

**CONSERVATION COMMISSION  
DRAFT MINUTES  
June 17, 2015**

**MEMBERS PRESENT:** Byron Quinn, Al Alessi , Cyndy Kozara, Lynn Peterson, Bethany Powers  
**MEMBERS ABSENT:** Lea Kachadorian, Alan Willard  
**OTHERS PRESENT:** Tom Hayes, William Pidlipchak, Harry Bumps, Dianne Bumps, Michael Brands

**I. OPENING OF MEETING**

Chair Quinn opened the meeting at 7:30 p.m.

**II. MINUTES**

The minutes of May 20, 2015 were approved as amended.

**III. NEW BUSINESS**

**A. T-4565-15 Pidlipchak**

Application is for Conditional Use Approval to reinstate Subdivision Permit T-4349-12 and to excavate within the Conservation Overlay District (wetland buffer). The property is located on 148 Iver Johnston Road and is zoned Residential Five Acres / Wetland Overlay.

Mr. Pidlipchak presented the application.

The CC reviewed numerous maps and a survey of the property.

The applicant constructed a driveway just east of pond within the wetland buffer, excavated an area north of pond for a proposed home site and excavated an area east of existing home.

The CC is only reviewing the potential impact to the wetland. The other issues would be heard by the TDRB on June 23.

The applicant received a Conditional Use permit dated August 7, 2012 to subdivide property into two lots. The location of the driveway for the proposed house site was approved to run through a section of the wetland buffer. The Notice of Decision noted a

50' wetland buffer setback. The setback had been changed per Town Zoning Regulation rewrite in July 2010 to 100'.

Mr. Pidlipchak felt the subdivision approval allowed for construction of the driveway, did not just establish the location. He, therefore, started construction of the driveway and did additional excavation as well that exceeded the 5,000 square foot threshold for a Conditional Use Review.

In late summer of 2014, the Town Planner was made aware of the excavation and driveway construction. The applicant was asked to stop all work until the required permits were in place. The issue had been on hold due to the winter weather that made it impossible to do remedial excavation.

The wetland area denoted on the Critical Areas map is a pond. It is recognized as a wetland by both the State and Town. The pond was created in the 1950s as a fire protection pond. Fire ponds were commonly funded by state and federal governments at the time.

The area surrounding the pond is all firm ground, the only wet area is the pond itself. It appears the pond site was never a wetland but that was not confirmed. Neighboring areas lower and closer to Route 4 are wetlands containing the typical wetland vegetation and boggy soil characteristics.

In constructing the driveway, Mr. Pidlipchak actually improved on the survey design by relocating the driveway further away from the pond and by adding a number of swales and culverts to divert water from entering the pond. Storm water is diverted to lawn areas surrounding the pond.

Four members of the CC (Alessi, Kozara, Peterson and Powers) conducted a site visit on May 11, 2015 with Mr. Pidlipchak and the Town Planner.

Neighbors to the east, Mr. and Mrs. Bumps, stated they had no concerns with work conducted within the wetland buffer area.

In discussing the wetland, the CC agreed the wetland in question is a long standing pond with a well established form, the driveway is constructed further away from the pond than had been planned originally per subdivision approval, and a number of swales and culverts were placed to keep water runoff from entering the pond.

**After additional discussion, Mr. Peterson motioned with a second by Mr. Alessi to recommend approval of the application concerning the potential impact on wetlands as presented.**

**The motion passed with a 5-0 vote.**

**B. V-3148-15 Kevin & Diane Dugan**

Application is for Conditional Use and Design Review Approval to construct a pathway and irregularly-shaped fieldstone terrace with fire pit incorporated therein. The property is located on 37 Elm Street and is zoned Residential Low Density / Design Review / Riparian.

The applicant was not present, the Town Planner presented the application.

The Commission reviewed a number of photographs and a site plan of the path and terrace.

An application to construct a path and stone terrace with a fire pit within the riparian buffer was approved last year. At that time the CC had conducted a site visit.

The resulting permit was appealed by the neighbors. The Environmental Court rendered a decision stating the application did not list these three items and therefore the items were not approved. The owner is resubmitting application to bring the items into compliance.

The path and stone terrace with fire pit have been constructed.

A letter signed by the Dugans and two neighbors: Ms. Billings and Ms. Falvey was reviewed by the CC. The Dugans agreed to remove the fire pit from the application. The neighbors dropped their opposition to the path and stone terrace within the 100' wide riparian buffer.

Although the fire pit would not be used, there is no plan to fill in the area. The applicant noted the pit would be used as a planter.

The terrace would be used as an area to sit and enjoy the brook. An unpaved path is constructed through the riparian buffer area. The buffer area with the exception of the terrace and path would be allowed to regrow thus replacing the riparian vegetation in a natural way. The owner also planted numerous shrubs and small trees as part of the previously approved landscape plan.

The CC reviewed the original permit issued in 2014. The Environmental Court's decision not to allow path, terrace and fire pit in the 100' riparian buffer due to the fact it was not specifically written on the application was also discussed.

With a three foot wide 80' long path and a 14' x 16' terrace, the area of vegetation removal is calculated to be 464 square feet. The riparian buffer area is 150' x 100' or 15,000 square feet. Based on these numbers, the removal of vegetation would be 3.1 %. This is below the 5% removal of vegetation allowed per Section 403 of the Village Zoning Regulations.

**After additional discussion, Ms. Kozara motioned with a second by Mr. Peterson to recommend approval based on the fact that the removal of riparian vegetation is less than 5% of the buffer zone.**

**The motion passed with a 5-0 vote.**

**C. V-3153-15 Frost Mills Nominee Trust LLC**

Application is for Conditional Use and Design Review Approval to build an 81 s.f. tree house. The property is located on 4 Benson Place and is zoned Residential High Density / Design Review / Riparian.

Mr. Hayes, attorney, presented the application.

The CC reviewed a number of photographs and a site plan of the proposed work.

The owner would like to construct a tree house for children to play in.

The tree is located 40' from the top of bank. The 100' riparian buffer is measured from the top of the bank, therefore the tree house is within the riparian buffer zone.

The tree was selected as it has low branches which make entering the structure easier.

The floor of the tree house would be 8' 9" above ground. The site is 20' above the mean high water mark of the Ottauquechee River.

The tree house is architecturally designed and would measure 9' x 9' or 81 square feet. The tree house is all walls and a floor. It would have no roof. Building material would be rough cut pine.

The Design Review Board will review the application on July 1, 2015.

A lawn area surrounds the tree. There are many trees spread through out the site. The lawn is an irregular shape. Some areas closer to the river bank have riparian vegetation. There would be no removal of additional riparian vegetation.

During construction all materials and equipment would be hand carried to the site.

There would be no established path to the site. Access would be random from all areas of the lawn.

Ms. Kozara noted concern with riparian buffer impacts whenever structures are placed within the buffer. She suggested that the structure be built outside of the riparian area.

Mr. Peterson asked about the health of the tree. It does not appear to be healthy in the various photographs.

Mr. Hayes noted placement of nails and screws in the tree are avoided. Strategically placed blocks of wood would be used to attach the structure to the tree.

Ms. Kozara is concerned with the cumulative impact of building in the riparian buffer. Precedence is an issue. The riparian regulations need to be more clearly written.

Ms. Powers noted children will play under a tree house, will generate activity in the riparian zone.

Mr. Hayes noted the owner will plant shrubs and trees along the riverbank. Japanese knotweed has been eradicated from the bank and they are working with State officials to replant the area with the appropriate vegetation. A photograph from across the river shows the area of Japanese knotweed removed.

The CC agreed that most of the impact would be from access to the structure and not from the structure itself as it is located nine feet in the air.

The impact of people walking to or playing under the structure is unknown, the current owners are not full time residents.

**After discussion, Mr. Alessi motioned with a second by Mr. Peterson to recommend approval with a condition that the structure shall be removed if dislodged from its support structure due to tree health issues.**

**The motion passed with a 4-1 vote (Ms. Kozara voted against)**

#### IV. OTHER BUSINESS

##### A. Pidlipchak

Mr. Pidlipchak asked about dredging his pond in the future and the subsequent disbursement of materials. The Town Planner felt that as long as the dredged material was spread over the lawn areas as a top cover similar to adding mulch or compost a permit would not be necessary. Should the owner desire to use the dredged material to substantially change a sloped area than a permit would be necessary. Currently there are no regulations regarding dredging a pond as long as the size and location of the pond are not changed.

##### B. Taftsville Solar Farm

Due to a recently completed wetlands delineation, Mr. Garden, Triland Partners, will amend his solar farm proposal to be located further east than originally proposed. The relocation of the site would avoid the wetlands, distance it from the historic cemetery and would be less visible when viewed from Route 4. The negative is that the site would be closer to Taftsville and the eastern border property owners.

##### C. Riparian Buffer Items

In July, the CC will hear the Rubinton application, requesting of an already built stone terrace and stairs built within a riparian buffer.

Mr. Alessi asked about work being done in a riparian buffer along the Barnard Brook on Pomfret Road. Railroad ties have been placed near the site. A mound of dirt was created due to excavation work conducted in December of 2014. The Town Planner will look into the situation.

Ms. Kozara showed the CC a photograph of fairly tall planters placed on a terrace which had been permitted to be built in the riparian flood zone along the Kedron Brook on Cross Street. This is an example of creeping un-permitted development within the riparian buffer. The permit allows just a terrace flush to ground. The Town Planner will look into the situation.

**V. NEXT MEETING**

The next meeting is scheduled for July 15, 2015.

**VI. ADJOURNMENT**

The meeting was adjourned at 9:30 pm.

Submitted by:

Michael Brands, AICP  
Town Planner