

TOWN DEVELOPMENT REVIEW BOARD
Draft Minutes
November 28, 2017

MEMBERS PRESENT: Don Bourdon, Frederick Hunt, Charles Wilson, Kim French
MEMBERS ABSENT: Ingrid Moulton Nichols
OTHERS PRESENT: Stacie Pearson, Jack Facey, William Emmons, Cathy Emmons, Doug Audsley, Sandy Audsley, Ralph Eames, Darren McCullough, Kirsten Connor, Fred Barr, Ben Pauly, David Swartzman, Jeffery Bendis, Zoe Washburn, Michael Brands

I. CALL TO ORDER:

Chair Bourdon called the meeting to order at 7:30 p.m.

II. APPROVAL OF MINUTES:

The minutes of the September 26, 2017 meeting were approved as submitted.

III. PUBLIC HEARINGS:

A. Old Business: None

B. New Business:

1. T-4758-17 Stacie and Keith Pearson

The application is for Conditional Use, Riparian Buffer & 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 Mr. Facey, attorney, presented the application.

The TDRB reviewed a planting plan and list of plants compiled by Landscape Architect Jack Rossi. A copy of the minutes from three Conservation Commission meetings was read.

In June, numerous trees and other vegetation were removed within the 100' riparian buffer along the Ottauquechee River and a 50' riparian buffer along a secondary stream.

The planting plan includes a line denoting the Town's 100' riparian buffer as well as area to be replanted, the middle portion of the property. The easternmost section is uncut, mature box elders. The western section has numerous box elder and bass wood stumps that will regenerate as the roots have not been cut. The proposed shrubs (40 Red Osier Dogwood, 40 Winterberry and 80 Gro-Low Sumac) are to be planted next spring.

It is the owner's intent to create a hay field on the 8.7 acre river front property. The removal of the trees and other vegetation were meant to enhance the field for agricultural purposes. Ms. Pearson felt since she was proposing an agricultural use that the riparian regulations did not apply.

The Department of Agriculture's Required Agricultural Practices (RAPS) require a 25' riparian buffer for agricultural uses. The intended use is a hay field. Therefore, the Conservation Commission applied the 25' buffer standard in their review.

The Town Planner showed numerous photographs of the acre property where trees and vegetation had been removed. Based on the 2011 ortho-photo of the property, it was estimated that the riparian vegetation ranged up to 50' in certain areas along the river.

The owner left the stumps of the Box Elder and Bass Wood trees in place. These are starting to regenerate new sprouts. If managed properly, they will become trees.

Along the eastern portion of the site is a heavy infestation of Japanese Knotweed. The plan indicates this area is to be mowed. During the Conservation Commission meeting it was agreed the Japanese Knotweed should not be mowed, but should be removed by "best practice" methods. One such method is to cut by hand and stack it on pallets to dry out.

The owner is just trying to keep the invasive plant in check.

The Conservation Commission, after lengthy review, recommended the following conditions:

1. An uncut buffer area shall remain 25' in from water's edge for the entire length of the property.
2. There shall be no mowing of Japanese Knotweed.
3. Removal of Japanese Knotweed shall be accomplished by best practice methods.
4. The Box Elder and Bass Wood stumps shall be allowed to regenerate.
5. The sprouts of the Box Elder and Bass Wood shall be trimmed by a professional to enhance selected tree growth.

The owner stated they would accept the Conservation Commission recommendations.

Mr. Emmons, a farmer from Pomfret, will be haying the field and grazing cattle on other Pearson property. He noted the cutting along the river within the 100' riparian buffer was done to create a better hay field. Two years ago, the field was hayed and many years ago cattle grazed on it.

Mr. Audsely, abutter, asked about erosion along a steep bank located close to the town road.

The area is outside of the riparian buffer and therefore not reviewed by the TDRB. Grass seed and mulch have been placed as a preventive measure.

Testimony was voted close.

2. T-4776-17 Ralph Eames

The application is for Conditional Use and Landscaping/Grading Review to place fill on north elevation of property. The property is located at 959 East Woodstock Road and is zoned Business Service / Light Industrial.

Mr. Eames presented the application.

The TDRB reviewed site plans, photographs and renderings of the proposed structure.

Per Section 518 Landscaping/Grading a Conditional Use permit is required for any addition, removal or redistribution of soil in excess of 5,000 square feet. Additionally, Section 518 states erosion shall be prevented from entering a neighboring property.

Mr. Eames owns a construction company, Upland Construction. An office, garage and construction yard are located on the 0.8 acre parcel.

This summer, fill and debris from the Mascoma Bank construction site in the Village were added to a 5000 sq. ft. area along the west and south sides of the applicant's building. Mr. Eames estimated that he dumped five to six dump truck loads. The site was mulched and grass seed was placed. Erosion has occurred as the bank facing the west which is very steep. Mr. Eames stated that he was not aware a permit was required.

The Town Planner showed the TDRB numerous photographs of the erosion and areas where the silt fence has broken through. Rocks, particles of asphalt and concrete have rolled onto the neighbors property.

Mr. McCullough, abutter to the west, addressed the issue. There has been dumping of construction waste going for numerous years including bricks, stones, sawdust, and other construction debris. He counted nine dump trucks this summer and stated that there may have been more. Cement blocks and stones have rolled onto his property. Silt is now encroaching onto his property in numerous areas.

Mr. McCullough asked to speak to the Mr. Eames before the bull dozer spread the materials. The applicant did not respond. Mr. McCullough wants all the silt and stone removed from his property.

Mr. Eames responded that he was told to stay off the neighbor's property and, therefore, has not done any remedial work.

Mr. McCullough stated he has numerous photographs of the erosion and debris.

Mr. Audsley, an abutter and former owner of the McCullough property, noted that this has been an ongoing problem for years. There is no more room to add fill. The bank is too steep. The erosion issues are continuing. He noted that old tires are being buried.

Mr. Barr, Town Fence Viewer, was called to look at the site. He stated that he was appalled by the mess, building materials and construction debris. The bank vegetation has small shrubs and the grade is too steep to support additional materials such as those that have been added.

Mr. Eames asked the TDRB to do a site visit.

The TDRB agreed and continued the hearing to the next meeting. A site visit will be held on Monday, December 4th at 3:00 p.m.. Visitors are asked to park at Mr. Eames property. Mr. Hunt and the Town Planner noted they are unable to attend.

3. T-4782-17 Woodstock Resort Corporation

The application is for Conditional Use and Site Plan Review Approval to allow integrated agricultural events at Kelly Way Gardens. The property is located at 109 Kelly Way and is zoned Residential Five Acre.

Mr. Pauly, Master Gardener for the Woodstock Resort Corporation, presented the application.

The TDRB reviewed site plans, photographs and other submittals.

A similar request was presented last March. However, the TDRB could not approve the application as the proposed use was not allowed per Town Zoning Regulations. An amendment to allow the proposed use, Section 532 Integrated Agriculture, was approved by the Select Board on October 17, 2017.

The Kelly Gardens are located on a 90-acre parcel of land owned by the Woodstock Resort Corporation. The site is directly west of the Woodstock Resort's golf course. The current use of the property includes lodging (four buildings) for employees, storage of materials and equipment, and a large garden area.

A 10' x 15' structure would be placed into the toe of the hill directly west of the grassy knoll. The building would contain two restrooms, one of which would meet ADA standards. The bathrooms would be connected to the Town's sewer system and have on-site well water. The exterior would be rough barn boards with a corrugated fiberglass roof.

An existing 2000+/- square foot barn with two sections in the form of an "L" would be used for all indoor events. Cooking displays, classes, tastings, dinners, lunches, and gardening demonstrations would take place within.

A 40' x 60' tent would be placed on the grassy knoll above the gardens for larger outdoor events such as weddings or corporate gatherings. This is a recently constructed restroom facility nearby.

The use of the site would be May 15 thru November 1 of each year which is essentially the growing season. The proposed use would be seasonal as none of the structures would be heated or insulated. The request is for 20 outdoor events per year.

Attendees would be limited to 150 for the larger events and 44 for indoor events. The Woodstock Inn would shuttle people from the Inn via buses or vans. The Inn is located one mile away from the site. Because the driveway is narrow, the Inn prefers to limit the number of cars on-site.

Parking would allow up to 51 vehicles. Forty-Two spaces would be in the courtyard located

near the barn entrance. Nine additional spaces, mainly for employees, would be located further up an access driveway away from the barn.

The access road from Route 106 enters a courtyard and exits in a circular fashion around the main barn. This makes it easy for shuttle bus service and deliveries.

There would be a maximum of 20 employees, mainly for the larger events.

Hours of operation would be from 8:00 a.m. to 10:00 p.m. on weekends and to 9:00 p.m. on week nights.

Most event food would be prepped in the Woodstock Inn's kitchens and transported to the site. All waste and recycling items would be transported back to the Inn.

Indoor classes and events would not exceed 44 persons and 6 employees.

Indoor and outdoor events would be held separately and never at the same time.

Garden activities will take place mainly from July through September. A pre-scheduled tour is not required. Drop-in visits are allowed and would not require a shuttle service.

All outdoor events, with the exception of the drop-in garden visitors, will be established through reservations through the Woodstock Inn. Larger events are generally reserved six months to a year in advance which will make it much easier to pre-plan.

The State Fire Marshall has inspected the site. An Act 250 permit has been granted for the proposed use.

The applicant presented a site map to the Board showing potential impacts on neighbors. The closest home is located 1000' north through a wooded area. The property is bowl shaped which is open to the east with a steep slope on the west boundary.

Chair Bourdon questioned whether the other 4 residential buildings on-site would meet the required 1000' buffer standard.

Mr. Hunt noted the buildings are used for Inn employees and controlled by the Inn.

Mr. Pauly noted the Inn's wedding planner forecasts up to two weddings per year. The site is rustic and not suited for most wedding situations.

Mr. Swartzman, an abutter living on Randall Road, voiced his concerns regarding noise. Currently, he can hear noise from the golf course and the Sports Center. He has no problem with the use, but does not want to hear any music or other noises. Mr Swartzman requested that an annual review process as a condition to the permit. He suggested an annual review or review by complaint would allow the TDRB to reset conditions should they be necessary.

The TDRB agreed post-permit reviews are possible and are used occasionally for new uses.

Mr. Swartzman lives at the southern edge of the property, approximately 5,000' from the garden site.

The TDRB discussed the requirement that proposed events are to be clearly subordinate to the farming operations.

Mr. Pauly stated that the Planning Commission, when writing the new regulation, considered revenue figures to be too difficult to calculate. The range of potential events and number of attendees is variable. The vegetables and flowers produced on-site are not sold, but are used directly by the Woodstock Inn. The land being used for agriculture far exceeds that used for events. The amount of time used for agriculture also far exceeds the time required for events. He felt it was very clear that production of vegetables and flowers was the main use.

Mr. Hunt and Ms. French, both of whom have visited the site numerous times, stated the site is a garden first. They agreed the proposed uses would be secondary to the gardens.

Mr. Bendis, an abutter to the west, asked what would be the minimum number of attendees for an event.

Mr. Pauly stated 15 persons would be the smallest group to be considered. Meals are served only to prescheduled events and the Inn would need a minimum number of clients to make it worthwhile.

The TDRB reviewed the Conditional Use, Site Plan and Integrated Agriculture criteria with the applicant.

Testimony was voted close.

IV. OTHER BUSINESS:

A. Zoning Officer's Report

The Administrative Officer presented the report.

B. Kevin and Diane Dugan

Ms. Washburn, realtor, informed the TDRB of the process to remove a non-existent vernal pool from the Critical Areas Inventory Map. Ms. Washburn wishes to have official recognition of the vernal pool removal that will enable her client to construct a home on their desired site. The Conservation Commission reviewed the request on November 15, 2017. The minutes reflect their approval and recommend the vernal pool be removed from the Critical Areas Inventory Map.

The Town Planner showed the TDRB Section 203 Interpretation of Zoning District Boundaries which grants the Administrative Officer the right to determine boundaries if uncertainty exists.

V. DELIBERATIONS:

A. T-4758-17 Stacie and Keith Pearson

After discussion, the following findings of fact were established:

1. In June 2017, numerous trees and other vegetation were removed within the 100' riparian buffer along the Ottawaquechee River and a 50' riparian buffer along a secondary stream.
2. The owners stated that the field was being prepared for use as a hay field and felt a permit was not necessary to remove vegetation from the riparian buffer.
3. The applicant met with the Conservation Commission three times: July 19, 2017, September 20, 2017 and November 15, 2017.
4. At the November 15, 2017 meeting the Conservation Commission recommended five conditions:
 1. An uncut buffer area shall remain 25' in from water's edge for the entire length of the property.
 2. There shall be no mowing of Japanese Knotweed.
 3. Removal of Japanese Knotweed shall be accomplished by best practice methods.
 4. The Box Elder and Bass Wood stumps shall be allowed to regenerate.
 5. The sprouts of the Box Elder and Bass Wood shall be trimmed by a professional to enhance selected tree growth.
5. A planting plan and list of plants compiled by Landscape Architect Jack Rossi. A copy of the minutes from three Conservation Commission meetings was read.
6. The planting plan shows that 160 shrubs (40 Red Osier Dogwood, 40 Winterberry and 80 Gro-Low Sumac) would be planted in the middle portion of the property along the river bank. The easternmost section is uncut mature box elders with a heavy infestation of Japanese Knotweed. The western section has numerous box elder and bass wood stumps that will regenerate as the roots have not been cut. The proposed shrubs are to be planted spring 2018.
7. The Department of Agriculture's Required Agricultural Practices (RAPS) require a 25' riparian buffer for agricultural uses. The intended use is a hay field therefore the CC applied the 25' buffer standard in their review.
8. Along the eastern portion of the site is a heavy infestation of Japanese Knotweed. The plan indicates this area is to be mowed. During the CC meeting it was agreed the Japanese Knotweed should not be mowed, but be could removed by "best practice" methods. One such method is to cut by hand and stack it on pallets to dry out.
9. The applicant stated they would accept the CC recommendations.
10. The TDRB reviewed the Section 810 Conditional Use and Section 403 B.1. Riparian Water Quality and Aquatic Habitat Protection Zone criteria.

After further discussion, Mr. Wilson moved with a second by Mr. Hunt to approve the application with the following conditions:

1. **An uncut buffer area shall remain 25' in from water's edge for the entire length of the property.**
2. **There shall be no mowing of Japanese Knotweed.**
3. **Removal of Japanese Knotweed shall be accomplished by best practice methods.**

4. The Box Elder and Bass Wood stumps shall be allowed to regenerate.
5. The sprouts of the Box Elder and Bass Wood shall be trimmed by a professional to enhance selected tree growth.

The motion passed with a 4-0 vote.

B. T-4776-17 Ralph Eames Continued

C. T-4782-17 Woodstock Resort Corporation

After discussion, the following findings of fact were established:

1. The TDRB reviewed site plans, photographs and other submittals.
2. A similar request was presented last March, however the TDRB could not approve the application as the proposed use was not allowed per Town Zoning Regulations. An amendment to allow the proposed use, Section 532 Integrated Agriculture, was approved by the Select Board on October 17, 2017.
3. The Kelly Gardens are located on a 90 acre parcel of land owned by the Woodstock Resort Corporation. The site is directly west of the Woodstock Resort golf course. The current use of the property includes lodging (4 buildings) for Inn employees, storage of materials and equipment, and a large garden area.
4. An existing 2000 +/- square feet barn with two sections in the form of an "L" would be used for all indoor events. Cooking displays, classes, tastings, dinners, lunches, and gardening demonstrations would take place within.
5. On the grassy knoll above the gardens, a 40' x 60' tent would be placed for larger outdoor events such as weddings or corporate gatherings. Recently constructed restroom facilities are nearby.
6. The use of the site would be May 15 thru November 1 of each year, essentially the growing season. The proposed use would be seasonal as none of the structures would be heated or insulated. The request is for 20 outdoor events per year.
7. Attendees would be limited to 150 for the larger events and 44 for the indoor events. The Inn would shuttle people from the Woodstock Inn via buses or vans. The Inn is located one mile away from the. Because the driveway is narrow, the Inn prefers to limit the number of cars on-site.
8. Parking would allow up 51 vehicles. 42 spaces would be in the courtyard located near the barn entrance. 9 additional spaces, mainly for employees, would be located further up an access drive away from the barn.
9. The access road from Route 106 enters a courtyard and exits in a circular fashion around the main barn. This makes it easy for shuttle bus service and deliveries.
10. There would be a maximum of 20 employees for the outdoor events and 6 for the indoor events.
11. Hours of operation would be from 8:00 a.m. to 10:00 p.m. on weekends and to 9:00 p.m. on week nights.
12. Most event food would be prepped in the Woodstock Inn's kitchens and transported to the site. All waste and recycling items would be transported back to the Inn.
13. Indoor and outdoor events would be held separately and never at the same time.

14. Garden activities take place mainly from July through September. A pre-scheduled tour is not required. Drop-in visits are allowed and would not require shuttle service.
15. All outdoor events, with the exception of the drop-in garden visitors, will be established through reservations through the Woodstock Inn. Larger events are generally reserved six months to a year in advance which will make it much easier to pre-plan.
16. The State Fire Marshall has inspected the site. An Act 250 permit has been granted for the proposed use.
17. The applicant presented a site map to the Board showing potential impacts on neighbors. The closest home is located 1000' north through a wooded area. The property is bowl shaped which is open to the east with a steep slope on the west boundary.
18. The 4 residential buildings on-site are owned by the Woodstock Resort for Inn employees and would not need to meet the 1000' standard of Section 532 B.1.
19. The inn's wedding planner forecast up to two weddings per year. The site is rustic and not suited to most wedding situations.
20. An abutter on the south edge of the property requested a post-permit review due to concerns with potential noise impacts.
21. The TRDB reviewed Sections 810 Conditional Use, 809 Site Plan and 532 Integrated Agriculture criteria with the applicant.
22. Outdoor events are limited to 20 per year.
23. The proposed events comply with those allowed per the regulation
24. The closest abutter is more than a 1000' away from the proposed site.
25. The fact that the proposed events are clearly subordinate to the farming operations was discussed. The Planning Commission, when writing the regulation, considered revenue figures to be difficult to calculate. The range of potential events and number of attendees is variable. The vegetables and flowers produced on-site are not sold on the open market, but are used directly by the Woodstock Inn. The land being used for agriculture far exceeds the land used for events. When visiting the site, it is clearly a garden.
26. The TDRB noted concerns with potential noise impacts and parking and shuttle service compliance.

After further discussion, Ms. French moved with a second by Mr. Hunt to approve the application with the following conditions:

1. **The application shall be reviewed after October 31st, or after five outdoor events whichever comes first.**
2. **The TDRB may modify the permit as necessary to correct issues of noncompliance after the required annual review.**

The motion passed with a 4-0 vote.

VI. NEXT MEETING:

The next TDRB meeting is scheduled for January 23, 2018.

VII. ADJOURNMENT:

The TDRB adjourned at 9:10 p.m.

Respectfully submitted,

Michael E. Brands, AICP
Town Planner