

**Town of Sheffield**  
**CONSERVATION COMMISSION**  
**June 28, 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 7:02 pm.

Notice of Intent filed by Barry and Susan Friedberg for property on 689 Rannapo Road in accordance with the provisions of M.G.L. Chapter 131, Section 40. The general project description: Proposed stabilization of intermittent stream bank and related site work. Jackson Alberti of Fore Sight Land Services gave an overview of the project. Chairman Pitman and Don Ward had a site visit earlier in the afternoon. J. Alberti discussed the bank stabilization with erosion control matting which is biodegradable over 5-6 years. What will be left is a healthy, native, plant population that will stabilize the bank with a strong root system. This will be covered with approximately 1" of top soil. There will be an erosion control seed mixture chosen specifically for their strong root mass. There will be about 36 native shrub plantings on either side of the river. They will use The New England Wetland Plants Company out of Amherst. Overall, this will be a significant improvement on safety, stability, and wildlife habitat. The boundaries were discussed. D. Ward asked if the bridge is part of the NOI, Notice of Intent. J. Alberti replied, no, they are removing the existing bridge and proposing to leave the stones in place. It would do more harm to remove them. J. Alberti went on to explain, there are 135 square feet of bank alteration and there is 1,450 square feet of riverfront alteration which will all be restored to natural vegetation and prevent future erosion into the Housatonic River. This property falls within 200 feet of the Housatonic River. D. Ward asked if there was a reference or resource guide as to which plants to use. J. Alberti said his boss generally makes all the plant name recommendations. Typically, they stick with what the state recommends. Tom Ingersoll is the person who will be providing the work. D. Ward mentioned when he went on the site visit, the delineations are basically worn out. He has asked J. Alberti to put them back so the contractors would recognize the edges/boundaries. *D. Ward made a motion to accept the NOI as presented and to accept Exhibit C, the general conditions, as a corporation into our special conditions. Chairman Pitman seconded the motion. Motion carried, 4-0.*

Continue Discussion/Possible Action regarding Enforcement Order for 854 and 864 South Undermountain Road. Attorney E. Goodman said they will waive the fact that consultant, Emily Stockman is calling in virtually when it is not a hybrid meeting. Attorney Goodman said this is a continuation of reviewing Mr. Mitsoff's motion from the last meeting. She mentioned having a Zoom call with E. Stockman, with permission from the Commission, to discuss an area that she did not have a good understanding of how the impact was arrived at. For many months, Al Thorpe had been representing Race Brook preparing a site plan showing the six areas of restoration. When Emily did her report she added a 7<sup>th</sup> area. I need to have an understanding The other issue that came from Mr. Mitsoff's motion was the sub- paragraph C, which required the owner to show proof of a building permit regarding the Event Barn. Attorney Goodman mentioned she had sent the Commission a letter on her firm's letterhead with two attachments. One was the Building Permit and the Certificate of Occupancy. She also mentioned that in her discussions with Casey Rothstein, that his Race Brook partnership did not own the property during the construction of many of the buildings. She asked when the poorhouse constructed. D. Ward asked to be shown the 7<sup>th</sup> area she had mentioned. The site plans were reviewed. Casey Rothstein said he does not know when the poorhouse was constructed. There is a space that we looked at between what is labeled storage and Brook house and the Poorhouse. If you look at the ortho maps in Oliver, in the 1990's and which is the baseline the DEP has been using, and compare it to 2019, there has been a change over time. Attorney Goodman pointed out an area on the site plan where two cars were parked, that had different growth than it does today. The only way to detail how much square footage was impacted by cutting away the vegetation would be for Casey to have a wetlands scientist who can overlay the 1990's ortho, the 2019 ortho, and the riverfront area, and measure the change in vegetation cutting. That is the 7<sup>th</sup> area. C. Rothstein is happy to do that. M. Mitsoff stated his motion was drawn 100% from Emily Stockman's Peer Review. Casey proposed that we go over it and use it as a road map to have a clear set of goals. We are not opposed to this motion there were just certain items. Attorney Goodman asked E. Stockman, do you believe the area of construction of the parking area around the poorhouse extends all the way to the Race Brook itself. E. Stockman stated she was specifically using the poorhouse as a site focus for that sub part to guide the Commission to where the impact was to the west of the area and that is because the poorhouse was labeled on the submitted plan. There is clearly from 1999 been the removal of vegetation and the establishment of parking area and access. Discussion ensued over areas on the site plan. E. Stockman said based on the changes, based on the ortho images that would be a riverfront impact. D. Ward mentioned we have two options. The first option would be incorporating it into the Enforcement Order that we have or we have the option of addressing the issue by requiring a Notice of Intent, NOI, which will give us more detail. E. Stockman said after conducting the Peer Review, I was identifying impacts based on the site visit and the viewed imagery. Was this permitted and secondly if it was not permitted appropriately, is this a violation that requires complete restoration because it cannot meet the performance standards or, is this a project in the opinion of this commission could be submitted under a Notice of Intent and conditioned to meet the performance standards. When the Commission is looking at the individual areas, which is 1-7, the Commission needs to determine first, if something just needs to be restored, if it is not compliant, it can't meet the performance standards, if it can be just restored to its pre-impact state under the Enforcement

Order. If there are areas that can be conditioned to be compliant, then they can be covered under a Notice of Intent. Attorney Goodman mentioned it could also come under the authority of the Enforcement Order. Attorney Goodman reviewed M. Mitsoff's motion. There was discussion of the plant list. She requested having the motion excluding invasive species or allowing native species from the DEP list and from the Pamela Weatherby list. E. Stockman said she is familiar with Pamela Weatherby's book. She is a respected Botanist in Berkshire County. Attorney Goodman was asking for more time pertaining to dates and deadlines. Casey Rothstein mentioned possibly having until November for completing the whole restoration plan. Emily Stockman said given the length of time all parties have been involved in this process, I would recommend the Commission stick to a tight deadline for this part of the motion. She stated the Commission has the authority to grant an extension if requested. She recommend to the Commission not to push the July date out too far and to hold tight to deadlines. Attorney Goodman stated deadlines are fine but if you can't get someone in to do the work, it makes it difficult to meet that deadline. Attorney Goodman asked if the Commission could allow a deadline in July for the delineations, and then again, a deadline for the restoration plan in August. Attorney Goodman gave suggestions for a motion. She suggested the parking lot of west and northwest of the poor house, photos show access is should be mitigated or an NOI, Notice of Intent. E. Stockman stated, regarding the parking along South Undermountain Road, as I stated previously, I concur with Attorney Goodman that there was a road and access way in 1996. My concern is there have been expansion as well as additional alteration in the riverfront area without a permit. It is a very straightforward assessment that is done. E. Stockman stated there have been incremental impact activities within this area without permitting. If you look at the 1990's aerial, the change is drastic. There is wetland change and riverfront change. The change in the footprint needs to be accounted for. Owner, Casey Rothstein said there is no controversy. The net impact of the riverfront will be positive. The area with the most expansion is in area #7. We can address that as an NOI but I would also like to point out, there was an old road. The road has been removed and revegetated. It was visible in the 1990's maps. The old road has not had vehicle traffic in 8 – 10 years. All was in agreement of the removal of the small foot bridge and a pipe that is near the foot bridge. The Commission agreed to allow Attorney Goodman to draw up a motion and give to Emily Stockman and to the Commission to review and comment on. The Commission is to receive this motion one week before the next meeting, dating no later than July 7, 2021. The Commission will reconvene on July 12, 2021 to make a motion.

Discussion/Possible Action regarding Enforcement Order for 1152 Barnum Street. Chairman Pitman and D. Ward completed a site visit early this afternoon to review the location. This site is currently under an Enforcement Order for the installation of a pool. Jackson Alberti of Fore Sight Land Services gave an overview/update of the proposed restoration plan. There is a slightly revised version which I don't have here. D. Ward mentioned J. Alberti showed us around on the site visit with the owners. Through discussion, they have decided to wrap the silk fence out to accommodate utilities. That is the only difference between the last plan and the updated plan. All the mitigation work is exactly the same. The mitigation proposed the planting of a large number of white pines, (14) total. The property owners would prefer a silver or red maple tree. There is a lot of fill around the pool. That will be corrected. There will be a much more gradual slope. We

are trying to retro actively permit the area with an RDA, Request for Determination of Applicability. J. Alberti said the pool has not been completely shot as of yet. Chairman Pitman asked J. Alberti if he has received a letter from Misty Anne of the National Heritage. J. Alberti said he would get a copy to Chairman Pitman.

Commission Member Items: There was discussion of the RDA for Bull Hill Road filed by Jon Piasecki that was appealed by Tod Mackenzie and other residents of that area. J. Piasecki has withdrawn from moving forward on Bull Hill Road.

Chairman Pitman mentioned the Commission is losing two members. The Committee thanked Martin Mitsoff for his dedicated years of service to the Conservation Commission. Cheryl Blackburn in her absence was also acknowledged for her time in serving on the Commission. Chairman Pitman said he will continue to look for candidates.

Approval of draft minutes from June 14, 2021. M. Mitsoff made a motion to accept the minutes as written. A. Batacchi seconded the motion. Motion carried, 4-0.

Public Inquires: John Muller inquired about the status of Boardman Street. M. Mitsoff informed him that the Commission had been on a site visit and it was clear there was storage on a plateau on the back side of his property but it is being moved. There will be no Enforcement Order at this time. It was recommended to the owner to file an RDA, Request for Determination of Applicability.

M. Mitsoff made a motion to adjourn the meeting at 8:52 pm. Chairman Pitman seconded the motion. Motion carried, 4-0.

Respectfully Submitted,



Lori Neil  
Administrative Assistant

**Documents Reviewed:**

NOI/Notice of Intent

Site Plans

Draft Minutes