

**CONSERVATION COMMISSION  
MINUTES  
July 19, 2017**

**MEMBERS PRESENT:** Byron Quinn, Al Alessi, Bethany Powers, Bo Gibbs, Cyndy Kozara  
**MEMBERS ABSENT:** Lea Kachadorian, Lynn Peterson  
**OTHERS PRESENT:** Stacie Pearson, Jack Facey, James Zilian, Liz Huston, Pieter Bohen, Jack Rossi, Dick Schulz, Eric Schulz, David Dana, Michael Brands

**I. OPENING OF MEETING**

Chair Quinn opened the meeting at 7:00 pm.

**II. MINUTES**

The June 21, 2017 minutes were approved as submitted.

**III. NEW BUSINESS**

**A. T-4758-17 Stacie and Keith Pearson**

The application is for Conditional Use & Conservation District Overlay Approval to replant riparian vegetation. The property is located on River Road and is zoned Residential 5 Acres / Conservation District.

Ms. Pearson and her attorney, Mr. Facey presented the application.

The Conservation Commission reviewed numerous photographs and maps of the 8.7 acre River Road parcel.

The Town Planner noted on June 12, 2017, trees had been cut within the 100' riparian buffer along the Ottauquechee River. The contractor was contacted and informed of the riparian buffer regulations. Returning to the site on July 12, 2017, all trees had been removed from a hill side stream that passes through the same parcel. The stream has a 50' riparian buffer on each side of the stream. The Town Planner had been informed by the workmen that the trees were removed to improve the view to the river. Road side trees were also removed at the same time.

The Town Planner indicated that he received a letter on July 17, 2017 from the landowner's attorney stating that the property was to be used for a hay field and, therefore, carried an agricultural exemption.

The Town Planner noted there are rules governing agricultural riparian buffers as well and referred to “The Required Agricultural Practices Rule for the Agricultural Nonpoint Source Pollution Control Program” adopted in December 2016. These rules require a 25’ vegetative buffer and retention of native vegetation along the banks of a water body.

In the case of the stream, all vegetation was removed and the soil was regraded right up to the water’s edge. Approximately 11 trees were removed from the Ottawaquechee River bank, although the roots were retained and the soil was not disturbed.

A landscape plan was submitted at the time of application that proposed replacement of the lost trees.

Mr. Facey restated that the use is agriculture and therefore is exempt from local regulation. The site is to become a hay field and would be mowed by Bill Emmons, a Pomfret farmer. A future intention is to have cows pastured on their property.

The Pearsons recently purchased the Kannenstine property on the east end of River Road. They own the abutting property in Pomfret.

Mr. Facey stated that since no application is necessary due to the agricultural exemption that the Pearsons should withdraw the application.

The Town Planner felt the application should be continued until the legal issues are resolved.

Mr. Alessi stated that the Town supports agriculture. He noted that the recent Tropical Storm Irene was a very traumatic event locally. He stated that the riparian regulations are very important especially for riverbank stability.

Ms. Pearson stated she had spoken with two State employees about streambank alterations, Dan Mason and Scott Jennings, after the work was completed.

The CC asked Ms. Pearson who was the individual that indicated the trees could be removed without a permit.

Ms. Pearson replied she had not spoken to any officials before she did the work, but gathered general information on the subject which inferred a permit was not necessary.

Ms. Pearson does intend to replace trees and the stone wall along the town road in the future.

After further discussion, the application was continued to the September CC meeting. A decision on the applicability of the local regulations will be made by then.

**B. T-4759-17 Zoe & James Zilian**

The application is for Conditional Use & Conservation District Overlay Approval to restore the river bank contours and replant the riparian vegetation. The property is

located at 1837 West Woodstock Road and is zoned Light Commercial / Conservation District.

Mr. Zilian, Mr. Schulz, contractor, and Mr. Rossi, landscape architect, presented the application.

Both applications, T-4759-17 and T-4760-17, were reviewed together. The abutting parcels are owned by the same landowner with the same issue.

Mr. Zilian owns Farmhouse Pottery which operates out of the old bible bindery building which had been in business for more than 50 years.

Three members, Chair Quinn, Ms. Gibbs, and Ms. Powers visited the site on Friday, July 14, 2017 with the Town Planner, Dick Schulz, Eric Schulz and Jack Rossi.

Numerous photographs, maps and a landscape plan were reviewed.

The Town Planner discovered the riparian buffer excavation on June 2, 2017. Over an acre of land was excavated with the vegetation removed. The lower area closest to the river was not touched.

The 100' riparian buffer extends from the river to the back wall of the building. This is also the area of the flood plain. The floodway is closer to the river. Soil and a new access to the lower section were added to the site.

In February 2017, a contour map of the site was created by Holden Engineering showing the existing contours before the excavation took place. The Town Planner feels the land should be restored to the February 2017 contours and needs to be replanted with riparian vegetation.

The owners intend to remove all additional materials from the floodplain and floodway areas to restore the land to its original contours as depicted in the February 2017 site plan.

The intent of the excavation was to access the lower area near the river. A +/- 10' wide cow path runs parallel to the river. The bank directly behind the building is quite steep. A farmer owns land on both sides of the Zilian's property.

The regulations allow up to 5% of the riparian area to be used for footpaths. The existing cow path exceeds the 5% threshold. Therefore, additional paths would not be allowed.

The eastern portion of the site is more open and flattens out. Here the Zilians may place sheep or goats in the future. The neighboring property has pasture for cows in this area.

The Zilians wish to create an agrarian environment to attract clients and to tie into their nationally recognized farm house pottery products. At the moment there is no set idea and they are still thinking through future plans for the property.

Dick Schulz noted the 100' buffer is marked with stakes and is drawn on the Rossi landscaping plan. The floodwaters generated by Tropical Storm Irene did not come up the bank. The bank is very steep.

Mr. Rossi described his base site plan. The stone wall running along the base of the bank measures 14' from the easternmost edge and 30' from the westernmost edge of the river. The area on the riverside of the wall was not disturbed. A cow path runs parallel to the stone wall. All land excavation and vegetation removal occurred above the stone wall toward the building.

There are numerous pieces of construction debris accumulated over the years under the prior ownership. The best solution would be to remove the debris. However, removing the debris would require additional excavation work and the potential loosening of the bank's soil structure.

The landscape plan was reviewed. Seven trees are proposed for the site: 1 Box Elder, 3 Red Maple, 1 Black Cherry, and 2 Black Willow. Hundreds of shrubs are planned for the site: 2 species of Dogwood, Chokecherry, Elderberry, and Arrowwood. A large area, mainly east of and behind the building, has numerous plants regrowing as the roots had not been removed during the excavation process. These are mainly Honeysuckle, with some Sumac and Ash as well.

The Town Planner sent the plan to Gretchen Alexander, a Vermont State River Scientist for additional review. Her initial comments were to plant more trees as she felt the tree-to-shrub ratio was inadequate for the purpose. Ms. Alexander sent the plan to other State officials for additional comment which has not yet been received.

The planting would occur later in the fall when the weather cools.

Eric Schulz stated that few trees were removed and that the ones that were removed were mostly saplings. One large tree was removed. The untouched area along the river has a number of large Oak and Maple trees.

The intent is to retain the cow path as an open area, possibly as a walking path. The path would not be planted. An access had been built down to the path area. This would provide access for the planting and would be removed to restore to original contours. Additional materials are not allowed to be placed in a floodplain or floodway and would be removed.

A lengthy discussion took place as to how to treat the cow path. Planting conservation mix and mowing it twice a year was suggested at one point. The neighboring farmer, Mr. MacDonald, will be invited to next week's TDRB meeting for additional information on the history and use of the cow path.

The CC also discussed the potential for adding more trees to the site per Ms. Alexander's recommendation. Three members, Ms. Kozara, Ms. Powers and Ms. Gibbs supported additional trees to improve stability of the bank.

The applicant reiterated that few trees had been removed; therefore, additional trees should not be required. The burden is to restore the area to its original form, not necessarily improve the site.

After additional discussion, the CC recommended approval of the request with the following suggestions: 1) the construction debris should be removed, and 2) State recommendations concerning the planting plan should be followed.

The Town Planner asked the owner to have a more concrete idea of what the intended future use of the river bank area may be, including the cow path area. Once received, the additional State planting plan recommendations will be sent to the applicant.

**C. T-4760-17 Zoe & James Zilian**

Application is for Conditional Use & Conservation District Overlay Approval to restore the river bank contours and replant the riparian vegetation. The property is located at 1883 West Woodstock Road and is zoned Residential 5 Acres / Conservation District.

See T-4759-17 above.

**D. T-4762-17 Michael and Melanie Harrington**

Application is for Conditional Use & Conservation District Overlay Approval to expand an existing pond. The property is located on 1425 John Darling Road and is zoned Residential 5 Acres / Conservation District.

Mr. Dana, engineer and pond builder, presented the application.

The CC reviewed a number of maps and renderings of the proposed pond expansion.

Raymond Lobdell, Wetland/Soil Scientist, went to the site and conducted a wetland delineation. The wetland is a side hill seep, Palustrine emergent persistent. A June 25, 2017-letter noted the wetlands are of relatively low value due to size of wetland, mineral soils, sloping nature and lack of vegetative interspersions or complexity.

The existing pond is fairly small. It was originally built 13 years ago. The owners desire a larger pond 100' x 60' to improve swimming, create a safer swim area, increase potential for fish, enhance aesthetics and fire protection.

The proposed pond would be five times larger than the current pond and would take up half the size of the wetland. The wetland would surround the pond on all sides. Access to the pond would be as current, from the nearby driveway.

The current pond has very steep slopes making it a dangerous site. Animals would also have improved access. The area east of the pond is quite steep and continuous for about 600', thus creating a large natural recharge source for the pond.

The dam would be constructed of the excavated soil. The current dam is not stable and needs work. The dam would be relocated slightly east to improve its placement and safety.

When asked if the site would include a sandy beach, the answer was unknown

The pond is well away from the nearby stream and would not impact the riparian buffer.

The site is remote. There are only two homes located on the road which are both off-the-grid

After discussion, the CC with the exception of Ms. Kozara recommended approval of the request as presented. Ms. Kozara preferred that the wetlands be left in their current state. The CC also recommended that the disturbed areas be replanted with compatible wetland plants.

#### **E. Riparian Buffer Violations**

The Town Planner stated that an educational letter has been sent to all real estate offices, excavators, loggers, property managers, and other similar businesses notifying them that any work conducted within a riparian buffer requires a zoning permit. A copy of the riparian regulations and the landscaping regulations taken from the Village and Town Zoning Regulations were included with the letter.

Following a discussion of the numerous riparian buffer violations that have occurred over the past few years, the CC asked to have the Town Planner's letter sent to the Vermont Standard. The CC also tried to think of other means to educate and inform the public.

The Town Planner noted the riparian buffer regulations are somewhat new and reminded the Commission that it took a while for property owners and business people to understand the importance of wetland regulation twenty years ago.

#### **IV. NEXT MEETING**

The next meeting is scheduled for September 20, 2017. The August meeting is cancelled.

#### **VI. ADJOURNMENT**

The meeting was adjourned at 8:45 p.m..

Submitted by,

Michael Brands, AICP  
Town Planner