

GREAT BARRINGTON CONSERVATION COMMISSION  
Meeting via Zoom and in person at 334 Main Street, Great Barrington, MA  
Wednesday, May 24, 2023

Call to Order: Chairwoman Van Olst opened the meeting at 6:40pm. Those present: Andy Didio, Tom Ferris, Michael Lanoue, Andrew Mankin, David Shanahan, Kate Van Olst.  
Also present: Conservation Agent, Shep Evans

Approval of Minutes of the April 26, 2023 meeting.

**Mankin made a motion** to approve the April 26, 2023 minutes; **Lanoue seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously; Shanahan abstained.

Notice of Intent (DEP # 167-0453) from EcoTech, Inc. on behalf of the Town of Great Barrington, property is the Lake Mansfield Road right-of-way and adjacent parking and recreation area. The proposed work consists of an upgrade and conversion of the roadway to a multi-use pathway and improvement of the existing parking and recreation area. Continued from April 26, 2023.

Arthur Allen, EcoTech, presented stating the latest version of the plans were sent, along with responses to DEP/Commission questions. He proceeded to provide details on plan changes including adding a 100-foot buffer zone and improvements in the proposed culverts. It was discussed that a qualified wetland scientist would be required to determine plantings in sensitive areas in the buffer zone and bank and that the Commissioners would want to meet with the person. Chris Rembold, Assistant Town Manager, confirmed the person would be qualified and available for ongoing conversation with the Commissioners.

Van Olst asked for any public comment – there was none.

**Didio made a motion** to close the public hearing; **Mankin seconded**. By roll call vote the motion was approved unanimously.

**Didio made a motion** to approve the application with the condition that prior to construction commencing the Conservation Commission would meet with the qualified wetlands scientist to review the plans; **Mankin seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Request for Determination of Applicability from Foresight Land Services on behalf of Berkshire Mountain Bakery. The property is at 367 Park Street, Housatonic. The proposed work consists of paving the existing gravel parking area. Continued from April 26, 2023.

Bryan Siter, Foresight Land Services, presented plans for stormwater management, clean-up within the buffer zone and planting of native species. Evans noted Mark Stinson, DEP, confirmed there is not a riverfront resource area adjacent and that a canal exists. Plantings were discussed and it was confirmed that a conservation mix should be used and single annual mowing to no less than four inches tall as is standard for a buffer zone.

**Didio made a motion** to issue a negative determination #3 with the condition that the area of buffer mitigation only be mowed annually to the length of no shorter than four inches; **Mankin seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Request for Determination of Applicability from TEC ASSOCIATES on behalf of the Housatonic Railroad Company, Inc. seeking certification of wetland delineations along their ROW. Continued from April 26, 2023.

Tom Lewis, TEC ASSOCIATES, presented noting that at the site visit markings and restricted areas were identified. The Commissioners discussed the degree and methods used for spraying - and noted application is done manually and can be effectively directed/controlled. T. Lewis clarified that a wetland sensitive herbicide is used as per state requirements and that the purpose of vegetation control is to ensure safety for trains and cars so tracks, signs and signals are not obstructed. It was further discussed that the boundary of the resource area cannot be accurately determined based on the plan submitted and due to a limited field of view and expertise. T. Lewis suggested the caveat that this is only for vegetation management and not suitable for another application.

**Didio made a motion** to issue a positive determination #2a with the condition it is only for the sole purpose of vegetation mitigation as described within the Railroad's right of way; **Mankin seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Request for Certificate of Compliance from Kelly Granger Parsons & Associates, Inc. on behalf of Tyler Langlois. Order of Conditions under Scenic Mountains Act, File # 6-6-19. Property is at 235 Monument Valley Road.

Evans presented stating that in 2019 movement of the house site required cutting of 18 trees and it was agreed that 18 trees would be planted in a designated area of the property. He stated he inspected the property and white pine, dogwood and birch trees have been planted.

**Mankin made a motion** to approve the Certificate of Compliance for 235 Monument Valley Road, **Didio seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Request for Determination of Applicability from Coneco Engineers on behalf of Mass Electric Co. . The property is 33-40 Blue Hill Road. The proposed work consists of utility pole installation along Blue Hill Road.

Michael Toolhill, Coneco, presented the request to place three new utility poles as part of a larger project involving the replacement of 13 poles and the addition of 11 new ones, three of which are jurisdictional. He also noted as part of the work 21 trees would be removed/trimmed.

**Mankin made a motion** to issue a negative determination #3; **Shanahan seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Notice of Intent (DEP # 167-0455) from SOLitude Lake Management on behalf of URJ Eisner Camp, property is at 53 Brookside Road. The proposed work consists of mechanical hydro-raking to manage nuisance aquatic vegetation in the Eisner Camp pond.

Evans stated this is a recreational pond at Camp Eisner for which there has been work over the years. He added that M. Stinson had made extensive comments, which include getting water quality certification and the matter should be kept open until that is received and the applicant responds to DEP comments.

**Mankin made a motion** to continue the public hearing to June 28 at 6:30pm; **Lanoue seconded**. Van Olst asked if any additional discussion – there was none. By roll call vote the motion was approved unanimously.

Discussion of the inclusion of “Land area within a five-hundred-foot distance of the Green River upstream of the water supply gallery. See Ch. 217-14.5.” in the list of Resource Areas in the Town Code Ch. 217-14.1.

Jonathan Hankin, 43 West Plain Road, stated the referred to sections of the Town Code amount to a taking away of property rights without recourse and with no permission/Town meeting vote. He added that a survey of his property indicates a 500-foot setback. There was discussion regarding the Green River and its relation to the water source for the Town.

Van Olst stated in 2022 the Commission reviewed the Wetlands regulations and at the May 25, 2022 meeting, the Commissioners voted to delete language on the Water Quality Protection Overlay District and correct some minor redundancies. She clarified that no other changes were made nor language added to the Bylaws which have existed since the 1970s. She continued to state no Town Meeting vote was required to approve as the Commission has the authority to provide guidance, interpretation and make changes to the regulations by vote at a public meeting. She added that the 500-foot jurisdiction from the water supply does not exclude work, it just requires an NOI/permit application to consider the risks of the proposed work and potential mitigation. Hankin replied it is not the water supply. Van Olst emphasized the significant value of protecting public water sources even if individual rights are curtailed. There was further discussion of the Town’s water source and how water moves continuously according to various variables, making it impossible to identify a definitive source. It was further discussed that the issue raised is about the underlying law, not property rights.

#### CITIZEN SPEAK TIME

- a. Ferlain Torresmarin asked about next steps regarding his property on Brush Hill Road for which there is an existing Enforcement Order. Evans explained gravel was put in and a pipe installed to conduct water from the wetlands area around and under a planned driveway – but the owner was not aware of the wetland issues/requirements. He stated the owners have agreed to removing the gravel and pipe and adding conservation mix to rectify the situation. The Commissioners agreed with the plan.

CONSERVATION COMMISSION’S TIME – There were no comments.

#### MEDIA TIME

- a. Eileen Mooney stated that in the 1970s there was little known about the water sources in GB - there was concern about their protection, but few ways to protect it. She added there are no reasons to relax restrictions.

ADJOURNMENT – **Mankin made a motion** to adjourn; **Didio seconded**. By roll call vote the meeting was adjourned by unanimous consent at 8:13pm.

Respectfully submitted,

Stacy Ostrow, Recording Clerk