

Town of Franklin



Conservation Commission

**July 1, 2021
Meeting Minutes**

As stated on the agenda, due to the concerns regarding the COVID-19 virus, this meeting will be conducted as a hybrid virtual/in-person Conservation Commission meeting. 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, second floor of the Municipal Building, for citizens wishing to attend in person.

Commencement

Chair Batchelor called the above-captioned meeting to order this date at 7:00 PM as a hybrid virtual/in-person meeting. Members in attendance: Bill Batchelor, Jeffrey Milne, Jeff Livingstone, Paul Harrington (via Zoom), Patrick Gallagher, Andrew Mazzuchelli. Members absent: None. Also present: Jen Delmore, Conservation Agent; Maxine Kinhart, Administrative Staff.

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

PUBLIC HEARINGS

Public Hearing – Continued - NOI – Lot 34 Mastro Drive

Ms. Delmore provided an updated for this filing for a wetland crossing associated with a single-family house and barn, which are proposed outside of the 100' buffer zone to the bordering vegetated wetland (BVW). She stated that nothing new has been submitted for three months; the applicant has been working on the flood plain information. She stated that Mr. Rick Goodreau of United Consultants, Inc. said they were getting out to the field this week. She recommended continuing the public hearing. Chair Batchelor suggested Ms. Delmore reach out to the applicant regarding if any additional information will be submitted soon.

There was a motion made by Patrick Gallagher to continue the public hearing for the NOI for Lot 34 Mastro Drive to July 15, 2021, at 7:00 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Public Hearing – Continued - NOI – 0 Cottage Street, 0 Cottage Court, 21 Peck Street (Madalene Village)

Mr. Scott Goddard, wetland scientist of Goddard Consulting, representing the applicant, addressed the Commission for the construction of an affordable housing development including infrastructure, drainage, and relocation of the existing intermittent stream and bordering vegetated wetlands (BVW) on the property. He stated that since the last Commission meeting they have received two stormwater responses from BETA and a reply to those from Guerriere & Halnon, Inc. with a revised plan set dated June 8, 2021. He stated that there has been a response to comments from Ms. Lenore White of WSI by Goddard Consulting and a response to DEP's comments by Goddard Consulting. He stated that yesterday a comment letter was received by the Town Engineer; the applicant will be providing a formal response to those comments. He stated that he realizes additional time is needed to go back and forth with the information.

Chair Batchelor stated that Commission members have not received any information. The rule is that any information must be received by the Commission one week prior to the meeting. He stated that this public hearing will be continued to the next Commission meeting.

Mr. Goddard stated that the project has not substantially changed from the project plans originally discussed; changes have been primarily made in stormwater related matters. Ms. Amanda Cavaliere of Guerriere & Halnon, Inc. stated that there is not much to go over regarding the plan set; BETA had a detailed comment letter that Guerriere & Halnon, Inc. responded to. She stated that the plans have not been substantially modified since the original submittal. Mr. Goddard stated that there is an ongoing dialogue with the peer review team, regulatory team, and the applicant's team; the process is moving forward.

Ms. Delmore confirmed that Ms. White should be in attendance at the next Commission meeting. She stated that BETA used the scope and fee for the original stormwater review. As such, BETA will need to amend the scope and fee. Once that is provided, she will reach out to the applicant for the additional funds. Chair Batchelor stated that based on the nature of the project, that is appropriate. Commission members agreed that they had no problem with the additional fee.

Mr. Goddard stated that it would be helpful for the Commission to see the site in its current state; he suggested a site walk be scheduled to put the project in context. He stated that the applicant would join the Commission members at the site. Chair Batchelor stated that his job makes it difficult for him to attend a site visit. He stated that a Commission quorum could not attend a site visit due to open meeting law; therefore, there cannot be more than three Commission members attending a site walk. He requested that any Commission members interested in attending a site walk contact Ms. Delmore. Mr. Livingstone stated that he would be interested in a site walk. Mr. Goddard requested a continuance of the public hearing.

There was a motion made by Jeff Livingstone to continue the public hearing for the NOI for 0 Cottage Street, 0 Cottage Court, 21 Peck Street (Madalene Village) to July 15, 2021, at 7:01 PM. The motion was seconded by Jeffrey Milne and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activity: 17 Cherie Lane – to be continued

Ms. Delmore stated that the applicant for this filing, which is for the removal of six trees in the 50' to 100' buffer zone in the yard so that an above-ground pool can be installed, requested a continuance to the next meeting.

There was a motion made by Jeffrey Milne to continue the Minor Buffer Zone Activity for 17 Cherie Lane to July 15, 2021. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Minor Buffer Zone Activity: 4 Ashley Circle

Ms. Karon Skinner Catrone, representing the owner, addressed the Commission for the installation of an in-ground pool in the back yard; 12 shrubs and erosion control are proposed around the pool. She reviewed that there is 625 sq. ft. of permanent impervious area within the 50' no impervious buffer zone and 40 sq. ft. are within the 50' to 100' buffer zone; the closest point of activity to the wetland is 26'. She noted that there is a stockpile area shown which is outside the buffer zone.

Ms. Delmore stated that she performed a site visit on June 23, 2021, and observed piles of yard waste and chopped wood within the 25' no disturbance zone. There was a tarp within the wetland itself. There appears

to be a maintained path going next to the wetland that leads out back to the yard waste piles and perhaps some trails in the woods. Due to the violations on site, the project's proximity to the wetland, and the amount of impervious permanent construction within the 50' buffer zone, she recommended denying the MBZA and requiring the applicant file a Notice of Intent. She recommended that the applicant consider moving the pool further away from the wetland. If the proposed pool does not move further away from the wetland, a variance request will be required in the NOI process. She also recommended that a 25' buffer zone restoration planting plan be submitted with the NOI as well as a plan to remove material being stored in the wetland and in the 25' no disturbance zone.

Mr. John Rondeau, 4 Ashley Circle, owner, addressed the Commission. In response to Commission members questions regarding the location of the wetlands, he confirmed the existing lawn area as shown on the provided documents. Mr. Livingstone confirmed that the area is already disturbed as it is lawn. In this case, as it is already pre-disturbed, there is no additional harm being done. However, as the pool is constructed and maintained, nothing should end up in the existing wetland. Discussion commenced on the proposed impervious surface and mitigation. Mr. Livingstone stated that it seems like it is totally within keeping of past governance. Chair Batchelor clarified that Mr. Livingstone was saying that given the circumstance, it is within the purview of being approved. Mr. Rondeau agreed that he would put in shrubs as mitigation. He stated that he could possibly move the pool up to 4' closer to the house foundation. Commission members agreed that would make the pool 30' from the wetlands. Chair Batchelor stated that he was synthesizing the conversation; the applicant would need to modify the plan to go to 30' from the wetland. The applicant would draw it forward 4' toward the dwelling; the Commission will need that in the plan. He stated that as Mr. Livingstone said, as it is pre-disturbed, it would therefore meet the limitations set forth by the law.

Mr. Gallagher asked if this should be done through an NOI. Ms. Delmore stated that she understands that it is pre-disturbed. However, there is work within the 25' buffer as there are piles of things that need to be removed. If this is done under an MBZA, it would have to be conditioned. In addition, she thinks the plantings should be in the 25' buffer to make a difference and not so far away; however, that is work in the 25' buffer which does not fall under an MBZA. Chair Batchelor confirmed the pool would be brought in 4', the MBZA would be denied, and an NOI would be required. Mr. Livingstone confirmed that what Ms. Delmore said is consistent with situations like this. Mr. Rondeau confirmed where the Commission would like the plantings. Ms. Delmore confirmed the Commission would like the pool shown closer to the house on the plan for the NOI and the proposed plantings in the 25' buffer zone instead of up against the pool. Mr. Livingstone noted that an NOI is more expensive than an MBZA. He stated that being consistent with past practice, since the Commission is requesting the NOI, the already paid fee for the MBZA can be applied to the more expensive NOI fee. Commission members agreed. Mr. Harrington stated that with the NOI a variance request should be submitted. Ms. Delmore stated that in the NOI narrative, the piles of current debris should be detailed on how they would be removed. Mr. Rondeau stated that the debris is from trees falling from a storm. Chair Batchelor synthesized that the MBZA would be denied, an NOI would be required to be filed, and the cost of the MBZA would be deducted from the cost of the NOI. He stated that the applicant would return to the Commission with the NOI. Commission members agreed. Chair Batchelor suggested the applicant work with Ms. Delmore.

There was a motion made by Jeff Livingstone to deny the Minor Buffer Zone Activity for 4 Ashley Circle with a recommendation to file an NOI with a reduction in fee as stated. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Permit Modifications/Extensions: None.

Certificates of Compliance: 1256 West Central Street, CE159-1206

Ms. Delmore provided a review of the project which was approved in September 2019 for the expansion of the existing parking lot with associated drainage. No activity was permitted within the 25' buffer zone. She

stated that she performed a site visit on June 23, 2021, and has the following concerns. The 25' buffer zone area in front of wetland flag AES42-AES45 has no vegetation, and the ground was clearly disturbed. This is behind the erosion control line; it was previously wooded. In front of the erosion control line, it has been loamed and seeded. On the east side of the site, the preexisting basin slopes were covered in mulch instead of the proposed and approved New England wetmix seed. She recommended removal of the mulch and then seeding of the basin slope and requiring the applicant to provide a planting plan for the 25' buffer zone disturbed. She recommended continuing.

Mr. Rick Goodreau of United Consultants, Inc. stated that he spoke with Ms. Delmore yesterday. He is in agreement with Ms. Delmore and they can come up with a planting plan. He stated that the applicant had proposed the seed mix, but the contractor installed the wood chips. He stated that if the Commission would like the seed mix, it can be done. Chair Batchelor stated that the chippings have to be removed. He stated that this item will be continued to the next meeting.

There was a motion made by Jeff Livingstone to continue the Certificate of Compliance for 1256 West Central Street, CE159-1206, to July 15, 2021. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Certificates of Compliance: Villages at Oak Hill, Washington Street, SE159-739, SE159-921, and SE159-1164

Ms. Delmore stated that the applicant requested a continuance to the August 12, 2021, meeting.

There was a motion made by Patrick Gallagher to continue the Certificate of Compliance for Villages at Oak Hill, Washington Street, SE159-739, SE159-921, and SE159-1164, to August 12, 2021. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Violations/Enforcement: None.

Minutes: June 3, 2021 & June 17, 2021

There was No Motion or Second made to approve the meeting minutes for June 3, 2021. A roll call vote of 6-0-0 was taken. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

Mr. Livingstone requested that the June 17, 2021, meeting minutes have a modification that the term vanity project listed on page 2 be put in quotation marks. There was No Motion or Second made to approve the meeting minutes with the modification for June 17, 2021. A roll call vote of 5-0-1 was taken. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Abstain.

Discussion Items:

Ms. Delmore stated that Chromebooks are available for Commission members to use when in the Council Chambers; if members have a device that they are already using, that is fine, as well. She will provide the Chromebooks for use at the next meeting.

Chair and Commission Comments: None.

Executive Session: None.

There was a motion made by Jeff Livingstone to adjourn the hybrid virtual/in-person meeting. The motion was seconded by Patrick Gallagher and accepted with a roll call vote of 6-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Harrington-Yes; Gallagher-Yes; Mazzuchelli-Yes; Batchelor-Yes.

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The meeting adjourned at 8:02 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary