

Town of Sheffield
CONSERVATION COMMISSION
November 28, 2022
6:15pm & 7:00pm
Town Hall – First Floor Meeting Room

Commissioners present:

Don Ward, Chair
Ted Pitman, Vice Chair
Don Roeder
Anya Rosoff
Rene Wood

Others Present:

Select Board, Rhonda LaBombard, Jill Hughes
See sign in sheet for 7pm meeting

At 6:15 the Conservation Commission met with the Select Board, Town Administrator, and Assistant Town Administrator to review the specifics of a Conservation Commission Consultant the Select Board wishes to make available to the Commission until June 30, 2023, the end of FY23. The Commission had requested such assistance during the FY23 budget cycle. It was hoped this resource would also provide education on various aspect of the Commission's duties and build Commission knowledge. Discussion ensued with D. Roeder volunteering to follow up with Shep Evans, Great Barrington Conservation Commission's Agent on his duties for the Commission's 12/12/22 meeting. The consultant's background was reviewed, and the Commission will invite him to their 12/12/22 meeting. Administrative support was also reviewed including ongoing efforts to fill the open support position.

Chair Ward called for a recess until the 7pm meeting began.

Chair Ward called the meeting back to order at 7:05pm.

1. 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. Chair Ward opened the continued public hearing at 7:06pm.

M. Volk, the applicant's agent, presented an updated map of the site with restoration and mitigation areas shown, as agreed by the applicant's agents, including his attorney, E. Goodman, Emily Stockman, the applicant, and the Commission. The updated map reflected both the Enforcement Order requirements and those of the NOI. Restoration and mitigation have been done at a 2:1 ratio resulting in 43,000 square feet of "open space" to be subject to an in perpetuity clause in the submitted Declaration of Restrictions. The Declaration, which will be filed with the Southern Berkshire Registry of Deeds, contains items of maintenance the applicant may perform without prior written approval of the Commission, while other activities in the Open Space require such approvals.

Suggestions were made on how to better tie the draft map to the Declaration of Restrictions and more clearly delineate the Open Space area. Additional edits to the map will include the removal of 2 boxes

and associated lands from restrictions and a new map revision date. Suggestions on rewording a section of the Declaration were finalized with the applicant, to be done by his attorney.

E. Stockman expressed her support for the new Open Space area as it provides more habitat continuity than previously set aside areas and that the Declaration of Restrictions meets the requirements of both the Enforcement Order and the NOI.

Agreed upon requirements for moving to completion on both the EO and NOI:

- Implementation of adjustments to the map
- Adjustments to page 3 of the Declaration
- Upon approval, a copy of the signed and filed Declaration, stamped by the Registry of Deeds

The Open Space area was further discussed; the boundaries are marked by iron pipes at key points and the center line of the stream marks the boundary on that side of the property. Because of this application's complexity, the Commission wanted to make sure actions taken would be clear to future Commission members. An issue regarding the expiration date, unless extended, on Order of Conditions and the Open Space in perpetuity Declaration will be discussed by E. Stockman and E. Goodman, Esq. The applicant concurred with the actions discussed.

A lengthy email sent by M. Volk just prior to the meeting had not been read by commissioners or E. Stockman. All will read it after the meeting and, if any issues arise, will let Town Hall know so they may be forwarded to E. Stockman. E. Stockman will send any comments on the email to the Chair and Town Hall.

E. Stockman was asked to draft a letter for Commission's review on the Enforcement Order, as she had previously done for the Ligas EO. The draft will be reviewed and finalized, if possible, at the next meeting.

Casey Rothstein-Fitzpatrick, the applicant, requested a continuation of the public hearing to 12/12/22 at 7pm. **R. Wood made a motion to accept the applicant agent's request and continue the public hearing for 854 & 864 S. Undermountain Road until 12/12/22 at 7pm. The motion was seconded by D. Roeder and approved 5-0.**

2. Request for Determination of Applicability, filed by Richard & Catherine Goewey for property located on Waterfarm Rd, Sheffield, in accordance with the provisions of MGL C. 131, §40. The purpose of the hearing is to install a culvert for driveway access across a seasonal stream.

Chair Ward reviewed a letter from M/M Goewey requesting a continuation until 12/12/22 at 7pm. They have been unable to address the stream source issue discussed at the 11/14/22 meeting due to circumstances beyond their control. **R. Wood made a motion to accept the applicant's request and continue their public meeting until 12/12/22 at 7pm. The motion was seconded by T. Pitman and approved 5-0.**

3. Discussion/Possible Action regarding Residents Process for Potential Filings of Request for Determination of Applicability and Notice of Intent.

It was suggested this would be a good initial project for the Conservation Commission Consultant.

R. Wood made a motion to have the Conservation Commission Consultant review these 2 documents and provide recommendations to the Commission. The motion was seconded by A. Rosoff and approved 5-0.

4. Approval of Minutes, 11/14/22.

Minutes were reviewed with discussion focusing on #9, water and soil quality sampling and the conversation with A. Dixon of Housatonic Valley Association(HVA); see Commission Member Items below. Needed corrections were pointed out. **A motion made by R. Wood, seconded by T. Pitman, to accept the minutes of 11/14/22, as amended, was approved 5-0.**

5. Commission Member Items.

The Commission's mail was reviewed. The matter of water samples was further discussed. Eight locations have been discussed by Chair Ward, D. Roeder, and A. Dixon of HVA, at which HVA will sample and provide data. The format and storage of the data collected, from HVA and other sources, is under discussion. The eight locations will be noted in the next meeting's minutes.

6. Public Inquiries. None

7. Adjournment. D. Roeder made a motion to adjourn the meeting, which was seconded by T. Pitman, and approved 5-0. The meeting adjourned at 8:05pm.

Respectfully Submitted,


Rene Wood, Commissioner

Documents reviewed at this meeting:

- 2 - 11/28/22 Meeting Agendas; 6:15pm and 7pm
- List of possible activities for Conservation Commission Consultant
- 11/28/22 sign in sheet
- 11/14/22 draft minutes
- Email from Richard Goewey requesting continuation of his public hearing until 12/12/22
- Documents for 854 and 864 S. Undermountain Rd; Race Brook Lodge NOI, DEP file #281-0266, dated 11/10/22: email from D. Ward to commissioners dated 11/23/22 at 9:07am forwarding Emily Stockman's email exchange with M. Volk, dated 11/23/22 at 7:02am; email string from M. Volk to E. Stockman and E. Goodman dated 11/23/22 at 3:13pm; email from M. Volk to D. Ward and Town Hall dated 11/23/22 at 3:15pm; New map of proposed riverfront area restoration, revised site plan from Foresight Land Services, showing Open Space area and other updates and marked with further updates to be made and presented at 12/12/22 meeting; map labeled PR-179; map labelled E2955, dated 11/23 @2:31; Declaration of Restrictions.
- Draft Review of Jurisdiction form and determining if a building project is subject to WPA.

