

Town of Franklin



Conservation Commission

**April 14, 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, Richard Johnson (via Zoom), Patrick Gallagher, Michael Rein. Absent: Jeff Livingstone, Andrew Mazzuchelli. Also present: Bryan Taberner, Director of Planning and Community Development; Tyler Paslaski, Administrative Staff; Lenore White, Wetland Strategies, Inc.

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

PUBLIC HEARINGS

Public Hearing – NOI – 585 King Street

Mr. Josh Berman of Marcus Partners, applicant, addressed the Commission for the construction of a 255,400+ sq. ft. warehouse distribution facility that will include a paved driveway from King Street, stormwater management and septic systems, with associated grading and clearing; the driveway will go directly across a wetland from King Street to the planned site of the facility. He stated that they have been before the Planning Board twice regarding this project.

Mr. Mark Manganello of LEC Environmental noted the paved driveway, access driveway, stormwater management system, utilities, and associated land clearing and grading. He reviewed the required wetland crossing from King Street to the west. He stated that the wetland crossing will result in temporary and permanent disturbances to the wetlands including bordering vegetative wetlands (BVW), bank to intermittent stream, and land under water; the project has been designed to minimize wetland impacts. He noted the wetland mitigation plan. He reviewed the existing conditions plan. He reviewed that an ANRAD was filed last year to confirm wetland boundaries for which the Commission issued approval. He described the wetland systems to the east side of the property. He stated that the access road to the proposed warehouse will be a 30 ft. wide paved access driveway from King Street with paved parking and loading areas; the wetland disturbances occur on the access driveway. He provided a review of the access driveway and wetland crossing. He discussed the planned open-box culvert which follows Massachusetts stream crossing standards. He stated that there will be approximately 12,860 sq. ft. of total BVW disturbance with 10,460 sq. ft. of permanent disturbance, 385 linear ft. of bank disturbance, and 1,892 sq. ft. of land under water disturbance. The roadway has been designed with vertical retaining walls as opposed to sloped sidewalls to minimize disturbances. He pointed out that mitigation for the disturbances

includes 21,439 sq. ft. of BVW replication in four areas; this is greater than two times the permanent total of BVW disturbance impact. He stated that additional mitigation will occur in the location of the existing access driveway. He reviewed that there is an existing stream crossing and culvert that has been in place for many years which will be removed and the stream channel restored in that location. He reviewed regulatory compliance. He stated that this project is somewhat unique in that it exceeds the standard threshold for BVW disturbance under the state regulations which is 5,000 sq. ft. He stated that this type of a wetland disturbance is allowable if the project qualifies as a limited project which this project does; this is known as a limited access project where there is a clearly defined developable upland area on the property and there is no other means of accessing the property to avoid wetland impacts. He stated that the standards place the burden on the applicant to show they have avoided and minimized impacts to the greatest extent practical and have mitigated impacts to the greatest extent possible, which they believe they have done. He pointed out it is under the topic of limited project provisions; the location of this access driveway is driven by an effort to reduce wetland impacts, but it is really driven by traffic concerns. He explained the location of the access driveway which is located directly across the street from Constitution Boulevard. He noted that the signal light at the intersection will be upgraded as part of the project. He stated that traffic engineers determined this is the safest location.

Mr. Taberner stated that Wetland Strategies has just begun their review so they will not have any comment until at least the next meeting. As of yesterday, no DEP number had been received on the project.

Ms. White pointed out that this is considered a limited project as it appears that there is no other access into the site that would not involve wetland alterations. She stated that limited projects are discretionary. She stated that there is nothing that says the Commission shall approve; it says the Commission may approve. She confirmed with Mr. Manganello that an Environmental Impact Review (EIR) is required. Mr. Manganello stated yes and it is due to regulations. He stated that they have not yet filed with the Army Corps of Engineers; they will be doing that in the next month. Ms. White stated that she is concerned that those two reviews might affect the plans regarding changes that might occur to the project. She noted that her review has not started in any formal way.

Chair Batchelor stated that he believes it is premature for the Commission to make any kind of decision. Mr. Gallagher requested that the applicant submit copies of the MEPA filings. Mr. Manganello stated agreement.

Mr. Blake Peters, 16 Taft Drive, asked if the documents are available online to download and view. He stated that he did not see them today. Mr. Taberner stated that within the next week he will have them available to access.

There was a motion made by Patrick Gallagher to continue the public hearing for the NOI for 585 King Street to April 28, 2022, at 7:02 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 839 Upper Union Street

Mr. Matthew Clark, owner/developer/applicant, TMC Holdings, addressed the Commission for the construction of a 42,750 sq. ft. industrial building for multiple tenants complete with parking, stormwater management, landscaping, and utilities.

Chair Batchelor stated that the DEP number was just received tonight; that does not meet with the Chair's and Commission's schedule. He stated that we ask for three days before the meeting and that does not fall within that guideline. He asked if there are any other reports that are missing.

Mr. Taberner stated that this is being reviewed by BETA on the Planning Board side and also Ms. White is doing a review on our side. Chair Batchelor stated that it is hard for the Commission to give a vote up or down without any reports in front of us. He stated that there is a process and the Commission has a rule that we need one week with all documents before the meeting to study and we do not accept anything the day of even the DEP number. Mr. Taberner stated that he believes that Wetland Strategies provided their comment letter either today or yesterday.

Ms. White stated that she did a review letter. She stated that her comments were relatively minor and basically due to the site as a vacant lot. She explained that when the lot was cleared many years ago, there was disturbance right up to the edge of the buffer zone and to the edge of the wetland. The plan to develop the lot includes a new building on the site which will include paving, access roads, and grading. Some of the proposed grading goes right up to the edge and maybe into the 25 ft. buffer zone. She stated that she would like to see the buffer zone that was disturbed be restored; she is requesting a better restoration plan. She noted that when the DEP number came in, there were some DEP comments that the applicant will want to speak to.

There was a motion made by Patrick Gallagher to continue the public hearing for the NOI for 839 Upper Union Street to April 28, 2022, at 7:03 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 84 Populatic Street

This public hearing is for a new Notice of Intent to tear down a house damaged by fire and replace it with a new single-family dwelling. Mr. Taberner stated that it does not appear the applicant is present. He stated that the applicant knew that the hearing would be continued. He stated that the DEP number was received today. He stated that there has not been a review yet by BETA/Wetland Strategies.

There was a motion made by Patrick Gallagher to continue the public hearing for the NOI for 84 Populatic Street to April 28, 2022, at 7:04 PM. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – ANRAD – Franklin Heights Parcel B

Chair Batchelor recused himself.

Mr. Taberner addressed the Commission for an Abbreviated Notice of Resource Area Delineation parcel of 219-178-002-000 (off Lincoln Street); the 20.3+/- acre property is Parcel B of the Franklin Heights housing development. He stated that it does not appear as though the applicant is present. He stated that Ms. White has been out in the field at least twice and the last time with the applicant. Substantial areas have been reflagged. He stated that in the near future, Ms. White will go to the site again with the applicant's engineer; the applicant will be modifying the scope of work for BETA/Wetland Strategies to add in additional work. He stated that there is an additional isolated wetland that was located. He stated that at this point he recommends a continuance of the public hearing.

Ms. White stated that she had no comments and that Mr. Taberner summed it up well.

There was a motion made by Patrick Gallagher to continue the public hearing for the ANRAD for Franklin Heights Parcel B to April 28, 2022, at 7:05 PM. The motion was seconded by Michael Rein and

accepted with a roll call vote of 4-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes.

Chair Batchelor re-entered the meeting.

GENERAL BUSINESS

Minor Buffer Zone Activities: 12 Corey Way

Ms. White provided an overview of the project to remove one large oak tree that is overhanging the home and causing a safety issue. The tree is about 30 ft. to 40 ft. from a wetland in the backyard; the tree is not in the wetland and not within the 25 ft. buffer zone. Ms. White stated that she visited the site on April 11, 2022, and met with the homeowner. She recommended allowing the tree to be removed but not allowing the stump to be removed or any grading and all the wood debris removed from the site once the tree has come down.

There was a motion made by Patrick Gallagher to approve Minor Buffer Zone Activity for 12 Corey Way with conditions that the stump not be removed, there be no grading, and all debris is taken off the property. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Minor Buffer Zone Activities: 853 Pond Street

Ms. White provided an overview of the project for pruning branches on multiple trees that are overhanging the applicant's house; this is not for any tree removal. The property is very close to wetlands, and several trees are bordering or within 25 ft. of the vegetated wetlands. She stated that she visited the site on April 6, 2022, and confirmed that the trees are very close to the wetlands. She stated that she recommends the applicant be allowed to do tree trimming and pruning with no cutting and removal of trees. She recommended that debris, slash/brush be removed from the site.

There was a motion made by Patrick Gallagher to approve Minor Buffer Zone Activity for 853 Pond Street for pruning and trimming only and all debris, slash/brush be removed from the site. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Permit Modifications/Extensions: None.

Certificates of Compliance: None.

Violations/Enforcement: None.

Minutes: March 31, 2022

There was a motion made by Patrick Gallagher to approve the meeting minutes for March 31, 2022. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Discussion Items: None.

Chair and Commission Comments:

Chair Batchelor asked for updates on Earth Day. Mr. Paslaski stated that an order was placed for the T-shirts. He stated that he contacted Ms. Lily Rivera, Marketing and Communications Specialist, regarding promoting the event. Chair Batchelor stated that he has not spoken to Mr. Livingstone about sponsors. He

stated that he did volunteer to bring the gloves for the people who attend. Mr. Gallagher stated that there is still some money remaining from last year's event if sponsors are not obtained. Mr. Taberner stated that Mr. Joseph Halligan who provided \$1,000 in previous years for this event again has provided \$1,000 for this year's event. Mr. Taberner stated that DPW will pick up the trash and someone will deliver the tables and chairs. He stated that two tents are available and the trash bags are through DPW. He noted that refreshments could be purchased with the money. Discussion commenced as to who should reach out to Starbucks and/or Big Y.

Mr. Taberner stated that a conservation agent will be starting on April 25, 2022; she should be attending the next Commission meeting.

Executive Session: None.

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Gallagher-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

The meeting adjourned at 7:44 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary