

GREAT BARRINGTON CONSERVATION COMMISSION

Wednesday, February 23, 2022

Call to Order: Chairwoman Van Olst opened the meeting at 6:31pm. Those present via zoom:, Michael Lanoue, Andrew Mankin, David Shanahan, Kate Van Olst. Conservation Agent, Shep Evans. Absent: Andrew Didio

Public Meeting: The Commission is holding this public meeting to consider Requests for Determination of Applicability (RDAs) under the Mass Wetlands Protection Act, the Great Barrington Wetland Bylaw or the Berkshire Scenic Mountains Act as follows:

1. An RDA from Bob & Barbara Watkins, property at 7 Butternut Lane for the installation of a new subsurface disposal system within the Buffer Zone of a Wetland. Continued from January 26, 2022. Evans stated this is a revised septic plan from Kelly Granger Parsons; Mike Parsons was not in attendance. Mankin stated the request was to move the septic further from the buffer zone. Evans stated it was moved 14 feet and a maple tree was removed. There were no further concerns. **Mankin made a motion** to issue a negative determination #3 for the RDA for Bob & Barbara Watkins with the new plan as presented; **Lanoue seconded**. Van Olst asked if any discussion – there was none. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.
2. An RDA from Native Habitat Restoration on behalf of Berkshire Natural Resources Council, property at 267 North Park Street. The project consists of forestry mowing invasive plant species in two sections of the Rising Pond Conservation Area. Jess Toro, Native Habitat Restoration, shared a site plan and presented a request to start forestry mowing in the conservation area. A forestry mower will be brought in to mow larger invasives while the ground is frozen. Toro noted she would submit a Notice of Intent for the March Commission meeting. Van Olst asked if any questions/discussion or public – there was none. **Mankin made a motion** to issue a negative determination #3; **Lanoue seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Public Hearings: The Great Barrington Conservation Commission is holding these public hearings to consider Notices of Intent (NOIs) under the Mass Wetlands Protection Act, the Great Barrington Wetland Bylaw or the Berkshire Scenic Mountains Act as follows:

1. An NOI from BERKHILL72GB, LLC, property at 72 Stockbridge Road, for proposed repaving, a new handicap ramp and related site work. Continued from January 26, 2020. Mankin recused on this matter. Van Olst stated a quorum is required for meetings and for individual items to be voted on. If there is no quorum, then no action can be taken. Evans noted at the last meeting there was a continuance of the public hearing due to a lack of a quorum - this should again be continued to the March meeting. **Lanoue made a motion** to continue the Notice of Intent public hearing for BERKHILL72GB, LLC to the March 23 meeting; **Shanahan seconded**. Van Olst asked if any discussion – there was none. Roll call vote: Lanoue, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 3-0.

2. An NOI # 167-0436 from Foresight Land Services on behalf of L. Felson and J. Rosenblum for Bank stabilization at 56 River Street. Natural Heritage has approved with special conditions. Continued from October 2020.

Lanoue made a motion to open the public hearing for 56 River Street; **Mankin seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Jackson Alberti, Foresight Land Services presented Natural Heritage approval of the NOI and reviewed conditions all of which the Conservation Commission must include in its order of conditions.

Evans asked for the Commission to receive a copy of the mussel protection plan.

Mankin asked to inspect the site while under construction - Alberti stated it would be scheduled soon after construction begins.

Van Olst asked for any public input on 56 River Street – there was none.

Mankin made a motion to close the public hearing; **Lanoue seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Mankin made a motion to approve the NOI with the following two conditions – the conditions from Natural Heritage be included in the permit and the Agent to be notified when work starts so the Commission can do a site visit; **Lanoue seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Add on agenda item not for public hearing - Alberti presented a special permit request for 183 Division Street and shared the plan for the removal of a gravel driveway and revegetation of the area which passes through the buffer zone of a BVW. It was agreed that the RDA would be reviewed at the March 23 meeting. Alberti stated it is a requirement of the special permit to get Commission approval. C. Rembold clarified the special permit can proceed to the Planning Board while awaiting Commission approval.

3. An NOI from Greylock Design Associates for Eric & Jennifer Aronson, property at 9 Buttowndown Lane. The proposed project is for installation of native understory plantings as a restoration effort to replace trees and shrubs that were erroneously removed from the Riverfront Area.

Lanoue made a motion to open the public hearing for 9 Buttowndown Lane; **Mankin seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Rob Akroyd, Greylock Design, presented the site plan and provided a recap of the status/previous discussions on the renovation and restoration of indigenous understory plantings. He noted a DEP file number and comments from Natural Heritage were needed, but asked for input on planting ratio; brush mowing; and burning of brush stockpiles.

Mankin suggested planting up to the riverbank and managing for invasive species. R. Akroyd suggested 1.5:1 replacement ratio. The Commissioners asked to review the plant layout.

The Commissioners agreed there should be a five-year monitoring plan and annual report since the land had been harmed previously and the Commission would monitor any mitigation efforts.

Akroyd asked to continue the hearing to March 23 to discuss the plantings and Order of Conditions from Natural Heritage.

Van Olst asked for any comments/questions – there were none.

Mankin made a motion to continue the public hearing to March 23; **Lanoue seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Discussion: The Commission will discuss various items of interest or concern:

1. Donation of Land to the Town / Use of Conservation Funds: Seeking the Commission to Authorize up to \$7,500 from the Commission's Land Conservation fund be used to conduct Phase 1 environmental assessment and other due diligence and legal costs prior to accepting a donation of 24.787 acres of land adjacent to the Housatonic River, identified as Lot 20 on Assessor's Map 8, which is offered to the Town for conservation/recreation purposes.

Chris Rembold, stated the land is just under 25 acres located at the bend in the Housatonic River at the confluence of the River and Thomas and Palmer Brook behind Cove Bowl and Plaza Package. It is owned by the estate of Josephine Ely whose heirs seek to donate the land to the Town. Rembold described the land as overgrown floodplain/wetlands forest that is not very accessible, but abuts conservation land and has a 10' right of way from State Road. Rembold requested the Commissioners confirm interest in accepting the donation and approval to use up to \$7500 from the Conservation budget for due diligence including an environmental assessment and title/legal costs. Rembold stated the Town is not obligated to maintain the property and there is minimal tax impact. Evans stated from a biological and recreational perspective this is valuable land as well as a vibrant wildlife habitat.

Eileen Mooney stated there has been a long-time interest in the land and it is possibly a Native-American site. She encouraged the Commission to acquire it.

Mankin made a motion to accept the donation of property and authorize up to \$7500 from the Conservation Commission fund for an environmental study and other related expenses; **Shanahan seconded**. Van Olst asked if any additional discussion – there was none. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

2. A draft letter summarizing the Commission's November 29, 2021 site visit to several properties within the mapped Scenic Mountain Area along Castle Hill Ave. Continued from January 26, 2022. Mankin recused in this matter.

Evans stated he would send a draft letter for comments and asked for a quick turnaround.

3. Request from S-K Design Group on behalf of 79 Bridge Street Realty, property at 79 Bridge Street, seeking an extension of the Order of Conditions (DEP File # 167-0399) for three years to May 10, 2025 in order to complete the required monitoring of the Riverfront Improvement Area along the Housatonic Riverwalk as outlined in the Order, and to develop the site into The Berkshire Hotel as previously permitted.

Evans stated this is for the redevelopment of Searles Middle School on Bridge Street into a hotel and includes the restoration and biological/horticultural improvement of the Riverwalk. He added work has been stalled for years, but will begin again. The three-year term of the Order of Conditions will expire soon, so the owner is applying for a three-year continuance of the existing Order of Conditions with no changes to continue to do work along Riverwalk and redevelop the Middle School into a hotel.

Mankin made a motion to extend the Order of Conditions to May 10, 2025; **Lanoue seconded**. Van Olst asked if any additional discussion – there was none. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

4. Request from White Engineering to Amend the Order of Conditions (DEP File # 167-0439) adding a storm water system to manage groundwater encountered while excavating for a new foundation under the barn at 28 Kirk Street. Continued from January 26, 2022.

Brent White, White Engineering, provided an update on the barn renovation and groundwater on abutting properties. He proposed a system to better capture run off by pumping water into a leach field, as required, and adding an overflow/secondary pump to the catch basin. He added shrubs will be planted for better management of surface water. He expects to install the system by the end of March. His request is to amend the Order of Conditions.

Van Olst asked for any questions/discussion – Shanahan stated he had not visited the site, so cannot vote favorably. Van Olst noted the intention is to have lead time for site visits, though it is not always possible.

White asked for a vote as materials need to be ordered in advance of work and offered to schedule a site visit for Shannahan.

Van Olst stated the site is complicated, but the impact to resource areas is not – the current purpose is to keep the neighbor's basement dry.

Mankin made a motion to amend the Order of Conditions as presented; **Lanoue seconded**. Van Olst asked if any additional discussion – Van Olst acknowledged the issue around the site visit and emphasized the importance of Commissioners being well informed and having sufficient notice for site visits. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “no,” Van Olst, “aye.” Motion passed 3-1.

Van Olst asked that time be scheduled for Shanahan to see the site.

- 4a. Add on item – White presented a request to amend the Order of Conditions for 910 South Main Street to remove a tree in a buffer zone near building D. He stated the plan is to cut the tree, but leave the stump/roots and replant at a 2:1 ratio.

Mankin made a motion to amend the Order of Conditions for 910 South Main Street; **Lanoue seconded**. Van Olst asked if any discussion – there was none. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor 4-0.

Approval of minutes

Citizen Speak Time / Commission Speak Time

1. Dennis Iodice, Director of Operations Berkshire Mountain Bakery, inquired about next steps to remove dead trees on the Bakery's property on Park Street due to safety concerns. Evans suggested emergency certification for the removal of the trees. The Commissioners requested a site visit for this/next week and asked that the trees be clearly marked.
2. Ben Barrett, 35 Locust Hill Road, asked about the process to submit an RDA. Evans replied what is need is two copies of the RDA and plans associated with the work as well as a PDF of the whole package plus a \$120 filing fee. The matter might be added to the March 23 meeting agenda.
3. Imogen Parker asked for direction on request a floating dock on Lake Mansfield. Van Olst directed her to Evans and stated forms are on the Town website. She noted proposals generally include details, engineering surveys, maps, etc. She recommended Chris Rembold as a good resource.

Mankin stated he would not attend the March 23 meeting.

Next steps were discussed for new prospective Commission member, Tom Ferris.

Mankin made a motion to recommend to the Selectboard to nominate Tom Ferris to the Conservation Commission; **Shanahan seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Adjourn

Lanoue made a motion to adjourn; **Van Olst seconded**. Roll call vote: Lanoue, “aye,” Mankin, “aye,” Shanahan, “aye,” Van Olst, “aye.” All in favor, 4-0.

Chairwoman Van Olst adjourned the meeting by unanimous consent at 8:50pm.

Respectfully submitted,

Stacy Ostrow
Recording Clerk