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CITY OF PITTSFIELD

PITTSFIELD CONSERVATION COMMISSION, CITY HALL, 70 ALLEN STREET, PITTSFIELD, MASSACHUSETTS 01201
413-499-9359

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, MGL Chapter 30A, Section 18, and state and federal orders and guidance imposing strict limits on the number of people that may gather in one place, this hearing of the Pittsfield Conservation Commission will be conducted exclusively via remote participation. For this hearing, members of the public who wish to watch the meeting may do so on PCTV. Public comment may be made prior to the meeting by calling 413-499-9359 or by emailing rvanderkar@cityofpittsfield.org. Live public access via telephone will also be provided through the dial-in information listed below. In the event that we are unable to do so, we will post an audio or video recording, transcript, or other comprehensive record on the City's website as soon as possible after the meeting.

Dial: 312 626 6799

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MINUTES CONSERVATION COMMISSION Wetlands Protection Act Public Hearing Remote Meeting Via Zoom Thursday, June 3, 2021 at 6pm

Chair Conant called the meeting to order at 6:00 p.m. Those in attendance are noted below.

Chair Conant informed all in attendance that in accordance with MGL Chapter 30A, Section 20, voices are being recorded and pictures are being taken of all in attendance.

1. Roll Call

Members Present:

James Conant, Chair
Thomas Sakshaug, Vice Chair
Franz Forster
Nick Caccamo
Elizabeth Calebaugh
Stephanie Storie

Members Not Present:

Jonathan Lothrop

A quorum was present.

Also Present:

Robert Van Der Kar, Conservation Agent
Ted Kozlowski, Clerk

2. New Business:

- A. Continued: Mass DEP File #263-1158: Notice of Intent application for the use of hydro-rakes and aquatic herbicides/algaecides to manage aquatic nuisance vegetation on property located at 669 Churchill Street in Pittsfield (Map D13, Block 2, Lot 2.) Such actions are proposed to occur within Inland Bank and Land under Waterbody. The applicant is Jeffrey Carr.

Mr. Sakshaug made a motion to continue the item to the June 24, 2021 meeting; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- B. Continued: Mass DEP File #263-1162: Notice of Intent application for the construction of a single-family house and associated appurtenances on property located at Blythewood Drive in Pittsfield (Map D11, Block 1, Lot 112.) Such actions are proposed to occur within buffer zone associated with Bordering Vegetated Wetlands. The applicant is Todd Driscoll.

Jim Scalise, SK Design Group came forward to speak on the application. The applicant proposes to build a single family house. A site visit was conducted for the old road that was discovered and improved without permission. The applicant owns both lots. They propose to restore the area immediately before any other work. They would like to start the work tomorrow.

Mr. Van Der Kar gave his review of the application. He crafted some conditions for the project. Restoration was not part of the original submittal; it is now. The commission can issue the Order or issue an Enforcement and hold on the Orders until the enforcement work is done.

Mr. Caccamo asked about the driveway material; it seems large for the footprint of the house. They show an 18ft gravel driveway with a turnaround. The exact layout is not set; it was more for illustrative purposes. The applicant wants a turnaround, so they gave him a couple options; it is doubtful he would want both.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue Order of Conditions 1-32; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

Mr. Sakshaug made a motion to issue an Enforcement Order requiring the owner to restore the impacted BVW and buffer zone, using the restoration plan provided in the Notice of Intent; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- C. Mass DEP File #263-1163: Notice of Intent application for the renovation of a single-family house and related site work on property located at 4 Appletree Point in Pittsfield

(Map D12, Block 3, Lot 2.) Such actions are proposed to occur within Bordering Land Subject to Flooding. The applicant is Henry Simkin.

Jackson Alberti, Foresight Land Services came forward to speak on the application. The applicant proposed the renovation of an existing house. It will be constructed on piers. Three trees will be removed and replaced with 1.5-2.5" Red Maples. There will be minor regrading to direct storm water away from the house. There were some issues with water pooling against the existing house. The site would be accessed through the gravel road on Appletree. They show a staging area lined with straw and a silt fence. They are proposing only the removal of material.

Mr. Sakshaug asked why the trees will be removed. They are only a few feet from the proposed renovation. They will replace them in a similar location.

Mr. Van Der Kar gave his review of the application. The wetland lines look good. He had the same concerns as the DEP had regarding the survey datum. Survey datum needs to be tied into the 29 datum. At this point the commission may want to wait to get the information. It's not a big project, but it has to be understood better.

Mr. Sakshaug noted there was also some concern that if the house is in the floodplain, it needs to be floodable. That makes the elevations very important.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to June 24, 2021; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- D. Mass DEP File #263-1156: Request for Amendment to Order of Conditions for work associated with a proposed seasonal dock on property located at 565 Pecks Road in Pittsfield (Map F14, Block 3, Lot 19.) Such actions are proposed to occur within Inland Bank And Land Under Waterbody (Onota Lake). The applicant is Marc Rudoltz and Lisa Hochman.

Brent White came forward to speak on the application. An existing dock has been memorialized. They propose to remove the permanent dock and the installation of a seasonal dock. Under the Chapter 91 setbacks, they've demonstrated their setbacks relative to the neighbors. The dock will be removed at the end of the season and stored. Natural Heritage has signed off on the project.

Mr. Sakshaug asked if the removed docks are being replaced with anything. The intention is to remove some of the vegetation and debris. Some of the decking will remain intact. Most of the boardwalk will remain; it's mainly just the dock going out into the water which will be removed.

Mr. Van Der Kar gave his review of the application. He does not have a problem with that. The Orders would remain the same and just substitute the amended plan.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue an Amended Order of Conditions, replacing the previously approved plans with the May 17, 2021 plans; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- E. Continued: File #21-16: Request for Determination of Applicability for the relocation of existing canoe racks on property located at 1450 North Street (Map H16, Block 99, Lot 0.) Such activities are proposed to occur within buffer associated with Bordering Vegetated Wetlands. The applicant is the Pines Condominium Association.

James Scalise, SK Design Group came forward to speak on the application. The work is all done. They are requesting the RDA can move forward.

Mr. Van Der Kar gave his review of the application. The commission received today a restoration memo indicating the work has been done. He noted the work appears to be done. There were a couple substitutes on the plantings. The new species should do well. The commission can issue a Negative 3 Determination. The racks should be set back away from the wetlands.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 Determination with the special condition noted below; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- There shall be no more than 4 racks holding 6 kayaks and/or canoes each. All racks are to be placed no closer than 10ft from the bordering vegetated wetland areas.

- F. File #21-17: Request for Determination of Applicability for the removal of woody vegetation on property located at 4 Hancock Road (Pontoosuc Lake Dam - Map H15, Block 4, Lot 2.) Such actions are proposed to occur within Riverfront Area, Bordering Land Subject to Flooding, and Inland Bank.

Daniel Nitzsche, GZA came forward to speak on the application. The dam is at the outlet section of Pontoosuc Lake. The rip rap areas are the ones with woody vegetation. It has to be removed periodically for dam safety. If the vegetation is too big, they may have to excavate, but they don't believe that is the case. That is on both sides of the outlet. He reviewed pictures showing the specific areas to be cleared. This is an ongoing maintenance project for these dams.

Mr. Van Der Kar gave his review of the application. RDAs are the typical path for these projects. In this case, there are three resources areas involved. He wasn't sure how far south the clearing needed to happen. Could they keep some of the vegetation? The rip rap needs to be free of vegetation; it's a requirement as it's considered part of the structure.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 Determination; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- G. File #21-18: Request for Determination of Applicability for the resurfacing of Route 8 (Dalton Avenue) and its associated work. Such actions are proposed to occur within Riverfront Area and Bordering Land Subject to Flooding. The applicant is the Massachusetts Department of Transportation.

No one came forward to speak on the application.

Mr. Van Der Kar gave his review of the application. They are resurfacing in the riverfront will be exempt, which is what they are here for. The commission can issue a Negative 2 Determination.

Seeing no further debate or discussion, Ms. Sakshaug made a motion to issue a Negative 2 Determination; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- H. File #21-19: Request for Determination of Applicability for the installation of a stormwater rain garden on property located at 20 Chapel Street (Map C4, Block 2, Lot 2.) Such actions are proposed to occur within Riverfront Area and Bordering Land Subject to Flooding. The applicant is the Berkshire Environmental Action Team.

Ben Naylor came forward to speak on the application. They propose to treat runoff with a rain garden. The walkway is intended to be installed as a berm for the back of the raingarden as well as a handicap access to the garden. The garden is oversized to hold a 25-year storm.

Jane Winn, BEAT added the pathway is planned to be vegetated and will not be impervious.

Mr. Van Der Kar gave his review of the application. The commission knows this is a good project. He expects it to be the best rain garden in the area. He would like more information on the invasive species in the area, how they plan on doing it and what they plan to replace them with. They are not proposing to work on the bank. All plantings going in will be native. Ms. Winn noted they do not plan on working on the bank at this time. They will be back in the future for the bank vegetation.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 2 Determination; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- I. File #21-20: Request for Determination of Applicability for the installation of underground shield wire counterpoise at the Eversource substation properties located off Partridge Road and Doreen Street. Such actions are proposed to occur within buffer zone of Bordering Vegetated Wetlands. The applicant is Eversource Energy.

Melissa Coady, Tighe & Bond came forward to speak on the application. The applicant proposes to install counterpoise. They will excavate a trench, which will then be stabilized. She reviewed the specific work being done at each location.

Mr. Van Der Kar gave his review of the application. He asked Ms. Coady to explain what counterpoise was. **David Askew, Eversource** noted it is for grounding used for lightning protection. The commission can issue a negative determination.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Negative 3 Determination with the special conditions noted below; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- Any newly exposed soils as a result of this project are to be secured with proper erosion controls and stabilized with loam and native seed.

- J. Continued: Mass DEP File #263-1089: Request for a Complete Certificate of Compliance for property located at 44 Shore Drive (Map E13, Block 8, Lots 11.) The request is being made by Raymond Wallach.

Mr. Van Der Kar gave his review of the application. This is not a typical request. The plan change he is requesting can be considered a standard plan deviation. The Order specified a seed mix in a 10ft area, maintained once or twice a year. He would like to reduce that to 3ft and plant woody shrubs in place of the herbaceous seed mix. The commission can either stick with the original Order or allow the plan deviation.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a Complete Certificate of Compliance with the deviation requested; it was seconded by Ms. Calebaugh and was denied unanimously by a Roll Call vote.

- K. Mass DEP File #263-1105: Request for an extension to Order of Conditions for work done on property located at 623 Lakeway Drive in Pittsfield (Map F13, Block 1, Lot 18.). The applicant is William and Karen Schmidt.

Brent White, White Engineering came forward to speak on the application. This property received an amendment in 2019. Shortly after that the amendment was appealed by an abutter and is still ongoing. They are requesting that the Order be kept open while the process continues.

Mr. Van Der Kar gave his review of the application. He had no issue with the request.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue a 3-year extension through XXXXXX; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- L. Mass DEP File #263-998: Request for a three-year extension to the Order of Conditions issued for the application of aquatic herbicides at Richmond Pond. The applicant is Solitude Lake Management.

Dominic Meringolo, Solitude Lake Management came forward to speak on the application. The town of Richmond has been conducting a management plan for aquatics. The program has been very successful.

Mr. Van Der Kar gave his review of the application. The commission can issue an extension.

Chair Conant asked the date of the original Order; it is approximately 8 years old. He asked Mr. Van Der Kar if he has the documentation regarding the products, rates, the schedule of application and the period surveys. They have some but do not get all of that information. Mr. Meringolo noted they've been using XXXXX on the Curly Pondweed and Spiny Nyad. He can send as much information as the commission would like; he will coordinate with Mr. Van Der Kar. Chair Conant's concern was this is an old Order and feels this needs to be renewed and examined. He suggested that the next time, this should not be automatically renewed and a new NOI be required.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to issue an extension of the Order Of Conditions through May 22, 2024; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- M. File #EP 21-03: Ratification of Emergency Certificate for spot excavation of sediment and woody debris on property near 241 Mountain Drive (Map M5, Block 2.) The applicant is the City of Pittsfield Department of Public Services.

Mr. Van Der Kar gave his review of the application. This is response to some of the bigger storm events we've had recently. They didn't have to excavate but remove the woody debris to get the water flowing again.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the certificate; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- N. File #EP 21-04: Ratification of Emergency Certificate for spot excavation of sediment and woody debris on property located at 16 & 26 Leona Drive (Map M7, Block 3.) The applicant is the City of Pittsfield Department of Public Services.

Mr. Van Der Kar gave his review of the application. This is essentially the same issue as above.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the certificate; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- O. File #EO 21-01: Ratification of Enforcement Order for work done at 140 Hancock Road (Map G16, Block 19, Lot 6.)

Mr. Van Der Kar gave his review of the application. This is in response to extra fill in the flood zone. He will check the grade tomorrow.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Enforcement Order; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- P. File #EP 21-05: Ratification of Emergency Certificate for the removal of a standing dead Ash tree on property located at 140 Blythewood Drive (Map D11, Block 2, Lot 21.) The applicant is Michael Riordan.

Mr. Van Der Kar gave his review of the application. He doesn't normally like to do these for single family homes, but this tree is really dangerous. The tree has already been removed.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Emergency Certificate; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

- Q. File #EO 21-02: Ratification of Enforcement Order for work done at 1520 West Street (Map B9, Block 1, Lot 104.)

Mr. Van Der Kar gave his review of the application. This is the second Enforcement Order on this property. The owner installed a septic system in the BVW; that same BVW was supposed to have been

restored two years ago as part of another Enforcement Order. This order combines the two issues. The owner is doing restoration work now. An NOI will be needed for the septic system.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Enforcement Order; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

R. File #EO 21-03: Ratification of Enforcement Order for work done at 43 Taylor Street (Map H6, Block 7, Lot 10.)

Mr. Van Der Kar gave his review of the application. He received new information today from the property owner. He claimed the trees were damaged during a storm. The issue is they took the wood and stacked it on the bank. They need to remove the wood and restore.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Enforcement Order; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

S. File #EO 21-04: Ratification of Enforcement Order for work done at 31 Meadow Ridge Drive (Map C8, Block 1, Lot 136.)

Mr. Van Der Kar gave his review of the application. The owner had expanded his lawn, cutting trees, exposing soil and raising the elevation. This is another restoration and stabilization and the submission of an NOI.

Seeing no further debate or discussion, Mr. Sakshaug made a motion to ratify the Enforcement Order; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

T. Other Business:

A. Review and discussion of Berkshire Scenic Mountain Act and draft Lake and Pond Setback Ordinance.

Mr. Sakshaug noted there are two ordinances they propose to send to the city council. They plan to submit the Berkshire Scenic Mountain Act first and see how it goes.

Mr. Sakshaug made a motion to send the proposed Berkshire Scenic Mountain Act to the city council; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

B. Minutes from the May 13, 2021 meeting.

Mr. Sakshaug made a motion to accept the minutes as presented; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

U. Adjournment:

Mr. Sakshaug made a motion to adjourn at 7:20pm; it was seconded by Ms. Calebaugh and was approved unanimously by a Roll Call vote.

Submitted by Ted Kozlowski, Clerk

