

Town of Franklin



Conservation Commission

**March 3, 2022
Meeting Minutes**

As stated on the agenda, due to the concerns regarding the COVID-19 virus, this meeting will be conducted as a remote/virtual 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 William Batchelor called the above-captioned meeting to order this date at 7:00 PM as a remote/virtual/in-person meeting. Members in attendance: William Batchelor, Jeffrey Milne, Jeff Livingstone, Andrew Mazzuchelli, Richard Johnson (via Zoom), Michael Rein. Absent: Patrick Gallagher. Also present: Bryan Taberner, Director of Planning and Community Development; Maxine Kinhardt, Assistant to the Director; Lenore White, Wetland Strategies, Inc.

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

PUBLIC HEARINGS

Public Hearing – ANRAD – Franklin Heights Parcel B

Chair Batchelor recused himself.

Mr. Taberner stated that the applicant requested a continuance of the public hearing.

There was a motion made by Jeff Livingstone to continue the public hearing for the ANRAD for Franklin Heights Parcel B to March 17, 2022, at 7:02 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Livingstone-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes.

Chair Batchelor re-entered the meeting.

Public Hearing – RDA – SNETT Trail

Mr. Michael Maglio, Town Engineer, addressed the Commission. He stated that Paul Jahnige from the Department of Conservation and Recreation (DCR) was attending the meeting via Zoom. He stated that DCR is the property owner of the SNETT. He reviewed that this Request for Determination was filed by DCR to perform trail maintenance/surface improvements on the SNETT from Grove Street to the new tunnel at Prospect Street. The project involves removal of pavement, gravel, and dirt surfacing on a half-mile portion of the SNETT and replacement with a gravel sub-base and a granular stabilized pavement which is a permeable material. More than half of the project area is within the 100 ft. wetlands buffer zone. He stated that they would like the project to occur this summer. He stated that the DPW will be involved with the oversight and management of the project.

Mr. Taberner stated that Ms. White believes the proposed project may be exempt from the filing of a Notice of Intent based on language from the MA Wetlands Protection Act for a possible exemption as it is just the trail surface that is being replaced. He read aloud from the referenced section as follows. 10.02 (2) (a) Activities Within the Areas Subject to Protection under M.G.L. c. 131, § 40. Any activity proposed or undertaken within an area specified in 310 CMR 10.02(1), which will remove, fill, dredge or alter that area, is subject to Regulation under M.G.L. c. 131, § 40 and requires the filing of a Notice of Intent except: p. Pavement repair, resurfacing, and reclamation of existing roadways within the right-of-way configuration provided that the roadway and shoulders are not widened, no staging or stockpiling of materials, all disturbed road shoulders are stabilized within 72 hours of completion of the resurfacing or reclamation, and no work on the drainage system is performed, other than adjustments and/or repairs to respective structures within the roadway. He noted that the project includes erosion control. He stated that it is a Town project and the Conservation Agent or he will be inspecting the erosion control barriers before the work starts. He stated that he has no reason not to approve the RDA.

Chair Batchelor stated that he believes the exemption does exist and has come before the Commission before. Mr. Livingstone noted that what seems to happen is that they will go ahead and make the trail whole and it will be great for a month and then some people will ride motor bikes and other vehicles on the trail and make the trail rutted and destroyed. He asked if there is anything that can be done during resurfacing to make such activities not have such a huge impact on the surface to keep the trail nicer for a longer time.

Mr. Maglio stated that after construction it is a DCR facility which DCR will maintain. He noted that one of the requirements in the agreement is that during construction they will have to block the trail when people are working. Mr. Jahnige noted the concern of motorized vehicles on the trail. He stated that it has been an issue in the past; part of this plan includes blocking off some connecting trails in the project. He stated that it has been their experience in Bellingham with the surface material used that once it went in, it held up very well.

Mr. Taberner reviewed that BETA/Wetland Strategies, Inc. will not be performing a formal peer review of the RDA and related project; however, Wetland Strategies, Inc. will provide advice on this issue. He stated that he is very familiar with the SNETT surface and adjacent wetland areas. He reiterated that he or the new Conservation Agent would be inspecting the project on a regular basis. Ms. White reviewed the exemption that was noted. She pointed out that there is nothing in Franklin's wetland bylaws and regulations that exempts this project; it is exempt under the State, she does not see any exemptions under the Town. She suggested that when issuing the determination, it be issued with the understanding that it is exempt under the State, but not under the Town.

There was a motion made by Jeffrey Milne to close the public hearing for the RDA for SNETT Trail. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

There was a motion made by Jeffrey Milne to approve the RDA for SNETT Trail with a negative determination and the fact that no further review is necessary. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.**Certificates of Compliance: 9 Tanglewood Drive SE159-536**

Mr. Taberner reviewed that Partridge Woods Estates had an NOI for the entire subdivision, but each lot had its own Order of Conditions and therefore requires its own Certificate of Compliance. The work was completed more than 20 years ago; however, that homeowner did not file a Request for Certificate of Compliance. The current owners of 9 Tanglewood Drive, Mark and Kelly Parent, are looking to sell the property. Their title shows an Order of Conditions on the property that was recorded with the Norfolk County Registry of Deeds in Book 12083, Page 474. There is a Certificate of Compliance on record in Book 36375, Page 424 that shows a Complete Certification; however, the buyers' representatives are requesting a Partial Certificate of Compliance for this specific property, Lot 3 Partridge Woods II Subdivision/9 Tanglewood Drive, Franklin, MA. He recommended approval.

There was a motion made by Jeffrey Milne to approve the Certificate of Compliance for 9 Tanglewood Drive, SE159-536. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Violations/Enforcement: Fairmount Farm 865-883 Lincoln Street

Mr. Taberner reviewed that during the last week of 2021, the Acting Conservation Agent Becca Solomon was informed by an abutter to Fairmount Farm that there had been work in a wetland area near her property. Ms. Solomon visited the abutter and took photos that showed piles of soil and or grindings. Fairmount Farm owner Charles J. Koshivas was contacted by email and asked to contact the Conservation Office; Mr. Koshivas immediately responded and a site visit was scheduled for January 11, 2022. Mr. Taberner stated that when he visited the site there was substantial snow cover, but it was obvious that there had been more work within the 100 ft. wetland buffer than what was seen previously from the adjacent property. Mr. Koshivas was told to not work within the 100 ft. buffer at least until another site visit was conducted. He stated that at a follow-up site visit on February 17, 2022, he was able to see the extent of damage; a substantial amount of wetland area had been filled with stump grindings and other materials. Mr. Taberner stated that he informed the Conservation Commission Chair about the violation and the Commission Chair signed an Enforcement Order. The signed Enforcement Order was emailed to the property owner and a hard copy was mailed via certified mail. Mr. Taberner stated that the following week Mr. Koshivas contacted him and stated that he contacted a wetland scientist to do the required work. Mr. Taberner reviewed that the Enforcement Order requires the following: 1.) The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the buffer zone and/or resource areas. 2.) The property owner shall retain the services of a certified wetland scientist to evaluate the deposition of the vegetative debris and other fill, prepare a report outlining said evaluation, and present options for the removal of the material and restoration of the site. The resource areas boundaries shall be determined as part of the report. 3.) A restoration plan shall be filed with the Commission on or before May 19, 2022, for removal of the material and planting of wetland species. Mr. Taberner noted that Mr. Koshivas has been very cooperative and stated that he will do whatever is needed to make things right.

Chair Batchelor confirmed there was a breach of the wetlands. Therefore, he signed the Enforcement Order.

There was a motion made by Jeffrey Milne to ratify the Enforcement Order for Fairmount Farm 865-883 Lincoln Street. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Minutes: February 17, 2022

There was a motion made by Jeffrey Milne to approve the meeting minutes for February 17, 2022. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Discussion Item: Commuter Rail yearly maintenance update - Keolis.

Mr. Taberner reviewed the letter from Keolis notifying the Town of yearly maintenance they intend to perform on the commuter rail tracks. He stated that the notice allows the Town to provide input if they would like to. He stated that he is going to coordinate with DPW, Board of Health, and the Conservation Department to make sure there are no private drinking wells close to the right of way. He stated that this is a regular notification.

Chair and Commission Comments: None.

Executive Session: None.

There was a motion made by Andrew Mazzuchelli to adjourn the meeting. 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

The meeting adjourned at 7:35 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary