

Town of Franklin

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Conservation Commission

To: Franklin Conservation Commission
From: Breeka Li Goodlander, CWS, PWS
Re: Conservation Agent Report
Date: December 15, 2022



1.0 Public Hearings

1.1 NOI – 74 South Street (CE159-1259)

This public hearing is for an after-the-fact approval of unpermitted vegetation removal/brush cutting within the 25 to 100-foot Buffer Zone to BVW and for the construction of a proposed 3,240 sf barn, 460 sf of which is proposed within the Buffer Zone. An optional future 14'x60' RV storage area and optional extension are also proposed within the Buffer Zone, in addition to a gravel “bump-out” from the barn. The NOI proposes to remove an additional 7 trees and their root mass, 5 of which are within the 50 to 100-foot Buffer Zone. Proposed alteration include 3, 138 sf within the 100-foot Buffer Zone, 690 sf within the 50-foot Buffer Zone with 1,200 cubic yards of fill. Grading is not proposed to extend past the 50-foot Buffer Zone.

No new information has been submitted for the project since the last hearing. Recommend continuing.

1.2 NOI – 0 Lincoln Street, Franklin Heights Parcel B (CE159-1260)

This public hearing is for a “Friendly” 40B application currently in front of the Zoning Board of Appeals (ZBA) with an existing ORAD. The Project proposes one stormwater basin and 19 buildings located within the 25 to 100-foot Buffer Zone and one BVW/intermittent Stream crossing.

Since the last hearing, the Applicant and Rep have submitted supplemental information (12/8) answering outstanding items identified by BETA, the Agent, and the Commission. BETA and the Agent have yet to complete their review and submit a response. Recommend continuing.

1.3 NOI – 803 Washington Street (159-1262)

APPLICANT HAS REQUESTED A CONTINUANCE

This public hearing is for the demolition of an existing single family home and the construction of a new single family home within the 100-foot Buffer Zone to BVW. I reviewed the delineation on 11/28 and agree with the boundary, however the NOI

narrative is incomplete. Temporary and permanent impacts still need to be quantified, similar to the scope of work and construction sequence (i.e. location of stockpiled materials, access issues, proposed seed mixes, e/s controls, etc.). The Resource Area Impact Summary Form reflects 7,470 square feet (sf) of temporary disturbance within the Buffer Zone, with notes reflecting additional disturbance totaling approximately 10,370 sf (needs confirmation). The NOI narrative reflect approximately 6,420 sf of disturbance, with 1,050 sf within the 25 to 50-foot Buffer Zone and the remaining sf within the 50 to 100-foot Buffer Zone (needs confirmation).

The Applicant has requested a continuance. Recommend continuing.

1.4 NOI – Bent Street, Lot 1 (CE159-1257)

This public hearing is for the construction of one single family home with a septic system, driveway and utility connections within the 100-foot Buffer Zone to BVW. I reviewed the delineation on 11/27 and agree with the boundary, however the NOI narrative is incomplete. Temporary and permanent impacts still need to be quantified, similar to the scope of work and construction sequence (i.e. location of stockpiled materials, access issues, proposed seed mixes, e/s controls, etc.). Additionally, the NOI narrative and the Wetland Summary Report present conflicting information as it relates to Vernal Pools. After speaking with the contracted Wetland Scientist, he confirmed that a Vernal Pool is located onsite. The NOI and associated plans should reflect this resource area and its associated Buffer Zones.

The NOI is also missing an Alternative Analysis as required under the local Bylaw with the provisions of 310 CMR 10.58(4) for projects involving structures within the 50-foot Buffer Zone and septic components within the 100-foot Buffer Zone. Commissioners please note that since this is a single family home project, no stormwater management or drainage calculations are required.

Since the last hearing, the Applicant/Rep submitted additional information (12/13-12/14) in response to the Agent and BETA. The Agent and BETA have yet to review the latest submissions. Recommend continuing.

1.5 ANRAD – 121 Grove Street (CE159-1261)

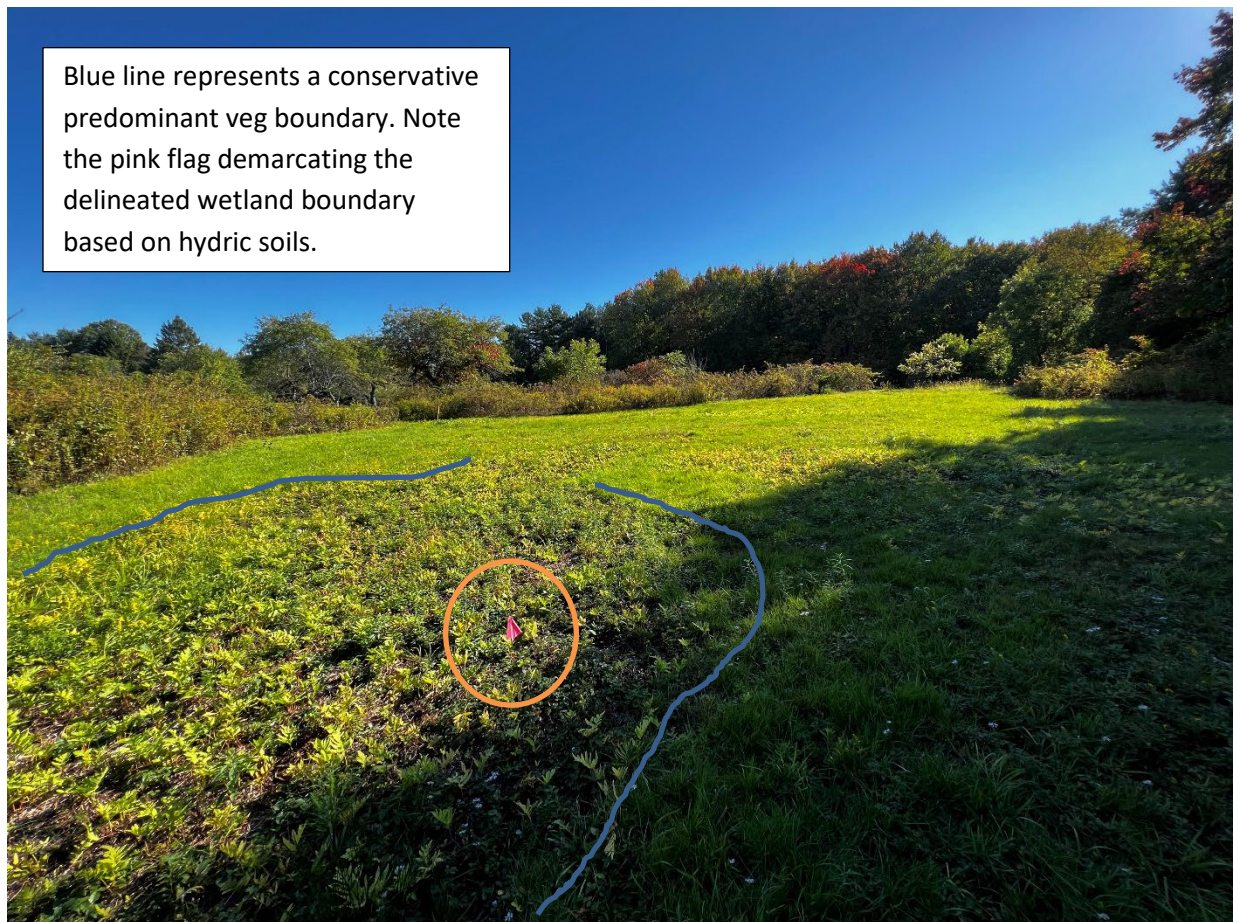
This public hearing is the first hearing for an Abbreviated Noticed of Resource Area Delineation (ANRAD) at 121 Grove Street. An ANRAD provides a procedure for an Applicant to confirm the delineation of resource areas onsite. Onsite wetland resources identified include two BVWs, one IVW, and inland bank associated with three intermittent streams (confirmed by StreamStats at prior hearings).

Since the ANRAD was submitted, the Agent and Rep conducted a site visit to review the boundary delineation of the identified resources. The Agent agrees with the boundary delineation as it relates to wetland indicators and generally agrees with the boundary line for Wetland C (IVW). Please note that Wetland C is not under state jurisdiction, rather Wetland C is provided protection under the local bylaw only.

For the boundary at Wetland C: Massachusetts defines (BVW) as “areas where the soils are saturated and/or inundated such that they support a predominance of wetland indicator plants” (310 CMR 10.55) and further states that “the issuing authority can determine that

soil reliance on wetland indicator plants will yield an accurate delineation” (Delineating [BVW] Under the [MaWPA]: A Handbook, 1995). Considering that the delineated boundary line of Wetland C follows the hydric soil boundary line and not the predominant hydrophytic vegetation line, I defer to the Commission as the regulating authority on their interpretation of the legal definition of an [isolated] wetland and its boundary. See below photo.

Commissioners note: To truly classify as a wetland, a landform needs three indicators at various levels of confidence/dominance: soils, vegetation, and hydrology. Indicators can generally be assumed when considering other factors (i.e. abnormal environmental conditions, disturbed sites, fill, etc.), but in practice, wetlands need all three. The issue with the Wetland C in particular is that this area is historically disturbed, continues to be disturbed, and the indicators for the wetland boundary are not abrupt or well defined when compiled together.





After conferring with the Representative, it has become clear that the Applicant is amenable to replicating the IVW elsewhere on the property in response to recommendations provided by the Commission. Note that the ANRAD and future NOI approval cannot condition a replication ratio greater than what the state requires or for resources that are not afforded protection under the WPA.

While it is the nature of an ANRAD to confirm the delineated boundaries to assist in project planning and the like, modifying the boundary line of the IVW will not alter the project plan or scope as this is a Friendly 40B project and IVWs are not state regulated, therefore the Applicant is not required to avoid, minimize, or mitigate the IVW. Alternatively, confirming the IVW resource boundary will impact the replication area ratio that the Applicant is volunteering to provide. It is my opinion that if the IVW cannot be avoided, a replication area can be designed in a way to optimize ecosystem services and habitat, provided that it is maintained in a way fitting its design.

BETA has yet to conduct their own site visit or submit an ANRAD review and the Agent has yet to proof the submitted ANRAD in full. Recommend continuing.

2.0 General Business

2.1 Minor Buffer Zone Activities

2.2 Permit Modifications/Extensions

2.3 Certificates of Compliance

2.3.1 5 Kate Drive

This CoC request is for an outstanding permit from 1982 that was never closed out when the lot was subdivided and occupancy was granted. The current landowner is not the responsible party. No resources are confirmed within the existing property boundary and the work was performed per the approved plan. Recommend approval of a partial release CoC.

2.4 Violations

2.4.1 305 Union Street

Per the Representative, "For the outstanding work to be completed at the cistern, FSL plans to have the debris removed via a specialized hydraulic grapppler. FSL has received a viable proposal from a contractor to perform said work.

A new licensed asbestos designer is also now part of the overall project team. This designer is in the process of reviewing the proposal and determining any additional items that will become part of the non-traditional work plan that is to be submitted to the MADEP for approval. The designer will prepare and submit the plan to MassDEP. FSL's understanding from the designer is that the plan will be ready for submittal in January 2023."

Recommend extending the Enforcement Order for 30 days.

2.5 Minutes

2.6.1 December 1, 2022

2.6 Discussion Items

Chair & Commission Comments