

**TOWN OF SHEFFIELD
CONSERVATION COMMISSION
August 14, 2023
TOWN HALL FIRST FLOOR MEETING ROOM
7:00 PM
MEETING MINUTES**

Commissioners present: Rene Wood, Chair
Ted Pitman, Vice Chair
Anya Rosoff
Don Roeder

Others Present: Jen and Justin Elovirta

Chair Wood called the meeting to order at 7PM and introduced all the Commissioners.

She opened the public hearing at 7:02pm on the Request for Determination of Applicability (RDA) for Jen and Justin Elovirta of 81 County Road for the removal and replacement of four trees with native species. The hearing is held in accordance with the provisions of MGL, C.131, §40. Three commissioners had earlier visited the site. T. Pitman provided a review of the site visit and the RDA application, noting the applicant's intention to remove dead four ash trees, stump grind down 2"-3" below sod level, add soil, and plant grass; the rest of the tree's trunk and root structure will remain in place. Four native trees will be planted according to the RDA. The Commission discussed two exemptions to the Wetlands Protection Act: Section 10.02(2)(b)2(d), which allows for the planting of native trees, and the exemption allowing trees to be cut for homeowner's usage. The Commission cautioned that it is against Massachusetts law to transport ash wood across state lines due to the threat of the emerald ash borer.

T. Pitman made a motion to make a Negative Determination, #5, citing exemption 10.02(2)(b)2(d), planting native trees, and cutting down trees for the homeowner's usage, seconded by D. Roeder. The motion passed unanimously, 4 - 0. The Commissioners signed their decision.

The Commission discussed a matter observed during their site visit, namely the erosion of a stretch of Iron Brook riverbank. After discussion, it was determined that the Commissioners would look further into what course of action to suggest, noting a previous situation on RT. 7A in Ashley Falls, as well as the Town's situation on Boardman Street, where similar riverbank erosion is occurring. It was also noted that the riverbank is a resource area. Question of whether an RDA or NOI is required. Chair Wood and D. Roeder will look into this as discussed and report back to the Commissioners through J. Hughes and let the Elovirta family know their findings.

Next discussed was a possible email/letter from D. Roeder to Solitude Lake Management and W. McCain. This matter was on the agenda because Chair Wood had brought to D. Roeder's attention the inadvisability of mixing private opinions – that is, non-commissioner (private)

actions/statements because of the potential appearance of doing so as a member of the Commission. She had suggested he speak with Town Administrator R. LaBombard for her perspective and that this matter.

As recorded in the 8/7/23 minutes, D. Roeder had discussed this letter with his fellow Commissioners, who had "...decided that he should write a draft email and sent it to J. Risen to be forwarded to both the McCains and to Solitude.". (This dealt with D. Roeder's opinion, which had been previously stated at a meeting, that hand pulling of weeds was an option to consider instead of chemical applications in the matter of the NOI from Solitude for the McCain pond and the citing of potential people to do this work.)

The crux of the discussion was how to handle a personal, that is a non-Commissioner opinion, or statement or action that is not an approved Commission action. Chair Wood noted the potential exposure and error of mixing the two.

What should any member of a board, committee, or commission do if they wish to share their private opinion with a resident, applicant, or company?

She explained that it is improper to have anyone on the Town's payroll, like J. Risen, do anything for any member of a board, committee, or commission for non-commission or personal business. (This matter is addressed in the Ethics class all Town appointees and officials have to certify having taken.) This, as it was presented, would fall into this category, as J. Risen was using his time and Town resources to forward an email that would be reflective of a Commissioner's personal opinion.

That said, no member of a board, committee, or commission ever loses their rights as a private citizen, including the right to speak as a private citizen on any matter.

The key is to be clear in identifying who is speaking – the private citizen or the member of the board, committee, or commission.

T. Pitman gave several examples of how he has dealt with this matter in the past. One way is to clearly state – in writing if a written communication is being sent – or verbally state that one is speaking as a private citizen, and not as a member of a particular public body. One may also file a *DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST, AS REQUIRED BY G. L. c. 268A, §23(b)(3)* or call the State's Attorney of the Day to discuss the matter or talk with the Ethics Commission. Chair Wood will provide this information.

Chair Wood asked the Commissioners for their thoughts on how they saw the McCain NOI filing as a Limited Ecological Restoration Project. All felt they had not yet seen enough substantiation of this approach by the applicant. Since the applicant had not yet provided the funds for the Peer Review, what was possible in conveying this to these parties? Chair Wood volunteered to explore this matter further.

On the matter of 142 Main Street, the Commission discussed the previous meeting's presentation by David Cameron on how to deal with complaints. Chair Wood volunteered to write a draft

letter – A Notice of Potential Violation – consistent with the Commission’s discussion, to be reviewed at the 8/28 meeting. It was to be noted that the Commission has received several complaints, including one from the State’s reporting system.

The Commission took up the matter of the requested action on the Burns Conservation Restriction and the Barrett Conservation Restriction.

D. Roeder made a motion to approve the Burns Conservation Restriction and the Barrett Conservation Restriction as presented, sign accompanying documentation, and use the language regarding “the public good” as the language on the documentation signed. The motion was seconded by T. Pitman and passed unanimously 4-0.

Scenic Mountain Act. The Commission reviewed received responses to its letter sent to the Board of Health and Planning Board, both of whom, as required by the Scenic Mountain Act, are asked to review the Map and Text associated with SMA Regulations adopted by the Commission. The Board of Health has asked for a meeting on 9/19 at 5:30pm. Chair Wood will be out of town, and T. Pitman volunteered to attend the meeting. The Planning Board has asked for a meeting on 9/13 at 7pm. T. Pitman volunteered to attend, as well as Chair Wood. If other Commissioners wish to attend the 9/19 meeting, a meeting notice will need to be posted. One will be posted for the 9/13 meeting. The public hearing by the Select Board will be requested to take place at one of the Board’s October meetings.

Discussion / Possible Action on the Forest Cutting Plan for the Town’s property on Berkshire School Road was deferred as the plan had not been signed by DCR’s agent.

Approval of Minutes.

A. Rosoff made a motion to approve the minutes of 7/24/23, as amended, seconded by D. Roeder. The motion passed unanimously 4-0.

Public Inquiries. None.

Commission Member Items.

Chair Wood discussed the next meeting date 8/28/23, at which she will not be present given the 8 Town School Consolidation presentation at 6 PM, and that, as of this morning, no funds to pay for the Peer Reviewer for the Solitude / McCain NOI have been received. She will check again, but believed the Peer Reviewer, D. Cameron, would not be able to complete his review by 8/28. This would require the applicant to request a delay in the NOI public hearing on 8/28 at 7pm. She proposed having T. Pitman chair the 8/28 meeting or possibly move it to later in the week. Commissioners will check their calendars and get back to J. Hughes.

Review Mail. There was no mail to review.

Adjournment.

T. Pitman made a motion to adjourn the meeting, seconded by R. Wood. The motion passed unanimously, 4-0. The meeting adjourned at 8:35 PM.

Respectfully Submitted by,

Rene Wood
Chair



Documents reviewed at this meeting:

- Meeting Agenda, 8/14/23
- Draft Meeting Minutes, 7/24/23
- RDA filed by Jen and Justin Elovirta
- Barrett and Burns Conservation Restriction documents
- Forest cutting plan for Berkshire School Road filed for Town of Sheffield

