

Town of Franklin



Conservation Commission

**June 9, 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 Training Room, third 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, Andrew Mazzuchelli, Richard Johnson (via Zoom), Michael Rein. Absent: Jeff Livingstone, Patrick Gallagher. Also present: Breeka Li Goodlander, Conservation Agent; Tyler Paslaski, Administrative Staff; Lenore White, Wetland Strategies, Inc. (via Zoom).

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

PUBLIC HEARINGS

Public Hearing – NOI – 175 East Central Street, Franklin Ford CE159-1254

Mr. Rick Goodreau of United Consultants, Inc. addressed the Conservation Commission for the construction of a building addition within an existing asphalt paved area, an expansion of the asphalt parking area, and the installation of a stormwater management system; the proposed parking lot, grading and stormwater management system are all located within the 50 ft. to 100 ft. buffer zone to bordering vegetated wetland. He stated the property is currently used as the Franklin Ford dealership and service area. He stated that the proposal is for a 7,700 sq. ft. addition to the existing building. He noted that currently there is a gravel area used for overflow parking; a portion of that area will be paved and a stormwater system will be installed. The remaining area outside of the pavement which is approximately 10,000 sq. ft. of gravel will be loamed, seeded, and vegetated to restore the area. He reviewed the bordering vegetated wetland area on the provided map. He reviewed the limit of work line. He stated that to date, they have received review comments from DEP; DEP indicated one concern regarding the stormwater. He stated that he is waiting for final review comments from BETA; when received, all comments will be responded to. He stated that they have received comments from the town engineer which they will address.

Ms. Goodlander confirmed that they are waiting for BETA's comments. She stated that she approved the delineation. She confirmed the project proposes to restore the 25 ft. to 50 ft. buffer zone. Ms. White stated that she has not yet heard back from BETA regarding the review.

A resident stated that he would like to get a copy of the proposal. Chair Batchelor stated that all copies are available through the agent and at the Conservation Office; he noted that the current proposal is not the final.

Mr. Kevin Keefe, 32 Chestnut Street, asked about the drainage pipe and connections. He stated that looking at the schematics, it is not saying what is happening; it does not describe how the work is going to happen and what is going to happen to his property.

Chair Batchelor stated that they cannot comment on this until the final review is provided. Ms. Goodlander stated that the drainage would be more of a Planning Board question if the drainage is outside the 100 ft. buffer zone. She stated that she can send Mr. Keefe BETA's report when it is received.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 175 East Central Street, Franklin Ford CE159-1254, to June 23, 2022, at 7:01 PM. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Public Hearing – NOI – 585 King Street CExxx-xxx– Continued

Mr. Mark Manganello of LEC Environmental and 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, and associated grading and clearing; the driveway will go directly across a wetland from King Street to the planned site of the facility. Mr. Manganello stated that they have been before the Commission a few times and have been working through the peer review process. He stated that they are addressing comments from BETA and Ms. White. He stated that they have provided responses to many of the comments. He reviewed the alternatives analysis and noted that they have explored other means of access. They were requested to review other properties owned by the applicant. He stated that these properties were found to not be acceptable.

Ms. Goodlander asked the applicant why the Ranieri-owned property off Grove Street is not a viable property for the proposed project. Mr. Berman discussed that the turning radius and the slope to get up to Old Forge Hill is not conducive to the industrial environment. As well, the parcel is not wide enough and there are many topography issues.

Ms. White stated that she commented on the alternatives analysis with a review letter that she sent to BETA. She reminded the Commission about an alternatives analysis done on Mastro Drive which was a similar situation; she reviewed the viable alternative for that project. She stated that the alternative just discussed by Mr. Berman may be viable and has less wetlands impact. She stated that the topography issues that were mentioned are not wetlands issues. She stated that she requested in her letter that the applicant do more research on the Grove Street possibility as the wetland issue is a perennial stream and it is a far less overall environmental impact. She stated that they need more information on Grove Street so they can compare it to King Street.

Mr. Berman stated that they are happy to do analysis on the wetlands there, but it is not a parcel equivalent to what they would be building here, and also the seller is not willing to sell the parcel. Ms. White stated that it is the owner not the applicant that matters if they have any other parcels regarding the alternatives analysis.

Chair Batchelor stated that more due diligence is needed in terms of the alternatives analysis. Mr. Manganello stated that they will provide more information. Commission members indicated their concerns regarding the current proposal and the alternatives analysis.

Mr. Manganello discussed the question regarding if the size of the building was reduced, would it reduce the size of the wetland crossing. He stated that any type/size of warehouse would require a crossing similar to what they have due to truck traffic.

Ms. Karen Miller, 246 Washington Street, asked about the regulations regarding other available properties by the owner and if they had to be in Franklin. Ms. Goodlander stated that the properties had to be in the municipality. Ms. Miller asked about the Grove Street property. Chair Batchelor stated that the applicant must come forward with a plan that meets the laws.

Mr. Manganello reviewed that the wetland replication areas have been changed; they submitted a new plan. He reviewed the submitted plan which was shown on the screen. He stated that the replication areas are within the existing access road; the existing access road will be restored to a wetland. They will preserve the 25 ft. buffer zone. He stated that with this change, they no longer need a variance from the bylaw. Ms. White confirmed that all of the replication areas have been removed from the powerline easement areas. Mr. Manganello discussed hydrology in the wetland replication areas in terms of their function when constructed. He stated that they did test pits in the replication areas and submitted that information.

Ms. Goodlander stated that Mr. Gallagher was concerned with the grade. Mr. Manganello stated that it would be about a 4 ft. cut on the high side. Ms. Goodlander asked Mr. Manganello to expand on how the replication areas will be viable long term with the ground water table and runoff as it relates to buffer zone and other resources. Mr. Manganello reviewed the construction and excavation method. He stated that the hydrology supports the wetland plantings in each of the areas. Ms. White asked about the test pit locations. Mr. Manganello stated that they are on the data sheets. He stated that additional test pits were done to support the stormwater management system design. He stated that BETA is reviewing that information. He stated that in summary, the test pits confirm the location of the basin is the most suitable location on the property based on slope, underlying soil material, and groundwater elevations. He stated that they were asked to discuss the limited project provisions for culvert replacement projects. He stated that information was provided in support of the culvert design. Ms. White stated that she raised some concern in her recent memo that the existing culvert was acting as somewhat of a dam and there were some backwater issues. She asked what is going to happen now that the obstruction, the old culvert, is going to be taken out and replaced with a new culvert in a different location. She asked will it affect upstream or downstream hydrology. Mr. Manganello stated that BETA asked for additional information and they will be providing said information. He noted that a DEP file number has been received.

Ms. Goodlander stated that there is work proposed on the adjacent property as far as stockpiling in the buffer zone and grading. She stated that they will need the adjacent property owner to sign the NOI. Mr. Manganello stated that they will provide a revised signed NOI form. Ms. Goodlander stated that she had comments on the construction sequence which she already provided to the applicant. Ms. White stated that as we now have a new owner, she wants to make sure that it does not create any new abutters because they would have to be notified as well. Mr. Manganello stated they would check that.

There was a motion made by Jeffrey Milne to continue the public hearing for the NOI for 585 King Street to June 23, 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; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

GENERAL BUSINESS

Minor Buffer Zone Activities: None.

Permit Modifications/Extensions: None.

Certificates of Compliance: NEP Transmission Line ROW CE159-1204

Ms. Goodlander reviewed that she conducted a site visit in May to confirm the project was complete per the Special Order of Conditions. She stated that the replication area has greater than 70 percent coverage of which 50 percent is wetland vegetation. She recommended granting the Certificate of Compliance.

There was a motion made by Jeffrey Milne to approve the Certificate of Compliance for NEP Transmission Line ROW CE159-1204. The motion was seconded by Michael Rein and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Certificates of Compliance: 216 Prospect Street CE159-1207

Ms. Goodlander reviewed that the applicant is no longer the current homeowner and the representative is no longer under contract. She conducted a site visit on June 1, 2022, to confirm that the septic tank was installed per the site plan and the Special Order of Conditions. She recommended granting the Certificate of Compliance.

There was a motion made by Jeffrey Milne to approve the Certificate of Compliance for 216 Prospect Street CE159-1207. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 5-0-0. Roll Call Vote: Milne-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Yes.

Violations/Enforcement: Fairmount Farms-- Violation

Ms. Goodlander stated that a plan was submitted.

Mr. Bruce Webb of Ecosystem Solutions addressed the Commission on behalf of the applicant. He reviewed that there was a volume of fill in the form of mulch on site: 1.75 acres of disturbed area within the BVW and an additional .12 in the buffer zone adjacent to the BVW. He showed and explained the plans. He reviewed the existing conditions and showed an aerial view. He discussed the restoration plan. He stated that they propose removing the mulch to as close to original grade as they can. He stated that where it is organic materials, they proposed to leave a small amount in place. The other disturbed area is where some topsoil was removed. That topsoil is still onsite. He stated that as such, they propose to restore that topsoil returning it to original grade and seed it with New England Wetmix. He reviewed the other areas to the south and west denoted by the blue color on the provided map. He stated that there are two areas with logs and stones. The logs are shown in aerial photographs from 15 years ago and are from native trees on site which provide habitat. They propose leaving them in place. He stated that the stones also provide habitat. He stated that the vehicle needed to remove said stones would do more damage than benefit the wetlands. He stated that there are two areas of rutting to the south. Their solution is to fill said ruts with organic invasive free soil and seed with New England Wetmix. He discussed that in the buffer zone to the east there is some mulch; they propose removing the mulch, getting as close to grade as possible, and seeding it with New England upland/conservation mix. He stated that they would have 1.75 acres of restoration in the BVW; they propose seeding the 1.75 acres with New England Wetmix and allowing it to return to a natural state and restoring the upland area with upland/conservation mix. He reviewed that this area has been in agricultural use consistently since the owner bought the farm. The owner would like to continue to use the area for agricultural use for pasture for goats.

Ms. Goodlander reviewed the agricultural use requiring the goats to be in use for the past five years and stated that the applicant has provided receipts so this would qualify. However, filling a wetland is not an agricultural exemption. She stated that she conducted a site visit and verified the delineation. She stated that the area proposed to be restored is more than the original enforcement. She discussed the aerial imagery. She stated that she recommended planting a few more trees; however, she cannot require the applicant to plant trees.

Chair Batchelor noted that the applicant is in clear violation and they missed the date, and it could have been turned to the courts. He stated that therefore, he thinks if the agent has a recommendation, it would be prudent of the parties to embrace that recommendation to put it in the final agreement along with a performance date plan as to when it will be accomplished.

Ms. Goodlander reviewed the stockpiled mulch areas. She stated that she is okay with them leaving some mulch in the areas in order to not scar the area with removal to prevent further harm; she stated that would be .5 in. to 1 in. She stated that she agreed to not smooth out the ruts in the wetlands because of the damage that would occur with machines. She stated that based on all that, she had a few tweaks to the restoration plan which she reviewed. She requested that her tweaks be put in the restoration plan. She recommended the work be conducted in the next 30 days with two years of monitoring.

Chair Batchelor stated that he wants it in writing with dates in the restoration plan. He stated that he has no patience if it gets violated again. Mr. Charles J Koshivas, applicant, present at the meeting, stated that they are looking forward to restoring the area.

Mr. Roger Trahan, 1 Green Street, Chairman of the Agricultural Commission, stated that running a farm is not an easy job. He stated that Mr. Koshivas is also on the Agricultural Commission; he has the full support of the Agricultural Commission to fix what needs to be fixed.

Chair Batchelor recommended bringing this item back to the June 23, 2022, Commission meeting for an update for a full completed proposal of what is going to be done. Chair Batchelor polled the Commissioners individually if they agreed with said plan; all Commissioners stated they agreed.

Violations/Enforcement: 305 Union Street-- Violation

Ms. Goodlander stated that in early May the Commission signed an enforcement order regarding the Mill Store as there was speculation that there was dumping of potentially hazardous building material within the 0 ft. to 25 ft. and 25 ft. to 50 ft. buffer zones to an intermittent stream and associated BVW. Since then, it has been quite difficult to collaborate between different parties including DEP Asbestos and the property owner. She stated that this week DEP was able to go out and test for asbestos in the well. She stated that she just received results which are not included in the meeting packet. She confirmed there was asbestos material in the well. She stated that she is waiting to hear back if asbestos has leached into the water; right now, they just have hazardous materials in a jurisdictional buffer zone. She stated that she did not receive a restoration plan in time for the meeting. She stated that the applicant and the applicant's representative are both aware that she needs the restoration plan prior to the next meeting.

Chair Batchelor confirmed that the state has some rights in this issue. He recommended they come back to the next meeting on June 23, 2022.

Ms. Margaret Murray stated that she, as a representative of the property, and their engineer are both present at tonight's meeting.

Chair Batchelor stated that this is a significant issue. He recommended that Ms. Murray work closely with the agent on this. He stated that this item will be continued to June 23, 2022.

Minutes: May 12, 2022

There was a motion made by Jeffrey Milne to approve the meeting minutes for May 12, 2022. The motion was seconded by Andrew Mazzuchelli and accepted with a roll call vote of 4-0-1. Roll Call Vote: Milne-Yes; Mazzuchelli-Yes; Johnson-Yes; Rein-Yes; Batchelor-Abstain.

Discussion Items: None.

Chair and Commission Comments:

Chair Batchelor thanked Mr. Paslaski for the letter to Big Y for their sponsorship of the DelCarte cleanup effort. He noted that there are some great pictures of DelCarte posted on Facebook.

Executive Session: None.

There was a motion made by Jeffrey Milne to adjourn the meeting. The motion was seconded by Andrew Mazzuchelli. No Vote Taken.

The meeting adjourned at 8:30 PM.

Respectfully submitted,

Judith Lizardi
Recording Secretary