

Town of Franklin



Conservation Commission

**April 30, 2020  
Meeting Minutes**

*As stated on the agenda, due to the growing 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.*

Vice Chair Jeffrey Milne called the above-captioned meeting to order this date at 7:00 PM as a **Remote Access Virtual Zoom Meeting**. Members in attendance: Jeff Livingstone, Jeffrey Milne, Alan Wallach, Braden Rosenberg. Members absent: Bill Batchelor, Paul Harrington, Staci Dooney. Also present: Jen Delmore, Conservation Agent; Bryan Taberner, Director of Planning and Community Development; Kathleen Celorier, Administrative Assistant.

**Commencement**

Vice Chair Jeffrey Milne announced this meeting will be conducted as a Remote Access Virtual Zoom Meeting.

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

**PUBLIC HEARINGS: None.**

**GENERAL BUSINESS**

**Minor Buffer Zone Activities: 80 Populatic Street**

Ms. Amanda Cavaliere of Guerriere & Halnon, Inc., representing Mr. David Fitzgerald, homeowner, addressed the Commission. She stated that the applicant was issued a letter from the Conservation Agent in January 2020 regarding unpermitted work within the 100' buffer zone to Populatic Lake. She stated the applicant was unaware of the permitting requirements. She noted that both historical and current photographs of the property have been provided in the Commission members' meeting packets. The projects were done in pre-disturbed areas of the property since 2010. The projects included redoing a walkway access to the lake and an existing wooden structure. She noted a fire pit was recently installed and is in a location that was previously maintained lawn. She stated that Mr. Fitzgerald hosts disabled veterans on his property, so the pathway to the fire pit was designed to be wheelchair accessible.

Ms. Delmore stated that she conducted a site visit on April 15, 2020. She stated the fire pit was new; all other work was redone from what was already there. It is a small lot so there are not many options for moving the fire pit. Mr. Rosenberg asked if there is new impervious square footage other than the fire pit area. Ms. Cavaliere stated that where the paths are now is where they were previously; the paths were just cleaned up with new pavers and made safer. Mr. Rosenberg stated that if the project was for replacing impervious that was already there, it is not an issue for him.

There was a motion made by Braden Rosenberg to approve the MBZA for 80 Populatic Street. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

**Permit Modifications/Extensions: Emergency Certificate – Spring Street Culvert**

Ms. Delmore stated that the Town of Franklin's Highway and Grounds Superintendent, Carlos Rebelo, requested an Emergency Certificate on April 21, 2020 for clearing of a blocked culvert under Spring Street, across from 9 Spring Street. An order for the certification came from Cathleen Liberty, Board of Health, on April 21, 2020. Ms. Delmore issued the Emergency Certification on April 21, 2020 for clearing of the culvert to prevent extreme flooding of the road. She recommended ratification of the Emergency Certification.

There was a motion made by Alan Wallach to ratify the Emergency Certification for the Spring Street Culvert. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

**Permit Modifications/Extensions: Emergency Certificate – 40 Stewart Street**

Ms. Delmore stated Mr. Edward Rafter, homeowner of 40 Stewart Street, requested an Emergency Certificate on April 24, 2020 for clearing of a beaver dam in the rear of his lot. The beaver dam is causing flooding in the neighborhood. An order for the certification came from Cathleen Liberty, Board of Health, on April 23, 2020. Ms. Delmore issued the Emergency Certification on April 24, 2020 for breaching the dam to prevent extreme flooding. She stated that she has not heard back from the homeowner on this situation; she will check with the homeowner next week to make sure the flooding is under control. She recommended ratification of the Emergency Certification.

Mr. Livingstone stated he thought there was a provision within the Commission's history where a specialist had to be obtained to do any kind of work with beavers or beaver dams because of species protection. Ms. Delmore said she is not aware of any specialist being needed, but she will look into it.

There was a motion made by Alan Wallach to ratify the Emergency Certification for 40 Stewart Street. The motion was seconded by Braden Rosenberg and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

**Certificates of Compliance: 460 Maple Street**

Mr. Mark Carroll, builder/developer for 460 Maple Street, Maple Preserve, addressed the Commission. He stated there is a driveway that ends within 100 ft. of the buffer zone of the pond across the street and a drainage swale that runs along the edge of the road; both fall within the 100 ft. buffer. The Conservation Agent has been to the site to inspect the work to confirm it has been done.

Ms. Delmore stated the applicant, Carroll Construction Corp., is requesting a partial Certificate of Compliance for Lot 9, 460 Maple Street, of the Maple Preserve project. The majority of work was completed on this lot with the exception of grown grass. The applicant is looking to close on the house and therefore has requested the partial Certificate of Compliance just for this specific lot. She stated that she performed a site visit on April 15, 2020; she recommended approval of a partial Certificate of Compliance.

There was a motion made by Alan Wallach to approve a Partial Certificate of Compliance for Lot 9 at 460 Maple Street. The motion was seconded by Braden Rosenberg and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

Ms. Delmore and Mr. Carroll reviewed the procedure for him to receive a copy of the signed Partial Certification of Compliance during these times of social distancing.

**Violations/Enforcement: Enforcement Order – 11 Mount Street**

Ms. Delmore reviewed that there has been disturbance near, if not within, an intermittent stream at 11 Mount Street. She sent a letter on April 8, 2020 to Mr. Greg Surdi, homeowner, regarding the recent unpermitted activity within Conservation jurisdiction. She stated that she met Mr. Surdi on site on April 15, 2020 to investigate the disturbance. She stated she observed many trees cut down with the stumps in place and the shrub layer removed. The debris was still on site as Mr. Surdi had been told in the agent's letter to stop all work. Mr. Surdi agreed to hire a wetland scientist to delineate the resource areas and start working towards a solution. She recommended the issuance of an Enforcement Order to ensure a restoration plan be submitted to the Commission by May 26, 2020 showing a resource area delineation and a proposal of tree, shrub, and groundcover plantings and removal of debris in the disturbed area. She noted that Mr. Surdi has been very willing to work with her to get the situation under control.

Mr. Surdi stated that he did not know wetlands were there as he only moved in one year ago and there had been a drought. He also did not know about the permitting process. He stated he already sent Ms. Delmore the wetland delineation map.

Mr. Livingstone and Mr. Rosenberg stated agreement with Ms. Delmore.

There was a motion made by Alan Wallach to approve the issuance of an Enforcement Order to ensure a restoration plan be submitted to the Commission by May 26, 2020 showing a resource area delineation and a proposal of tree, shrub, and groundcover plantings and removal of debris in the disturbed area for 11 Mount Street. The motion was seconded by Braden Rosenberg and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

Mr. Surdi reviewed the requirements of the restoration plan and asked what plantings could be used. Ms. Delmore suggested Mr. Surdi speak with his wetland scientist to come up with a plan and propose it to the Commission. Mr. Surdi confirmed he needed a stamped survey from a land surveyor.

**Minutes: April 16, 2020**

Ms. Delmore stated that she added to the meeting minutes a statement that Chair Batchelor confirmed that the Commission members had approved the projects before the Commission at the April 16, 2020 meeting.

There was a motion made by Braden Rosenberg to approve the meeting minutes for April 16, 2020. The motion was seconded by Jeff Livingstone and accepted with a roll call vote of 4-0-0. Roll Call Vote: Rosenberg-Yes; Wallach-Yes; Livingstone-Yes; Milne-Yes.

**Discussion: None.**

**Chair and Commission Comments**

Vice Chair Milne asked how the paperwork would be passed along to each Commission member to be signed. Ms. Delmore stated that Ms. Celorier sent the Commission members an email regarding the process for signing the documents. Ms. Celorier will leave Mr. Wallach the materials on his doorstep. Mr. Wallach will sign the documents and bring them to Mr. Livingstone's home. Mr. Livingstone will bring the documents to Mr. Milne who will then bring the papers to Mr. Rosenberg. Finally, Ms. Celorier will pick up the signed documents from Mr. Rosenberg's home.

Mr. Livingstone confirmed the Commission had supported closing the parking lot to the main DelCarte entrance due to social distancing and safety. He stated that he has noticed that many people are parking in the small parking lot a little further up the street. He thinks it gives the general public a mixed message about parking and general use of DelCarte to close one parking lot and leave the other open. He suggested it be consistent. Mr. Taberner stated he could talk to Town Administrator Jamie Hellen tomorrow.

Mr. Taberner commented on the beaver concern expressed by Mr. Livingstone earlier in the meeting. He showed and discussed the guidance from Mass Wildlife. Ms. Delmore reviewed that the emergency certification was only to breach the dam. Mr. Livingstone thanked Mr. Taberner for the information.

**Executive Session: None.**

There was a motion made by Braden Rosenberg to adjourn the Remote Access Virtual Zoom Meeting. The motion was seconded by Jeff Livingstone. No vote taken.

The Remote Access Virtual Zoom Meeting adjourned at 7:38 PM.

Respectfully submitted,

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Judith Lizardi  
Recording Secretary