission prior to building permit approval. Mr. Pirone stated that there was one condition related to stormwater runoff. He stated that in a discussion with Ms. Goodlander, it was determined that they would be planting native trees or using existing boulders to slow down the runoff they may get. He stated that they were also asked to reduce impervious coverage from the original drawing which was at 28 percent. He stated that this plan shows what is required at 25 percent impervious coverage. Ms. Goodlander noted that the applicant is in for a site modification with another department regarding the building permit. She recommended approval with the same conditions previously approved.

There was a motion made by Richard Johnson to approve the Permit Modification for 33 Charles River Drive CE159-1258. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Permit Modifications/Extensions: 137 Mastro Drive CE159-1230

Mr. Brandon Carr of DiPrete Engineering addressed the Commission for proposed work within the 200 ft. riverfront area; the applicant proposes to have their septic reserve location within the 200 ft. RFA. Mr. Carr stated that they are before the Commission for a modification to the existing order of conditions that was issued in August 2021. He stated that when the Commission approved the project, for the driveway off to the left there is a stream crossing before it gets to Mastro Drive. He discussed that previously approved was a sewer force main that ran under the driveway. The modification proposed is to remove the sewer force main. He stated that the Board of Health approved a septic in the back of the property. He stated that all work is located outside of the 200 ft. riverfront area and there is no change in the limit of work from what was previously approved. He discussed the proposed and reserve area for the septic. He discussed the requirements and regulations of CMR and that this proposal falls under the regulations.

Chair Gallagher stated that the Commission would note in any approval that they are not approving anything regarding the reserve area, and the applicant would need to return to the Commission in that case.

Ms. Goodlander stated that in her most recent site visit, these issues have been remedied. She stated that she noticed that the wattles were perpendicular to the stream and that is a big no-no; she stated that has been remedied. She noted that there were cut trees which she confirmed with DPW to the north side of the stream. She stated that the applicant can leave them in the buffer zone. She stated that she wanted to talk about every other week reports given the history and the impacts which she reviewed. Mr. Carr asked if the contractor can do the reporting. Ms. Goodlander stated yes. Chair Gallagher thanked the applicant for agreeing to the reporting.

There was a motion made by Richard Johnson to approve the Permit Modification for 137 Mastro Drive CE159-1230 with the additional conditions of enacting Special Condition 29 (Right to Impose Additional Conditions) to require the applicant to comply with Special Condition 32 (Weekly Monitoring Reports) and that this approval does not extend to the construction or build out of any reserve area as that would be a subsequent application. The motion was seconded by Meghann Hagen and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Certificates of Compliance: None.

Violations/Enforcement: 305 Union Street

Chair Gallagher stated that the Commission has been extending this enforcement order for increments of 30 days. He stated that the owner submitted a non-traditional work plan to MassDEP; there has been no response yet from MassDEP, so until they do, the Commission should extend the enforcement order for another 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 Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Minutes: February 23, 2023

There was a motion made by Meghann Hagen to approve the meeting minutes for February 23, 2023. The motion was seconded by Mark LePage and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

Chair and Commission Comments:

Ms. Hagen provided an update on the Environmental Extravaganza. She stated that they are looking at doing it in conjunction with Recreation on April 22nd, which is the Recreation Department's cleanup day. She stated that she spoke with Recreation Director Ryan Jette today. She stated that she is going to work on getting a permit from the Town to use the Town Common. She stated that the event will have different stations set up on the Town Common where families can come together and have interactive ways to learn to protect the environment. She reviewed many possible activities/items such as having Waste Management come in to do a

recycling/sorting, having a solar company come in to do something on renewables, having a company come in for composting, and maybe having DPW do something with rain barrels.

Ms. Goolander stated that Derek is coming on April 23rd and that he was planning to stop by but was not able to staff. She stated that he does the composting rain barrel with Kate; however, Jake and Doug do the water save. She stated that since it is all DPW, they can volunteer to do that and they can help facilitate the composting rain barrel. She stated that it is very possible that Derek's guy that does the Recycling Center with the compost might be able to help facilitate compost as well. Discussion commenced on other possible volunteers.

Chair Gallagher stated that all that sounds great. He stated that the Commission members would help reach out to people. He reviewed the activities for April 22nd and 23rd which will be a DelCarte open house. Ms. Goodlander reviewed someone doing vernal pool demonstrations and discussed other presentations. She noted events for both the 22nd and 23rd.

Executive Session: None.

There was a motion made by Mark LePage to adjourn the meeting. The motion was seconded by Richard Johnson and accepted with a roll call vote of 4-0-0. Roll Call Vote: Johnson-Yes; Hagen-Yes; LePage-Yes; Gallagher-Yes.

The meeting adjourned at 8:21 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary