

**Town of Sheffield
CONSERVATION COMMISSION
April 12, 2021
VIRTUAL MEETING
7:00 PM**

Commission Members Present:

Ted Pitman, Chairman
Don Ward
Martin Mitsoff
Cheryl Blackburn
Arthur Batacchi, Jr.

Members Absent:

Others Present:

Lori Neil, Administrative Assistant
Members of the Public

Chairman Pitman called the Conservation Commission meeting to order at 7:01 pm. The first item on the agenda will be put towards the end of the meeting.

Public Hearing: Request for Determination of Applicability, filed by the Town of Sheffield/Town Park for property located at 0 Frederic Lane in accordance with the provisions of M. G. L. Chapter 131, sec. 40. The purpose of the hearing is to remove the sod and place 3 crushed stone ADA compliant pathways. Chairman Pitman mentioned he had completed a site visit and it was within the 100 year flood plain on established lawn. Chairman Pitman made a motion for a Negative Determination based on #3. D. Ward seconded the motion. Motion carried 4-0. Martin Mitsoff abstained from the vote.

Public Hearing: Request for Determination of Applicability, filed by the TEC Associates for property at Housatonic Railroad Company, Inc. in accordance with the provisions of M. G. L. Chapter 131, sec. 40. The purpose of the hearing is to conform to the guidelines set forth in the MA Right-of-Way Management Regulations and the approved Vegetation Management Plan. Tom Lewis with TEC Associates explained this is the maintenance of the vegetation on the tracks. He discussed what the colored plates mean and the spraying process. He stated that most of the town is not sprayed in alternating years because it is in Zone 2. Tom Lewis mentioned the goal is to have no vegetation growing in the tracks. D. Ward asked if MSDS sheets are made for the town. The answer is yes, they do. The Board of Health has copies. A. Batacchi asked how far from the track beds do you spray? Tom Lewis replied the trucks can spray wide around signs and signal posts. Each side of the sprayer can be at different adjustments. T. Lewis also mentioned the chemical varies from year to year. D Ward made a motion to find a Negative Determination under #3. D. Ward withdrew his motion. M. Mitsoff made a motion to proceed with a positive determination with the TEC Association's Request for Determination of Applicability for the HRRC under 2-a; the boundary delineations of the following resource areas described on the referenced plan(s) are confirmed as accurate. Therefore, the resource area boundaries confirmed in this Determination are binding as to all decisions rendered pursuant to

the Wetlands Protection Act and its regulations regarding such boundaries for as long as this Determination is valid. D. Ward seconded the motion. Motion carried, 5-0.

Public Hearing: Request for Determination of Applicability, filed by the Susan Fischer for property located at 50 East Road in accordance with the provisions of M. G. L. Chapter 131, sec. 40. The purpose of the hearing is to install a new septic system, pump chamber and leaching field. Mark Stinson of the Department of Environmental Protection, DEP, asked if anyone had read his comments regarding this property. He asked that the boundaries be justified to the Commission. Mike Kulig shared his computer screen to show the site plan for the proposed work. M. Mitsoff stated; the only option available for the Commission in regards to this RDA is for a positive determination and that the area is subject to protection under the Act, and will remove fill, dredge, or alter that area. Therefore, the said work requires a Notice of Intent. M. Stinson asked how many cubic yards of fill would be brought in for the mounded system? Mike Kulig mentioned the system is approximately 80'x 25' x 3.5'. He thought it would be approximately 300 yards of fill brought in. D. Ward had completed a site visit to that area. He described the area as a grassy flat field on a plain with a swale that runs through the back. M. Kulig said the health department requirement is to stake out the field. It was decided that a Notice of Intent is needed due to work to be completed outside of area. M. Mitsoff made a motion for a Positive Determination under #4; the work described on referenced plan(s) and document(s) is within the Buffer Zone and will alter an Area subject to protection under the Act. Therefore, said work requires the filing of a Notice of Intent. A. Batacchi seconded the motion. Motion carried, 5-0.

Public Hearing: Request for Determination of Applicability, filed by Michael C. Baumgaertner at property located at 1080 Water Farm Road in accordance with the provisions of M.G.L. Chapter 131, sec. 40. The purpose of the hearing is to construct a single family dwelling. In 2009, the septic system, well, utilities and current driveway were installed under former owners but the house was never constructed. The proposed home is in approximately the same location. Walter Cudnohufsky was at the meeting to assist M. Baumgaertner with technical support. The property was re-surveyed which should arrive next week. Currently approximately 7' sticks out over the 100' wetlands buffer zone line. The new re-surveyed plans will be reviewed at the next meeting. M. Mitsoff made a motion to table any decision on this Request for Determination until they can review the maps in detail at the next meeting on April 26, 2021. D. Ward seconded the motion. Motion carried, 5-0.

Discussion/Possible Action regarding the Sheffield Land Trust/McDonald Conservation Restriction. Kathy Orlando stated, in the past, we did not have to do the municipal certification for conservation restrictions. This had been waived. Now, the Executive Office of Energy and Environmental Affairs Division of Conservation Services are trying to get things standardized. They would like the Conservation Commission for a Municipal certificate about the public benefits for each conservation restriction application that is completed. Kathy Orlando spoke of the 14 acres off Route 41/Undermountain Road. The current owners want to sell it to the people that bought the house. There are incredible rare plant and animal species because of the limestone. Because the limestone is very porous what happens at the top of the hill can filter

down water wise as to what is below. The form is sent to the state. This area is surrounded by other protected land. It is a critical wild-life area. Kathy Orlando has offered to bring the certification back to the Conservation Commission to review. Kathy Orlando and her colleagues drafted the language as to why we would be certified. M. Mitsoff read their completed Conservation Restriction Application Form. M. Mitsoff made a motion to approve and execute the municipal certification as part of this conservation restriction. Chairman Pitman seconded the motion. Motion carried, 5-0.

Discussion/Possible Action regarding Enforcement Order for 854 and 864 South Undermountain Road. We have no representatives from the owner, or the owner, Martin mentioned the only action that he would request the fellow members to undertake, is to review of the proposal from Emily Stockman regarding her representation of the conservation commission under a peer review process for the Helia Land Design proposed plan such as it is. It would be at the cost of the owner. M. Mitsoff made a motion to execute the proposed services from Emily Stockman for representation of the Commission regarding the Enforcement Order for 854 and 864 South Undermountain Road. Chairman Pitman seconded the motion. Motion carried, 5-0.

Discussion/Possible Action regarding Enforcement Order for 1152 Barnum Street. Mark Volk of Fore Sight Land Services spoke of how he is representing the owner. Chairman Pitman said we did file an Enforcement Order. It has been executed and assigned to the owner. The owner has retained Mark Volk to represent them. The owner said he and his wife want to make things right. That is why they brought Mark Volk into the process. Chairman Pitman said Foresight Land Services is a good company and has no issues with working with them. Mark Volk mentioned he has a site visit set up with Chairman Pitman. Mark Volk recommended that those be revised so they are more functional for what is going on in the site. Backfilling the pool and getting the material away from the wetland would be better done sooner than later. National Heritage is saying do no work on sight. A conversation would need to take place with National Heritage Endangered Species Program on whether they would allow work to be done to install additional erosion controls and remove some material from the BVW that was involved with the pool. Mark Stated he thinks the Commission is looking for an RDA for the pool installation. We are proposing to provide wetland delineation, a site survey to locate the wetland flagging, plus, topography. Trees that were cut on-site show the fill around the pool. It will take a little time to get the crew down there and do the proper procedures. Fore Sight is willing to proceed with this work if it is okay with the Commission. M. Mitsoff would like to have a conference call to see what the National Heritage Endangered Species Program one if not two members of the Commission. It would be helpful for us to hear the give and take and provide any additional information since we are local. Chairman Pitman stated he would make himself available for the phone call. Mark Volk stated they need to create a plan so everyone can see what they are doing. Mark Volk stated he will have the wetland delineation completed and a proposal of what we are to do on sight for the next meeting.

Discussion/Possible Action regarding Enforcement Order for 250 Rote Hill Road. Mark Stinson of Department of Environmental Protection, mentioned there were no deadlines for this Enforcement Order. Chairman Pitman stated there should be a deadline for the plantings.

Deborah Franklin is the owner. The timber cutter is Andy Carlson. Both need to be made liable. M. Mitsoff made a motion to continue this at our next meeting. M. Mitsoff stated the enforcement order needs work and I would like to take into full consideration the comments that Mark Stinson of DEP has provided to us and do a re-draft of the Enforcement Order that we can send to the Commission members in advance. Comments can be sent to Lori. The Commission will have a chance to review it in advance to the next meeting and make a decision. Chairman Pitman seconded the motion. Motion carried, 5-0.

Discussion on 1375 North Main Street - The Commission decided there was nothing more to discuss or add to this matter.

Ratification of WPA Emergency Certification Form for County Road Shoulder Repair; We were approached by the Town administrator with regards to an emergency work where the road was eroding causing the road to fall apart. The guiderails had to be removed, put boulders down on the side of road to reduce the erosion and the undercutting of the road itself and repair the road surface. There were no alternatives other than to shut down County road for an unlimited amount of time. Chairman Pitman and M. Mitsoff signed the Emergency Certification Form. We are asking for ratification by the other members of that Certification Form. D. Ward asked if the rocks will remain or if it was a temporary fix and if the repair was complete? M. Mitsoff replied yes, it is a permanent fix and it is complete. M. Mitsoff made a motion for a Ratification of WPA Emergency Certification for County Road Shoulder Repair. Chairman Pitman seconded the motion. Motion carried, 5-0.

Commission Member Items: Chairman Pitman informed the Commission that he will not be able to make the next meeting on 4/26/21. D. Ward will facilitate the next meeting.

M. Mitsoff thanked Mark Stinson for being there and for all of his help to the Commission.

M. Stinson discussed a Boardman Street. He said another complaint was received. Mark Stinson had sent the photographs and complaint information and is looking for its current status so he can report it to his supervisor. Chairman Pitman mentioned he could resurrect the last photographs the Commission had on this property. M. Mitsoff proposed to schedule a site visit via a phone call or by letter and to do so in advance of the next meeting.

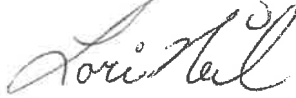
D. Ward asked Mark Stinson questions regarding the dam control. When operating the dam, to raise and lower the water, does it require a Notice of Intent? M. Stinson stated yes, it absolutely does require a Notice of Intent. Is it needed annually? The Notice of Intent can be a five year order and then extended for additional 3 year periods as long as the interest in the Act is still being protected. M. Mitsoff mentioned this information should be passed along to Doug Blume. He is the individual who opens the "flood gates". If this is being considered a Notice of Intent is required.

Approval of Minutes: M. Mitsoff made a motion to accept the minutes of February 22, 2021, March 8, 2021 and March 11, 2021 as written. Chairman Pitman seconded the motion. Motion carried, 5-0. (4-0 on February 22, 2021 – D. Ward was not present).

Public Inquiries: 250 Rote Hill Road was stimulated by neighbor concerns of cutting of lumber at the top of the hill and was referred back to Tom Ryan, Forester. T. Ryan investigated and found noncompliant issues and wrote a letter.

Chairman Pitman made a motion to adjourn the meeting at 9:02 pm. M. Mitsoff seconded the motion. Motion carried, 5-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Lori Neil".

Lori Neil
Administrative Assistant

Documents reviewed at this meeting:

RDA/Request for Determination of Applicability
Enforcement Order
McDonald Conservation Restriction
Site Plans
Draft Minutes
WPA Emergency Certification Form