

**Town of Sheffield**  
**CONSERVATION COMMISSION**  
**June 14, 2021**  
**VIRTUAL MEETING**  
**7:00 PM**

Commission Members Present:            Ted Pitman, Chairman  
   Don Ward  
   Martin Mitsoff  
   Arthur Batacchi

Members Absent:                            Cheryl Blackburn

Others Present:                            Lori Neil, Administrative Assistant  
   Members of the Public

Chairman Pitman called the Conservation Commission meeting to order at 7:03 pm.

Request for Certificate of Compliance for the Nature Conservancy of Southern Berkshire County. The property site is located at Barnum Street, Sheffield. Map 12, Block 2, Lots 10.1, 17, 18. DEP# 281-0234. Dated 4/22/2014. The NOI DEP#281-0234 will be closed. Chairman Pitman made a motion to approve a request for Certificate of Compliance on Barnum Street and to approve the new Notice of Intent on Kelsey Road. M. Mitsoff seconded the motion. Motion carried, 4-0.

Public Hearing: Request for Determination of Applicability, filed by Andrea Westerlind for property located at 11 School Street, Ashley Falls in accordance with the provisions of M. G. L. Chapter 131, sec. 40. The purpose of the hearing is to consider wetland resources regarding proposed demo current structure, leaving piers in place. To place a new structure on an existing foot print. Chairman Pitman and M. Mitsoff had a site visit on June 14, 2021. The front porch is in the resource area. Most of the building is in the 50 foot buffer zone. It will be very difficult to get the equipment in that area. It is an old quarry that is now a pond. It's a summer home and not winterized. M. Mitsoff mentioned Andy Belter is working with an engineering firm that has an environmental specialists who can help complete the NOI, Notice of Intent, Chairman Pitman stated he would like to see a request for a Notice of Intent and also to describe the mitigating circumstances of replacing that construction would entail. M. Mitsoff made a motion to make a Positive Determination under #1. A. Batacchi seconded the motion. Motion carried, 4-0.

Public Hearing regarding a Notice of Intent Application, filed by the Town of Sheffield in accordance with the provisions of M.G.L, Chapter 131, Sec. 40. The proposed project is to replace sixteen (16) culverts under the northern portion of County Road. M. Mitsoff gave an overview. He said all the culverts were quite dated. They carry run-off from the northern side of County Road to the southern side of County Road. Six of those culverts are in wetland areas and the NOI describes that. The culverts were replaced with 15" plastic culverts in addition to having concrete clean out boxes. The work would not exceed one work day per culvert. The entire

County Road will be paved towards the fall. It will begin at Hickey Hill Rd. D. Ward wanted to point out, there is a state wildlife refuge inside that road area. The management wildlife will be managed by DCR. M. Mitsoff stated there is no priority habitat there and DEP has already weighed in. There is a DEP file number in place. The culverts will remain the same size, no larger. Chairman Pitman made a motion to accept the NOI, Notice of Intent to replace the (16) sixteen culverts. A. Batacchi seconded the motion. Motion carried, 4-0.

Continue Discussion/Possible Action regarding Enforcement Order for 854 and 864 South Undermountain Road. E. Goodman mentioned a new area that Emily Stockman has raised. Attorney E. Goodman asked if the Commission would give Emily Stockman approval to communicate with her. M. Mitsoff made a motion to enable Emily Stockman to address the questions regarding the poor house disturbance area. Chairman Pitman seconded the motion. Motion carried, 4-0.

E. Goodman discussed the areas on the site plan for 854 and 864 South Undermountain Road.

M. Mitsoff read a motion he prepared based on Stockman Associates findings dated May 10, 2021:

1. The Sheffield Conservation Commission grant permission to the owner regarding native species planting within Protected Riverfront Area per Helia Land Design Restoration Plan, but excluding non-native species cited in Design Restoration Plan;
2. The Commission directs the owner to use of biodegradable wattles or 12” diameter compost tubes required for erosion control measures
3. The Commission directs the owner to undertake delineation of the Resource Area Boundaries
4. The Commission requires the owner to identify other resource areas impacted by unpermitted work as part of a revised restoration plan to be completed by July 31, 2021 (since alterations to protected Bank and Riverfront Area cannot be reviewed under an RDA).

As to the specifics identified in Stockman Associates letter, the Commission additional orders the following:

1. a) Observed compost materials proposed by Owner to supplement planting areas should NOT be used;
- b) Outdoor seating area / identified as “awning” in Resource Area to be removed
- c) Event Barn construction after MA Rivers Protection Act: Owner to provide proof of building permit, for consideration by Con Com, OR preparation of professional review and filing of Notice of Intent for submission to Commission under Riverfront Area Redevelopment standards 310 CMR 10.58(5);
- d) The Commission orders removal of unpermitted, non-exempt small planked footbridge (# 6) and removal of storm water discharge pipe

e) The Commission order removal of unpermitted, non-exempt larger footbridge not meeting MA River and Stream Crossing Standards (no NOI) OR preparation of professional review and filing of Notice of Intent, for submission to Commission, under Riverfront Area Redevelopment standards 310 CMR 10.58(5).

f) Review of improvements to parking along South Undermountain Road and to access and parking to west and northwest of "Poor House": the preparation of professional review for submission to Commission under Inland Bank performance standards 310 CMR 10.54(4) and Riverfront Area Redevelopment standards 310 CMR 10.58(5), for submission to Commission, under Riverfront Area Redevelopment standards 310 CMR 10.58(5);

g) Unpermitted, non-exempt covered outdoor seating area within the southerly inner Riverfront Area erected after 2019: the Commission orders removal OR preparation of professional review for submission to Commission under Riverfront Area Redevelopment standards 310 CMR 10.58(5);

h) Unpermitted, non-exempt lawn maintenance within northerly Riverfront Area to be included in revised restoration plan OR preparation of professional review and filing of Notice of Intent for submission to Commission under Riverfront Area Redevelopment standards 310 CMR 10.58(5);

Finally, for unpermitted, non-exempt activities that cannot meet the requisite performance standards under 310 CMR 10.54(4) and 310 CMR 10.58(5), the Commission will require a full restoration of protected resource areas as they existed prior to unpermitted activities.

E. Goodman requested to be allowed to review the detailed motion in writing and respond before the Commission acts. She then discussed the events barn. It is an unpermitted structure that needs remediation. E. Goodman also stated it has been a slow process but thought they were addressing the Commission's concerns. E. Goodman stated, my client has attended meetings, he has hired Project Native and he will be spending a lot of money on a restoration plan. M. Mitsoff said he has no interest in having the event barn torn down or relocated or anything else. It is important that we address that now as part of the overall river front area infringements. It is possible this came before the commission years ago. M. Mitsoff said he could not find a building permit or anything else on the event barn. E. Goodman stated her concern is the Board is being asked to decide that the event barn is in violation of the river front protection act. I think it was built 20 years ago. It is outside the statute of limits. There is no appeal to the DEP. We will be in court if you are addressing the event barn as a violation right now. If the Commission rules it is a violation, I will tell my client he has to appeal in court. M. Mitoff read a portion of the motion again to E. Goodman and stated if you want to go to court that is up to you. We are opening a door that says for the good of the owner, the community and the Commission, that an NOI, Notice of Intent be filed. Casey Rothstein stated, he would like to see the motion in writing between now and the next meeting so we have a chance to respond to it. He also said he can attest the event barn did not come before the Commission at that time. However it did come before every other town inspector and official. The town was aware this was happening. There is

definitely a statute of limitations there. M. Mitsoff asked the Commission to remember, it has been approximately a year they have spent on this project with no progress.

Chairman Pitman, D. Ward and A. Batacchi voted: Nay and to wait until the next meeting before making a decision.

Discussion/Possible Action regarding Enforcement Order for 1152 Barnum Street. Marc Volk spoke to give an overview. He said work is progressing. All the turtle fencing is erected. The landscaping has started but probably will not meet the end of June planting. The pool work will probably be complete by then. National Heritage is requiring Berkshire County Native Species which are more difficult than you might think to find. Chairman Pitman asked about the heavy equipment. The person walked the machinery over the pile and it thought the best way without disturbing to the BVW. It was a little less than a day's operation. We asked for rough grading around the disturbed areas. The garage area was not enclosed in turtle fencing. This was all done with National Heritage's guidance and approval. It is getting restored and the pool is closed up. I would like to request a possible end date as July 31, 2021. D. Ward asked for a site visit. A site visit was set up for June 28, 2021 at 5:00 PM. M. Mitsoff asked how this is prevented from happening again. M. Volk stated, if a homeowner has a certain contractor, there is no burden on the contractor. The burden is on the owner. The only way you can get to a contractor is through the owner. M. Mitsoff said it would have been better if the owner or the contractor came before the Commission during a meeting. There was discussion of the Commission writing a letter to the owner. The Board decided to make a phone call. The time for the site visit was changed to Monday on June 21, 2021 at 5:00PM. D. Ward and T. Pitman will go to the site visit. A. Batacchi said it depends on his work schedule whether he would be able to make it or not.

Discussion/Possible Action for Shmulsky Tract (Nature Conservancy) unauthorized tree clearing. There is no action from the Conservation Commission. A letter was sent to The Nature Conservancy and a copy to the owners.

Continued Discussion/Possible Action on Boardman Street – request for site visits. M. Mitsoff stated he has not been successful in getting through to the owner of 1491 Boardman Street.

Forest Cutting Plans (Stumo/Milleron) – Chairman Pitman asked if anyone had any questions. D. Ward mentioned it needs to be signed by Tom Ryan. Chairman Pitman will follow up with Tom Ryan to see if there were any wetland issues.

Commission Member Items: If the legislature does not pass an extension of creating the opportunity for hybrid participation in meetings there will no longer be remote meetings for any one. We should prepare to meet in person for the next meeting.

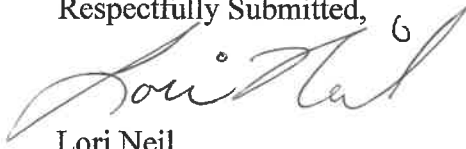
Chairman Pitman mentioned the Commission is losing two members. Chairman Pitman said he will continue to look for candidates.

Approval of Minutes: M. Mitsoff made a motion to approve the minutes of May 24, 2021 as written. A. Batacchi seconded the motion. Motion carried, 4-0.

Public Inquiries: None

Chairman Pitman made a motion to adjourn the meeting at 8:39 pm. A. Batacchi seconded the motion. Motion carried, 4-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Lori Neil", with a small number "6" written above the end of the signature.

Lori Neil  
Administrative Assistant

**Documents reviewed at this meeting:**

Certificate of Compliance

RDA/Request for Determination of Applicability

NOI/Notice of Intent

Site Plans

Draft Minutes