

Town of Franklin

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Conservation Commission

To: Franklin Conservation Commission
From: Breeka Li Goodlander, CWS, PWS, CERPIT
Re: Conservation Agent Report
Date: August 22, 2023



NOTE: PLEASE SPEAK INTO YOUR MIC

1.0 Public Hearings

1.1 NOI – Spruce Pond Aquatic Management Program (CE 159-1267)

Recommendation: Continue to September 7 7:01 pm

RJ abstain from voting

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok

This public hearing is for a Notice of Intent (NOI) to apply aquatic herbicides at Spruce Pond. A similar NOI was historically approved by the Conservation Commission, but expired early last year. The Applicant conducted one unpermitted herbicidal treatment last fall. The Town requested the Applicant file a new NOI, including an after-the-fact filing component for the unpermitted herbicide application last fall. Project objectives include the aquatic herbicide treatment of variable watermilfoil, purple loosestrife, and other nuisance filamentous algae. The Project has been filed as an Ecological Restoration Limited Project under 310 CMR 10.53(4) (refer to the WPA regs).

Applicant requested continuance to October 5. The Commission voted to continue the hearing to August 22 at the last Commission meeting (August 10). The Commission requested the Applicant submit additional information for/prior to the August 22 meeting.

The Applicant submitted revised information on August 16. BETA and Agent have yet to review in length. Recommend continuance. Commissioners please also discuss a path forward regarding the unpermitted herbicide application in 2022 – this has yet to be mentioned on any official filing submittal, but has been acknowledged at previous meetings (i.e., on record).

1.2 ANRAD – 1 Paddock Lane (CE 159-1266)

Recommendation: Continue per Applicant request to September 7 7:02 pm

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok

This public hearing is for an Abbreviated Notice of Intent (ANRAD) at 1 Paddock Lane. Onsite wetland resources identified include one Bordering Vegetated Wetland (BVW) and one enclosed upland island. The Applicant is seeking confirmation of these resources.

No new information has been provided by the Applicant. Applicant requested continuance to September 7. Recommend continuance.

1.3 NOI – 100 Financial Park (CE159-1270)

Recommendation: Continue to September 7 7:03 pm

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok

This public hearing is for an NOI for a proposed 220,000+/- sf flex-warehouse building and 65,000+/- sf flex-warehouse building expansion at 100 and 200 Financial Park. Proposed impacts include approximately 67,600 sf of the 100-foot Buffer Zone to BVW and Vernal Pools.

BETA submitted a review letter August 16. Please see Comments A2, A5, W2, W4, W6, W9, and the stormwater comment provided by BETA.

The Applicant has yet to submit a variance request for work within the 25-foot “No Touch”. Recommend continuance to allow time for the Applicant to meet stormwater standards, submit variance request, and show all resource areas on final site plans; and for the Agent and BETA to have final review. (No new information submitted prior to 12 PM on Wednesday, August 16, 2023)

1.4 NOI – 15 Liberty Way (NO DEP #, dependent on redelineation/confirmation of resource areas)

Recommendation: Continue to September 7 7:04 pm

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok

This public hearing is for an NOI for a proposed parking lot expansion (approximately 105, 320 sf) within an Isolated Vegetated Wetland (IVW) (264 sf impact) and all associated Buffer Zones, including the 25-foot “No Touch” (5,000 sf impact). The Applicant has included a Variance Request to work within the Resource Areas and 25-foot “No Touch”. Please note that the Applicant did include invasive species management as a proposed mitigation to work within these area.

Agent and BETA identified 100-foot Buffer Zone to BVW onsite, requiring DEP filing.

Revised information has yet to submit revised information. Recommend continuance.

1.5 NOI – Lot 1A Prospect Street

Recommendation: Continue per Applicant request to August 24 7:05 pm

This public hearing is for an NOI for a proposed single family home, with associated private well, septic system, driveway, landscaping, infrastructure, and site grading. A portion of the proposed work is located within the 200-foot Riverfront Area (RFA), including the house, private well, and site grading.

Approximately 4,350 sf of alteration is proposed within the 25- to 100-foot Buffer Zone. Approximately 4,312 sf of “degraded RFA” and 4,490 sf of “non-degraded RFA) will be impacted by the proposed work. The Applicant proposes to restore approximately 4,190 sf of degraded RFA (2.8:1 ratio). Proposed restoration of degraded RFA include the removal of a concrete block, removal of stockpile debris, grading to reduce slope, placement of topsoil, seeding with native upland herbaceous mix, and planting of native woody species (upland saplings, native shrubs).

BETA submitted a peer review letter August 9. Agent agrees with BETA assessment. Applicant has yet to review. Recommend continuance.

1.6 ANRAD – Veterans Memorial Drive/Franklin Ridge

Recommendation: Continue to August 24 7:06 pm

This public hearing is for an ANRAD at the Town owned property off Veterans Memorial Drive. The Applicant identified two Isolated Vegetation Wetlands (IVW), and one Bank of an Intermittent Stream channel with an associated BVW. No other resource areas or jurisdictional overlays were found.

The Agent identified an IVW just past Irondequoit during site review. The Applicant submitted revised information August 10. The Agent has yet to review. Recommend continuance to September 7, upon which approval will likely be recommended.

1.7 NOI – 0 Upper Union Street Solar

Recommendation: Continue to September 7 7:07 pm

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok

Applicant has outstanding local filing fees – must be paid prior to project approval

This public hearing is for a NOI for a proposed solar development project at 0 Upper Union Street including perimeter fencing, photovoltaic solar panels, racking systems, inverters, transformers with association concrete pads, above and below ground utilities, stormwater facilities, and gravel access road. The site is currently vacant and primarily forested. Work is proposed within the 100-foot Buffer Zone, specifically 308 sf within the 0- to 25-foot; 13,496 sf within the 25- to 50-foot; 20,119 sf within the 50- to 100 foot, for a total of 33,923 sf. The Applicant is proposing 616 sf of mitigation for proposed work within the 0- to 25-foot Buffer Zone.

Site conditions and NOI filing yet to be reviewed by BETA. Recommend continuance.

1.8 RDA– 121 Grove Street

Recommendation: Continue to September 7 7:08 pm

Applicant yet to provide Certified Mail/Return Receipt for abutter notification to Conservation (i.e., green cards) – must provide prior to project approval – scanned copies ok (RDAs require Abutter Notification per Franklin Town Code Chapter 4 Section 4-15)

This public hearing is for a Request for Determination of Applicability at the 121 Grove Street property. The Applicant is seeking to conduct test pits for a Zoning Board of Appeals filing. Note that this work is exempt under the WPA (310CMR10.02(2)(b)(2)(g)), but not exempt under the local Bylaw and associated Regulations (Chapter 181-2(a), Chapter 181-4(a), Chapter 271-13). The Applicant is seeking a Negative Determination (approval) to conduct the work.

A review of the submission showed that the plan provided does not include all Resource Areas previously identified in the existing ORAD for the property. Per the ORAD, onsite intermittent streams are to be delineated in any future permit filing. The Applicant should delineate these streams to 1) demonstrate that no adverse impacts to these streams or their associated buffers will occur and 2) have a complete site plan. Considering that BETA was the original lead on this Project, it is recommended that the Commission request BETA to peer review this filing and delineation.

Applicant has yet to provide payment for BETA review. Recommend continuance.

1.9 ANRAD – 124-126 Grove Street

Recommendation: Continue to September 7 7:10 pm

Existing site violation requiring mitigation

This public hearing is for an ANRAD at 124 and 126 Grove Street. The Applicant identified one BVW, Intermittent Stream, and Bank within existing stormwater basins. The Applicant is seeking clarification on whether these areas are jurisdictional under the WPA and/or local Bylaw and associated Regulations.

Site conditions and ANRAD filing yet to be reviewed by BETA. Recommend continuance.

2.0 General Business

2.1 Minor Buffer Zone Activity

2.1.1 3 Abbey Lane

This Minor Buffer Zone Activity (MBZA) is for the proposed removal of three hazardous trees (confirmed) on an existing/disturbed/maintained lawn boundary within the 200-foot RFA to Dix Brook and just outside of the 25-foot “No Touch” to BVW. Trees are leaning significantly toward the existing house and are displaying indicators of cracking.

The property owner is also seeking after-the-fact approval for the installation of a fence within the 100-foot Buffer Zone (25- to 50-foot and 50-foot to 100-foot, specifically) and the 200-foot RFA. SF yet to be determined as of August 16, but presumed to be well below the 1,000 sf MBZA threshold. Commissioners please verify sf impacts at the meeting.

Recommend approval with standard condition that stumps be left in place. Note: it is presumed that the tree company will mobilize from the paved cul-de-sac, however please Condition that the tree company utilize flat mats if mobilizing on any unpaved areas within the Buffer Zone and RFA; and any rutting of Buffer Zone or RFA be smoothed out and seeded.

2.2 Permit Modifications/Extensions

2.3 Certificates of Compliance

2.4 Violations/Enforcement

2.4.1 305 Union Street

Recommend 30-day extension.

2.4.2 3 Natalie Circle

In August 2023, a wetland resource violation was submitted to the Franklin Conservation Office for unpermitted work at 3 Natalie Circle. Initial attempts were made to contact the property owner in person, however no one was available at the property to discuss at the time of a site visit. Given the nature of the activities, an Enforcement Order was sought promptly. Unpermitted activities resulted in the alteration of the 100-foot Buffer Zone to Bordering Vegetated Wetlands and the locally regulated 25-foot "No Disturbance" Buffer Zone, including, but not limited to, tree and herbaceous coverage removal, fill/gravel stockpiling, installation of semi-permanent structures (e.g., shipping storage containers), conversion of land use, and potential grading and/or wetland drainage.

The Town of Franklin's Conservation Commission/Office does not have an approved permit on file for this property or Project. Any work conducted, including the aforementioned, should be documented and presented to either the Conservation Agent or Conservation Commission pursuant to the Town of Franklin Wetlands Protection Bylaw (Chapter 181) and associated Regulations and the Wetlands Protection Act (310 CMR 10.00).

The Enforcement Order orders that:

- The property owner, their agents, permittees, and all other shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas;
- Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original conditions;
- A restoration plan shall be filed with the Franklin Conservation Commission on or before September 21, 2023 (see Section C of the Enforcement Order for additional details);
- Complete the attached Notice of Intent (NOI) packet and file the NOI with the Franklin Conservation Commission on or before September 21, 2023 (see Section C of the Enforcement Order and the attached packet and filing and fee requirements); and
- No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work (see Section C of the Enforcement Order for additional details).

Recommend ratification.

2.5 Minutes

2.5.1 August 10, 2023

2.6 Discussion Items

Chair & Commission Comments