

Town of Franklin

355 East Central Street
Franklin, Massachusetts
02038-1352



(Phone) 508-420-4929
www.franklinma.gov

Conservation Commission

To: Franklin Conservation Commission
From: Breeka Li Goodlander, CWS, PWS, CERPIT
Re: Conservation Agent Report
Date: October 19, 2023



NOTE: PLEASE SPEAK INTO YOUR MIC

1.0 Public Hearings

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

Recommendation: Continue to November 2 7:01 pm

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. Revised flagging has yet to be surveyed. Recommend continuance.

1.2 NOI – 100 Financial Park (CE 159-1270)

Recommendation: Continue to November 2 7:02 pm

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.

Their team is still working on meeting stormwater requirements. Recommend continuance.

1.3 NOI – 15 Liberty Way (NO DEP #)

Recommendation: Continue to November 2 7:03 pm

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.

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Revised information has yet to be submitted. Applicant did have a site walk with DPW – Water & Sewer to discuss potential replication/restoration within the onsite sewer easement. DPW agreed to planting/seeding low herbaceous (mowable) groundcover, but no woody vegetation.

Recommend continuance.

1.4 NOI – 0 Upper Union Street Solar (NO DEP#)

Recommendation: Continue to November 2 7:04 pm

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.

A site visit between the Applicant/Rep, BETA, and Agent occurred September 28. Flagging for the onsite IVW was revised. No new information has been submitted otherwise. Recommend continuance.

1.4.1 RDA– 121 Grove Street

Recommendation: Defer to Commission

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.

The Applicant responded to BETA on October 11 (please refer to letters in your packet). BETA has not provided a final review letter due to requiring additional scope and fee. Given that most outstanding items were met by the Applicant in their peer review

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response, administrative approval was given by the Agent to forego a final letter and prevent additional cost to the Applicant. The Applicant has met all of BETA's review requirements, but has yet to delineate the outstanding intermittent streams. Procedurally and historically the Commission has required all Applicants to delineate and reflect all jurisdictional (state or local) resources on site plans. The Applicant is still declining to delineate the intermittent streams identified under the existing ORAD.

Considering that the intermittent streams are jurisdictional under the Act, the Applicant will not otherwise receive waivers from ZBA for these resources, and the intermittent streams will subsequently need to be identified in any future filing (per the ORAD and per the previous statements), the Applicant should still consider delineating these resources now within the same year of the ORAD approval, to have a complete site plan for ZBA, and to meet the Conditions of the previously approved ORAD.

Findings from ORAD:

*Intermittent Streams and associated inland Banks and Land Under Water north of flag BF2-74; east of BF2-2; east of flag WFA-69 and south of flag BF1-104; east of flag WFA-65; south of flag WFA-109; and east of flag WFB-64 were observed in the field by the Franklin Conservation Commission and are not included on the plan dated April 3, 2023. Therefore, their boundaries could not be confirmed as part of the ANRAD process. **These Resource Areas will be identified and/or approximated on any future permitting plans.***

These findings were never appealed with DEP and were agreeable by the Applicant.

However, given that the Applicant is seeking approval for otherwise exempt minor buffer zone activities under the Act (i.e., test pits), the Commission could consider voting on a Negative Determination with Conditions and Variance approval. Conditions include:

- The Applicant shall delineate the Intermittent Streams and associated inland Bank and Land Under Water north of flag BF2-74; east of BF2-2; east of flag WFA-69 and south of flag BF1-104; east of flag WFA-65; south of flag WFA-109; and east of flag WFB-64 were observed in the field by the Franklin Conservation Commission and are not included on the plan dated April 3, 2023 prior to the start of work. The delineation shall be submitted and accepted by the Conservation Agent and Conservation Commission prior to the start of work. The Conservation Commission grants the Conservation Agent administrative approval to accept and approve the above referenced delineation.

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- The precise locations of the Intermittent Streams and associated inland Bank and Land Under Water north of flag BF2-74; east of BF2-2; east of flag WFA-69 and south of flag BF1-104; east of flag WFA-65; south of flag WFA-109; and east of flag WFB-64 were observed in the field by the Franklin Conservation Commission and are not included on the plan dated April 3, 2023 are not approved or verified through the Determination of Applicability. These Resource Areas shall be identified and/or approximated on any future permitting plans.
- (The Commission expressed concern over excessive tree removal. This Condition is to mitigate the Commission’s concern.) The Applicant shall identify all trees of more than three- to four-inch caliper throughout all access routes, once confirmed, as noted in the Lucas Environmental, Inc. “RDA Supplemental Letter #2” dated October 11, 2023. The trees shall be inspected and approved by the Conservation Agent and/or members of the Conservation Commission prior to the start of work.

OR – in the event the Applicant is unsure of access routes and will need to verify site conditions and access the day of work...

- (The Commission expressed concern over excessive tree removal. This Condition is to mitigate the Commission’s concern.) The Applicant shall identify all trees of more than three- to four-inch caliper throughout all access routes, once confirmed, as noted in the Lucas Environmental, Inc. “RDA Supplemental Letter #2” dated October 11, 2023. The presiding Wetland Scientist shall be onsite during all scheduled work to confirm that trees of more than three- to –four-inch caliper are not removed.
- The Applicant shall seed and stabilize all test pits areas with New England Plant Conservation/Wildlife Mix, as noted in the Lucas Environmental, Inc. “RDA Supplemental Letter #2” dated October 11, 2023. If the proposed seed mix changes, the Applicant shall notify the Conservation Agent immediately.
- The Applicant shall notify the Conservation Agent prior to any necessary vegetation removal within the 25-foot “No Touch Zone”. Per Lucas Environmental, Inc. “RDA Supplemental Letter #2” dated October 11, 2023, no vegetation removal is proposed within the 25-foot “No Touch Zone”, but is included in the Variance Request should it be required.
- The Applicant shall notify the Conservation Agent immediately should the number of test pits proposed on the Test Pit Access Plan prepared by RJO’Connell & Associates, Inc. dated June 23, 2023 increases or shifts into the 25-foot “No Touch Zone”. The Applicant should refrain from continuing work until receiving approval from the Conservation Agent. The Conservation Commission grants the

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Conservation Agent administrative approval to accept and approve any proposed changes.

1.6 ANRAD – 124-126 Grove Street (CE 159-1274)

Recommendation: Continue to November 2 7:06 pm

Existing site violation requiring mitigation

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 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.

BETA submitted a review letter on August 29 and a site visit occurred on September 18. The Applicant yet to submit revised information. Recommend continuance.

1.7 NOI – 3 Mount Street (CE 159-1275)

Recommendation: Approve with Conditions

This public hearing is the first for an NOI at 3 Mount Street (four lots total). Proposed work includes the construction of a single family home with associated garage, driveway and private well on Lot 4. Additional activities include the installation of individual septic tanks and an associated gravity sewer main that will discharge to a shared septic system on Lot 2 for Lots 1-3. Per the Applicant, onsite jurisdictional resources include BVW and the 100-foot Buffer Zone to BVW; with work proposed within the 25- to 50-foot Buffer Zone (850 sf, Lot 1) and 50- to 100-foot Buffer Zone (17,300 sf, Lots 1-4).

All outstanding items have been met, except for a few that can be conditioned should the Commission require (SC52 and SC53). Recommended Conditions for approval:

- SC20 Erosion Control Barriers
- SC21 Extra Siltation Barriers
- SC22 As-Built Plan
- SC24 Work Performed According to Plan
- SC25 Referencing Order of Conditions
- SC26 Provision of Plans and Order of Conditions
- SC27 Approved Changes
- SC28 Notification Prior to Work
- SC29 Right to Impose Additional Conditions
- SC30 Errata as Changes

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- SC31 Compliance Contact Information
- SC32 Weekly Monitor Reports
- SC33 Use of Clean Fill
- SC34 No Straw Bales
- SC35 Stockpile Maintenance
- SC36 Cleaning Vehicles
- SC37 Remedy Upon Problem Identification
- SC38 Barrier as Limit of Work
- SC39 Limit of Work Marked
- SC40 No Construction Materials
- SC41 Inspections and Disposal of Sediments
- SC44 Removal of Barriers
- SC46 Stockpile Location
- SC47 Removal of Sediment
- SC48 No Refueling
- SC49 Emergency Repairs
- SC50 Leaks and Spills
- SC51 Building Permit Sign-Off, with a scheduled pre-construction meeting to be held in conjunction with SC20
- SC52 The Applicant shall provide a revised existing condition plan to reflect current vegetative cover on Lot 4 to the Conservation Agent prior to the start of work.
- SC53 The Applicant shall provide a Construction Sequence and Schedule, including requirements of the Town of Franklin Wetlands Protection Bylaw and associating Regulations, and receive approval thereof from the Conservation Agent prior to the start of work.

1.8 ANRAD – Tri-County Regional Vocational Technical High School (NO DEP # REQ – Local Filing Only)

Recommendation: Continue per Applicant request to November 2 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

This public hearing is the first for an ANRAD at 147 Pond Street (Tri-County Regional Vocational High School). The Applicant is seeking verification of four proposed BVWs, two proposed IVWs, and subsequent Buffer Zones.

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BETA submitted new information on October 13. Based on Agent and BETA review, there are significant portions of the solar array field which appear to be wetland resources and are jurisdictional either strictly under the WPA or both the WPA and local Bylaw and associated Regulations (please see BETA review dated October 13, 2023). A site visit is tentatively scheduled to occur to review onsite resources in the following week. Recommend continuance.

1.9 NOI – 0 Bent Street (NO DEP#)

Recommendation: Continue to November 2 7:08 pm

This is the first public hearing for an NOI located at 0 Bent Street. Proposed work includes the construction, operation, and maintenance of a telecommunications facility and associated access within the 0- to 25-foot, 25- to 50- foot, and 50- to 100-foot Buffer Zones to BVW and Vernal Pool (see Section 4.0 of the NOI submittal). The telecommunications facility itself is outside of resource areas. Other nearby resources include BVW and potential ILSF (unconfirmed and improbable at this time). Total proposed sf impact is 8,545 sf.

The Applicant should confirm the total sf impact within each designated Buffer Zone. Agent and BETA to review NOI further prior to the next meeting. Recommend continuance.

2.0 General Business

2.1 Minor Buffer Zone Activity

2.1.1 37 Elm Street

This MBZA is for the construction of a 16'x12' (192 sf) concrete slab for a 16'x12' (192 sf) shed within the 50- to 100-foot Buffer Zone. The work is proposed in existing disturbed areas with no anticipated impacts to wetland resource areas. Recommend approval.

2.1.2 57 Daniels Street

This MBZA is for vista pruning and removal of two hazardous trees within the 25- to 50-foot Buffer Zone (exceeding the roofline of the house and less than 25' from the house). Tree crews will mobilize on the existing paved driveway or with flat mats if needing to access on lawn. Recommend approval.

2.2 Permit Modifications/Extensions

2.3 Certificates of Compliance

2.4 Violations/Enforcement

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2.4.1 305 Union Street

Recommend approval.

2.5 Minutes

2.6 Discussion Items

2.7 Open Seat Q&A

Chair & Commission Comments

Fall Events – Touch a Truck Recap, ConCom Event Sun Nov 12

Holiday Schedule – Remove Dec 30