

**Town of Sheffield**  
**CONSERVATION COMMISSION**  
**June 27, 2022**  
**7:00 PM**

Commission Members Present: Don Ward, Chairman  
Ted Pitman  
Donald Roeder  
Anya Rosoff  
Rene Wood

Others Present: Members of the public, see sign in sheet

Chairman Ward called the Conservation Commission meeting to order at 7:00pm; He addressed all meeting agenda items, just in a different order than listed on the agenda.

**1. Approval of Minutes.** Chairman Ward took up the approval of the draft minutes from the Commission's 6/13/22 meeting. Several corrections, including the presence of T. Pitman at the meeting, were pointed out with members providing their amended draft minutes to R. Wood.  
**A motion made by R Wood, seconded by T. Pitman, to accept the minutes of 6/13/22, as amended, was approved by a 5-0 vote.**

The Commission briefly discussed how signed, approved minutes were filed with the Town Clerk for posting on the Town's website, as well as the copies kept by both the Town Clerk and in the Commission's files. R. Wood noted she had recently corrected her failure to file signed minutes with the Town Clerk, thus the absence of Commission minutes on the Town's website.

**2. Update on Dry Hydrants.** Bob Kilmer presented an update on all dry hydrants, except for the two hydrants that will now be served by bridge mounted units, which he explained. All the other dry hydrants will be replaced using ductile iron rather than PVC, as the former is stronger. Wilkinson Excavating is lined up to begin the work in about 4 weeks, or around August when the water levels are low. The replacements will use 6x6s as frameworks, straw bales as erosion control, and contractor seed were needed; there may be some bank cuts. Discussion noted this work had already been approved; R. Wood discussed her concern there was a procedural issue, as discussed by Mark Stinson, such as improper continuation of the public hearing, which impacted the Commission's approval and required it all be done again. She would check into this matter and report back to the Commission at/or prior to the next meeting.

**3. Public Hearings for a) Request for Certificate of Compliance for Order of Conditions #281-0166, Perlman Pond at 689 Home Road, Sheffield; b) Notice of Intent Application, filed by James McNamara for property at 1085 Berkshire School Road, in Sheffield, in accordance with the provisions of MGL C 131, §40 for the proposed project of an Aquatic Management Program for Fawn Lake; c) Request for Certificate of Compliance for Order of Conditions #281-0216, Fawn Lake, Berkshire School Road, Sheffield; and d) Public**

**Hearing: Notice of Intent Application, filed by James McNamara for property at 1085 Berkshire School Road, in Sheffield, in accordance with the provisions of MGL C 131, §40, for the proposed project of an Aquatic Management Program for Fawn Lake.**

Chairman Ward opened the public hearings; Chairman Ward said there was a request from each property's agent, Shawn McCarthy of Solitude Lake Management, to continue the Public Hearings to the next Commission's meeting on 7/11/22 at 7pm.

Chairman Ward noted the Commission had received the Natural Heritage letter on the Perlman Pond; he had asked the Agent to be present on 7/11/22; and to have the procedures/comments raised in letters from MA Division of Fisheries & Wildlife addressed before the next meeting noting the Commission will likely be unable to render a decision until those matters are addressed. A site visit will likely be scheduled for Fawn Lake.

**A motion was made by Chairman Ward, and seconded by T. Pitman, to continue the Public Hearings for:**

**a) Request for Certificate of Compliance for Order of Conditions #281-0166, Perlman Pond at 689 Home Road, Sheffield;**

**b) Notice of Intent Application, filed by James McNamara for property at 1085 Berkshire School Road, in Sheffield, in accordance with the provisions of MGL C 131, §40 for the proposed project of an Aquatic Management Program for Fawn Lake;**

**c) Request for Certificate of Compliance for Order of Conditions #281-0216, Fawn Lake, Berkshire School Road, Sheffield; and**

**d) Public Hearing: Notice of Intent Application, filed by Lee Perlman for property at 689 Home Road, in Sheffield, in accordance with the provisions of MGL C 131, §40 for the proposed project of an Aquatic Management Program for Fawn Lake, all until July 11<sup>th</sup> 2022 at 7:00pm, per the request of the applicant's agent.**

**The motion was approved by a 5-0 vote.**

The Public Hearing was closed. Further discussion on the above items included Chairman Ward asking that J. Hughes email/send out the letters drafted from the last meeting, as well as discussion on the previously issued Order of Conditions. While the applicant's agent has been asked for these, R. Wood has asked our Town Clerk to provide them; either way, the Commission would appreciate them in their packet before the next meeting. The information provided by the Division of Fisheries & Wildlife may require an addendum or revision to the NOI filed in both cases.

#### **4. Continuation of Public Hearing: Notice of Intent application for 854 & 864 South Undermountain Road for existing and proposed riverfront area restoration and related site work.**

Chairman Ward opened the public hearing and stated that the applicant's agent Foresight Engineering had requested a continuation of the public hearing until 7/11 at 7pm. E. Stockman is

in the conversation and it appears the applicant's agent is revising the applicant's NOI, per the last public hearing session's input.

**A motion was made by R. Wood, and seconded by D. Roeder, to continue the Public Hearing for the Notice of Intent application for 854 & 864 South Undermountain Road for existing and proposed riverfront area restoration and related site work until July 11<sup>th</sup> 2022 at 7:00pm, per the request of the applicant's agent. The motion was approved by a 5-0 vote.**

**R. Wood further motioned that, given the Commission's expected schedule on 7/11/22, a request be made to the above applicant's agent for the Public Hearing to be moved to 7/25 at 7pm. If Foresight Engineering or the client was not agreeable the public hearing would be held on 7/11/22 at 7pm. The motion was seconded by D. Roeder and approved by a 5-0 vote.**

The letter requesting such date will be drafted by R. Wood for J. Hughes with the request for any new materials to be to the Commission for distribution on the Wed/Thurs before the meeting.

**5. Public Hearing: Request for Determination of Applicability, filed by Andrew and Melissa Rosen for property located at 1210 Sheffield Egremont Road, Sheffield in accordance with the provisions of MGL C 131, §40. The purpose of the hearing is the proposal of an 18' x 36' swimming pool and to pave the existing gravel driveway.**

Chairman Ward opened the public hearing at 7:33pm. Mike Parsons was present as the applicant's agent. All Commission members, except R. Wood, were present at the site visit at 5pm on 6/27/22. M. Parson's went over the RDA application, noting the life of an RDA is three years. He provided a description of the buffer zone surrounding parts of the proposed work and a highlighted map illustrating these areas. The driveway is currently small gravel and will not be excavated, just paved over. The proposed pool will go in an existing lawn area and be about 6'-8' above a bank.

A request for the name of the pool contractor couldn't be answered, as it is believed the Rosen's have not hired this person and will do so after they know the RDA is approved and the specific conditions attached. M. Parsons noted the applicant's requested work will not alter areas subject to the WPA. He estimated the bank slope referenced earlier was approximately 11%. Erosion controls were discussed with straw waddle barriers preferred by the Commission to silt fences, with straw bales, where and as required in the bank area. The general contractor or the pool and/or paving contractor will be responsible for implementing conditions attached, if any, to an approved RDA, if the Commission takes that action. D. Roeder cited sections of the WPA, specifically 310CMR 10.02(1)(b)2.e and p.

**Chairman Ward made a motion to find, per WPA Form 2 – Determination of Applicability, a Negative Determination #3, subject to the following conditions: 1) Straw waddles will be placed around the entire perimeter of the swimming pool installation and the driveway paving. In addition, straw bales will be placed in the bank area below the slope where the pool construction is proposed; 2) the contractor will notify the Conservation Commission at least 4**

days prior to pool construction and driveway paving commencing, and after the straw waddles and bales are in place, so the Commission may approve the erosion controls prior to any construction beginning; 3) a minimal of fill will be used in the swimming pool construction and there will be no stockpiling of materials within the immediate area of pool construction; 4) all excavated materials are to be removed from the site on the same day there are excavated; however, if such materials must be left on the site for a short period of time, such materials must be tarped; 5) excavation and construction activities for the swimming pool must be only in the lawn area within the straw waddle erosion controls/limit of work space; and 6) after the bank below the pool construction area has been stabilized after construction, seeded, and mulched, the Sheffield Conservation Commission will be notified and conduct a site visit to confirm that the erosion materials have been properly removed. The motion was seconded by T. Pitman and approved by a 5-0 vote. The public hearing was closed.

**6. Continuation of Public Hearing: Request for Determination of Applicability, filed by The Nature Conservancy (TNC) for property located at Salisbury Rd, Barnum St, and Foley Rd., Sheffield in accordance with the provision of MGL C. 131, §40. The purpose of the hearing is to continue management activities to maintain and improve rare and common habitat in the Schenob Brook Preserve.**

Chairman Ward opened the continuation of the Public Hearing. TNC was represented by Renee Wendell. He referenced a letter dated 6/27/22 from the MA Division of Fisheries & Wildlife, which found that “this project, as currently proposed, will not adversely affect the actual Resource Area Habitat of state-protected rare wildlife species.” The Commission has been waiting for this letter and took no action at its last meeting.

R. Wood made a motion to find, per WPA Form 2 – Determination of Applicability, a Negative Determination #3, subject to the following conditions: 1)the same conditions apply as attached to the NOI issued earlier to The Nature Conservancy by the Sheffield Conservation Commission, except that for work as defined in this RDA application, no spraying will take place when winds are at 8 miles per hour or above. The motion was seconded by D. Roeder and approved by a 5-0 vote. The public hearing was closed.

**9. Discussion/Possible Action re: Enforcement Order for 1448 South Undermountain Road.**

The Commission’s peer review agent E. Stockman sent an email re: communication with Oxbow, the applicant’s agent (6/24/2022). A site visit was discussed but felt would be best later, as Oxbow had stated they hoped to complete their work in 2022. Chairman Ward volunteered to follow up.

**10. Commission Member Items.**

T. Pitman brought up the following concerns:

1) there is no one, other than in the Eastern part of the state, to deal with ACEC issues; he had recently spoken to Rep. Smitty on the matter. T. Pitman suggest Tom Ryan assume this responsibility. T. Pitman was asked to draft a letter to DCR citing the results of the

unavailability of this resource in the Western part of the state and make suggestions how to remedy. The Commission may then take up the draft letter at its next meeting.

2) He feels an ENF should be conducted on the Race Brook properties at 854 and 864 S. Undermountain Road. It was suggested he email E. Stockman his concerns while it is still possible for her to weigh in on the matter and the NOI has not been finalized by the Commission.

A. Rosoff and Chairman Ward discussed the matter brought up at the last meeting as to whether a utility company was placing poles in a wetland area. R. Wood reported what she had found out from the Town Administrator as well as how utility companies have a Select Board public hearing on all new or replacement polls. D. Ward volunteered to speak with National Grid in Great Barrington, after finding out who the foreman is, and investigate further.

This brought up the matters of policing, the Scenic Mountain Act, and Housatonic RR spray schedule.

**11. Public Inquires.** None, as no public was present.

T. Pitman stated he had discussed a matter with Burt B. on Miller Avenue who inquired about using goats to curb invasive species on a bank associated with Hubbard Brook. Comments were made on the eating habits of goats, as well as their potentially disturbing presence on a bank. It was the consensus of the Commission the person who spoke to T. Pitman should make a written inquiry and file an RDA.

Lastly there was a review of Lane Asphalt, corner of Rt 7 and Lime Kiln Road, and that it was exempt from the WPA until the land was sold to the solar developer. The solar developer conformed to WPA requirements and mitigated their presence in a floodplain and bordering vegetative wetlands. The solar developer sold the Lime Kiln fronting section to J. Wilkinson who has received a Planning Board permit for sale of construction materials. He is in the floodplain, but not sure if in any BVW. He needs to file appropriate NOI documents with the Conservation Commission regarding mitigation capacity storage, which can be on another parcel. Chairman Ward volunteered to discuss this with Joe Wilkinson and suggest he start by having the wetlands on the property delineated.

**12. Adjournment.**

**R. Wood made a motion to adjourn the meeting, which was seconded by T. Pitman and approved by a 5-0 vote.** The meeting adjourned at 8:55pm.

Respectfully Submitted,

  
Rene Wood, Commissioner

**Documents reviewed at this meeting:**

- 6/27/22 Sign in sheet
- 6/27/22 Meeting Agenda.
- RDA filed by The Nature Conservancy for 3 Sheffield properties re: management activities to maintain and improve rare and common habitat in the Schenob Brook Preserve.
- Letter from Division of Fisheries & Wildlife, dated 6/27/22, re: RDA from The Nature Conservancy
- Notice of Wetlands Protection Act File number Re: Lee Perlman; Perlman Pond at 689 Home Road, Sheffield, DEP email and letter dated 6/22/22.
- RDA filed by Andrew & Melissa Rosen re: installation of swimming pool and paving existing driveway at 1120 Sheffield Egremont Rd., Sheffield.
- Invoice for MACC Annual Dues FY23, dated 7/1/22
- Email dated 6/15/22 from Mary Grover DEP re: WPA regulatory filing requirements
- Email dated 6/24/22 from D. Ward to Brian Butler, Oxbow Associates re: status of 1448 S. Undermountain Rd, including email string from Oxbow Associates and E. Stockman.

