

Town of Franklin

355 East Central Street
Franklin, Massachusetts
02038-1352



(Phone) 508-420-4929
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Conservation Commission

To: Franklin Conservation Commission
From: Breeka Li Goodlander, CWS, PWS, CERPIT
Re: Conservation Agent Report
Date: February 8, 2024



NOTE: PLEASE SPEAK INTO YOUR MIC

1.0 Public Hearings

1.1 ANRAD – 1 Paddock Lane

Recommendation: Continue or Close Hearing

No new information – site visit recap

A revised site plan was submitted on November 29, 2023. This site plan reflects changes in the UA series and WF-48 and 49.

NEW: The Applicant, BETA, and Agent met for a site visit on Thursday, February 1. WF 48 and 49 were approved and agreed upon during this site visit, however the UA series was not agreed upon. The Applicant proposed that a small upland island was interior to the wetland boundary line based on an approximate 11 lf stand of white pine (UPL). However, upon further investigation the upland island showed hydrologic and hydric soil wetland indicators (i.e., water table within first 10”; buttressed roots; dark, mucky soils; predominant redox features; saturated soils). Furthermore, the white pines were showing signs of stress and stunting due to a high water table, confirmed by a licensed forester. Stunted and/or stressed vegetation qualifies as a hydrologic wetland indicator. Given the above information and that the white pines were not the dominant tree species within a 30 foot radius, the required sampling size for trees when documenting wetlands, the upland island shown on the most recent plans qualifies as wetland, as previously determined. This area demonstrates all three wetland indicators, soils, hydrology, and vegetation, with no abnormal conditions or extenuating circumstances to suggest otherwise.

The Applicant was requested to submit data forms for the contested area should the Applicant wish to demonstrate that the area is actually upland. No new information has been submitted otherwise and next steps were not discussed. The Applicant disagreed with the BETA and Agent field review and closed the site visit in disagreement. Recommend continuance or closure due to lack of information.

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1.2 NOI – 15 Liberty Way (CE 159-1282)

Recommendation: Continue to February 22 7:01 pm

New information submitted February 7 – BETA and Agent yet to review

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.

The Applicant provided a response to BETA peer review letter dated January 2 on February 7. BETA and Agent yet to review.

Recommend continuance.

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

Recommendation: Approve with Conditions

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.

Recommend ORAD approval with the attached findings and below Conditions:

- Special Condition 1: The Applicant shall provide restoration for the unpermitted work within the 25-foot Buffer Zone near BVW Flag 10, 11, and 12 upon an Order of Conditions. The Applicant shall provide restoration at a 2:1 ratio. If the Applicant does not file a Notice of Intent by June 1, 2024, the Applicant shall provide restoration for the disturbed area regardless of a filing of Notice of Intent or issuance of an Order of Conditions.

(FINDINGS TO BE INCLUDED IN GOOGLE DRIVE AND HARDCOPIES DISTRIBUTED DURING THE HEARING)

1.4 ANRAD – Tri-County Regional Vocational Technical High School (159-1277)

Recommendation: Continue per Applicant request to January 25 7:02 pm

No new information – site visit occurred January 30

This public hearing is 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 a peer review response on December 7. Peer review and Agent comments include:

- **BVW on A-Series Wetland:** This BVW is a small, fringe wetland within a historically disturbed area. Hydric soils and evidence of hydrology (i.e., water stained leaves, saturation) were observed. Supporting evidence of the source of water flowing through the associated pipe has not yet been provided. It's recommended that this area be depicted on the plans as BVW and that the Bank of the Stream delineated.
- Plans need to depict all revised flagging.
- **Wetland C series:** It's recommended this wetland be classified as BVW unless evidence to the contrary can be provided by the Applicant.
- The Applicant provided historic permitting documents and plans depicting the proposed "drainage ditches" under the solar panels rows. These "ditches" were solely intended to provide attenuation of stormwater sheet flow generated by the panels, which is consistent with MassDEP Wetland Program Policy 17-1 directives. Therefore, these "ditches" would not be considered jurisdictional under the WPA, however they would be jurisdictional under the local Bylaw as "Isolated Vegetated Wetland".
- As such, all resource areas, IVW or BVW otherwise, within the solar field need to be delineated and depicted on site plans.
- In conjunction to the two prior comments, the basin within the southwest corner of the solar field was not constructed per previously approved site designs, therefore it was not constructed in accordance within any approved plans. Given that the solar project did not receive final closeout from the Planning Board, and analysis and design documentation supporting the field change being constructed in full compliance with Stormwater Management Standards/Regs was not provided. The depression and adjacent area to the west should be delineated as BVW, and the associated downgradient channel along the roadway should be delineated as an Intermittent Stream with jurisdictional Bank and LUW subject to jurisdiction under both the WPA and local Bylaw/Regs. Additionally, it is recommended the Commission condition a vernal pool survey at this basin during the next breeding season in 2024.
- The additional basins in the west and north of the solar field were constructed per previously approved plans for stormwater management purposes. These areas would not be considered jurisdictional under the WPA, but would qualify as jurisdictional under the local Bylaw/Regs as IVW.

NEW: A site visit occurred on Thursday, February 1. One notable item discussed was the jurisdictional status of the wetland in the southwest corner of the solar field. BETA and

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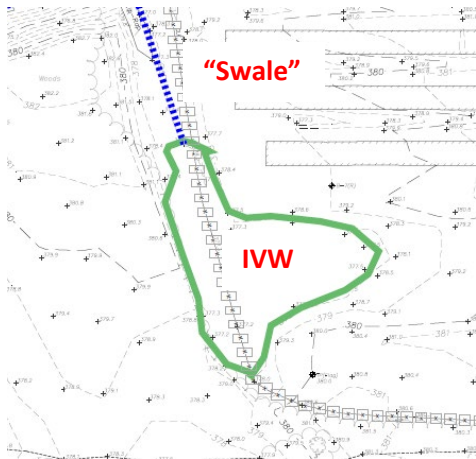


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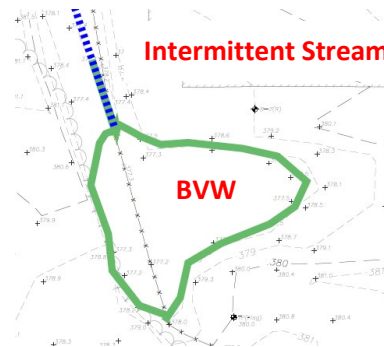
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Agent defer to the Commission on determination of jurisdictional status. The Commission may classify the wetland as IVW, inclusive of a portion of the stormwater “swale” until the predominance of a riprap bottom; or the Commission may classify the wetland as BVW, with the majority of the “swale” considered as intermittent stream. The “swale” is denoted on previously approved plans as a drainage ditch and does consist of a predominant riprap bottom with questionable soils. The “swale” does have hydrology and wetland vegetation. The Commission is tasked with determining if the area is a smaller BVW with an intermittent stream, or a larger IVW (inclusive of a portion of the “swale” without riprap) with connection to a pre-existing drainage ditch. Regardless of classification, it is recommended the Commission consider a portion of this area as Vernal Pool and condition a survey during vernal pool season as part of the ORAD. Picture examples are shown below. These areas are approximated to show shape of proposed resources, but not true to onsite conditions or delineated areas. The onsite visit did review and confirm the boundaries of the northerly IVW and IVWs between the solar panels.

Example: IVW with “swale”



Example BVW with Intermittent Stream



Applicant yet to provide an official response to comments or site visit. Recommend continuance.

1.5 NOI – 0 Bent Street (159-1280)

Recommendation: Approve with Conditions

This public hearing is 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

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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.

Approve with Conditions:

- Special Conditions 19-41, 44, 46, 47-51
- Special Condition 52: A restoration plan, inclusive of native plantings and seed, for the approximate 1, 205 square foot disturbed areas within the 25-foot Buffer Zone shall be submitted and approved to and by the Conservation Agent and Commission prior to the start of work.
- Special Condition 53: A signed Operations and Maintenance Plan shall be provided and approved to and by the Conservation Agent and Commission prior to the start of work.
- Special Condition 54: The Potential Vernal Pool (PVP) to the west of the project site shall be field surveyed and certified during the spring of 2024. Certification documentation shall be provided to the Conservation Agent and Commission.
- Special Condition 55: A construction sequence and schedule indicative of a phased approach that refrains from development and/or construction on the western portion of the property (i.e., near the Vernal Pool) during vernal pool breeding season (e.g., Spring 2024) shall be provided and approved to and by the Conservation Agent and Commission prior to the start of work.

1.6 NOI – Proposed Solar Array – Parcel 3, 160 Maple Street (NO DEP # YET)

Recommendation: Continue to February 22 7:03 pm

No new information

This public hearing is for an NOI located at Parcel 3, 160 Maple Street, otherwise known as “Maplegate South”, for the construction of an approximate 103 acre solar field with associated gravel access drives, utilities, stormwater management features, and a replacement stream crossing (see section 5 of NOI). Onsite resource areas under the Act and local Bylaw/Regs include Bordering Vegetated Wetlands, Intermittent Streams, Bank, Isolated Land Subject to Flooding, and a Vernal Pool. Impacts (sf) to resource areas and 2:1 mitigation (sf) include:

BETA completed their first peer review on February 22. Applicant has yet to respond. Recommend continuance.

1.7 NOI – Lot 1, 60 Spring Street (159-1285)

Recommendation: Continue or Close Hearing

Existing Violation - No new information

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This public hearing is for an NOI located at Lot 1, 60 Spring Street for the construction of a single family home, inclusive of septic and well, and associated grading within the 100-foot Buffer Zone to BVW. Approximately 5,291 sf of alteration is proposed with no mitigation.

BETA submitted a peer review letter on December 21, 2023. Applicant has yet to respond. Recommend continuance per Applicant request.

1.8 NOI – Lot 3, 60 Spring Street (159-1284)

Recommendation: Continue or Close Hearing

Existing Violation - No new information

This public hearing is for an NOI located at Lot 3, 60 Spring Street for the construction of a single family home, inclusive of septic and well, and associated grading within the 100-foot Buffer Zone to BVW. Approximately 5,291 sf of alteration is proposed with no mitigation.

BETA submitted a peer review letter on December 21, 2023. Applicant has yet to respond. Recommend continuance per Applicant request.

1.9 121 Grove Street (NO DEP # YET)

Recommendation: Continue to February 22 7:04 pm

This public hearing is for an NOI located at 121 Grove Street for the construction of five detached apartment buildings (330 units), including a clubhouse, swimming pool, parking bays and associated parking areas, impervious driveways, dog park with impervious pavement and access drives, landscaping, stormwater infrastructure (including two crossings), utilities and lighting. The Applicant is proposing to file this NOI as a Limited Project. Existing jurisdictional resources include BVW, IVW, intermittent Streams, and inland Bank. Most of those resources have been confirmed under the ORAD, with the exception of several streams the Applicant requested be delineated at the time of an NOI filing.

Given that the proposed development results in a net increase of impervious area, the Applicant is proposing a stormwater management system that is proposed to treat stormwater runoff, reduce peak flow rates of runoff, and provide water quality measures. The proposed stormwater management can be found in Section 4.1 of the provided NOI.

Resource area impacts provided by the Applicant include:

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Impact Area	Area of Impact	BVW Alteration		Stream Alteration**
		Temporary (square feet)	Permanent (square feet)	Inland Bank (linear feet)
Northern Access Roadway Crossing	BVW/Bank	65	450	145
Southern Access Roadway Crossing	Bank	0	0	135
Clubhouse Pool	BVW	85	100	0
Northern Boardwalk	BVW/Bank	300	20	25
Southern Boardwalk	BVW/Bank	135	10	15
Total		585	580	320
Proposed Mitigation		585	5,875	500

* Impact Calculations provided by RJOC. Temporary impacts listed are necessary to complete the proposed work.

** Alterations to Inland Bank are listed in the Table; however, there will be no loss of Bank associated with these resource areas at the impact areas. Each impact area is associated with the installation of a three-sided, open-bottom box culvert or boardwalk span.

***Note: The construction of Building #4 will permanently impact 2,015 square feet of a non-regulated IVW. Impacts are not included.

Impact Area	Temporary (square feet)	Permanent (square feet)	
		Crossings and IVW	Buildings & Infrastructure
25-Foot Buffer Zone**	41,575	12,115	9,790
100-Foot Buffer Zone	113,150	340,350	

* Impact Calculations provided by RJOC. Temporary impacts listed are necessary to complete the proposed work.

** The Applicant is requesting a waiver to the 25-Foot Buffer Zone local requirements.

The Commission is tasked tonight with continuing the discussion of the waiver request provided by the Applicant.. Given that the Applicant is proposing to file this project as a “Friendly” 40B, the Applicant has requested that the Zoning Board of Appeals (ZBA) waive local Bylaw Chapter 181, Chapter 271, and any associated Regulations. At their last meeting in December, the ZBA asked the Commission to discuss the waiver request (provided in your packets) and draft a response letter to ZBA to be read at their next meeting in February. It has been recommended that the Commission refrain from review of the project until the determination of the waiver request.

NEW: Applicant, BETA, and Agent conducted a site visit on Thursday, February 1 to confirm the boundaries of the outstanding resources areas (i.e., intermittent streams). Boundaries have been confirmed and are consistent with the delineation shown on the plans.

Commission should approve the draft response letter to ZBA. Recommend continuance to February 22.

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1.10 100 and 110 East Central Street

Recommendation: Continue to February 22 7:05 pm

This public hearing is the first for an NOI located at 100 and 110 East Central Street for the deconstruction of an existing house and removal of associated utilities, and the construction of a new multi-use building with commercial space and apartments, inclusive of new utilities and new parking areas. Tree planting, turf lawn and landscaping are also proposed. Existing jurisdictional resources include IVW and the 100-foot Buffer Zone to IVW. Proposed impacts include 1,852 sf within the 25- to 50-foot Buffer Zone and 13, 652 sf within the 50- to 100-foot Buffer Zone. No Buffer Zone mitigation is proposed, however stormwater improvements are proposed as part of this new construction.

The Applicant is seeking clarification on local filing fees and Buffer Zone impacts. As the Commission has enforced Applicants pay for Buffer Zone impacts, the Applicant would like clarification if the Commission does consider Buffer Zone a “Wetland Resource Area” and if the Commission would differentiate between disturbed versus undisturbed Buffer Zone. The Applicant did not pay a filing fee for previously approved projects for disturbed Buffer Zone, however the Commission has been enforcing filing fees for Buffer Zone impacts for all recently submitted projects. Buffer Zone is considered a Resource Area under local Bylaw and Regulations.

Recommend continuance.

2.0 General Business

2.1 Friendly 40B LIP

2.1.1 444 East Central Street

This proposal is for a new Friendly 40B at 444 East Central Street. The Commission is tasked with receiving the preliminary proposal for the new 40B Project and responding to it with a letter of support or denial within the next 14 days. **No permit is being sought at this time. If the Commission has drafted a letter, please discuss.**

2.2 Minor Buffer Zone Activity

2.2.1 99 Highland Street

Recommendation: Approve with Conditions

This MBZA is for the construction of a 44' long wood frame covered patio roof structure on the front of an existing house within the 50- to 100-foot Buffer Zone (~ 89 lf from the closest wetland boundary). Approximated total disturbance is 450 sf, with 90 sf located within the Buffer Zone. All work is proposed within existing disturbed (paved) areas

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immediately surrounding the residential structure. Recommend approval with standard MBZA conditions.

2.2.2 386 Coronation Drive

Recommendation: Approve with Conditions

This MBZA is for an addition on the back of a residential house within existing, disturbed lawn within the 50- to 100-foot Buffer Zone (latter end). No sf impact was given at the time of permit submission. The Commission should clarify dimensional/sf impacts prior to permit approval, however this scope of work would otherwise still be approved under any other permitting circumstance. Erosion and sedimentation control (e.g., silt fence) could be considered in the event of erosion as the addition is wetland-facing, however contours are not steep enough for significant runoff and there is significant tree cover buffering the BVW and intermittent stream at the property boundary. While the Commission generally required biodegradable wattles, if you do request erosion and sediment controls, a silt fence may be considered due to cost and season (i.e., past hard freeze).

Recommend approval with standard MBZA conditions otherwise.

2.3 Request for Determination of Applicability

2.4 Permit Modifications/Extensions

2.3.1 515 West Central Street

Recommendation: Approve with Conditions

BETA submitted their peer review of the proposed field changes on February 1. The Planning Board approved the field changes with conditions as recommended by BETA. Recommend approval with Conditions as stated in BETA letter February 1, 2024, subject “515 West Central Field Changes”.

2.5 Certificates of Compliance

2.6 Violations/Enforcement

2.6.1 305 Union Street

2.7 Minutes

2.7.1 January 25, 2024

2.8 Discussion Items

2.8.1 DelCarte Pond Treatment – Year End Report

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2.8.2 Riverbend FSP – Purchase Approval

Chair & Commission Comments

- Friends of Franklin Liaison Update
- Master Plan Liaison Update
- Natural Resource Protection Manager Update