

TOWN OF POMFRET
ZONING BOARD OF ADJUSTMENT

Minutes of Meeting
November 14, 2024

MEMBERS PRESENT: Benjamin Brickner (Chair), Shaun Pickett, Susan Burgess, Kyle Hansen, Lindsay Hyde, Michael Schmell and Seth Westbrook

MEMBERS ABSENT: *None*

OTHERS PRESENT: Karen Hewitt Osnoe (Zoning Administrator), Beriah Smith (counsel for ZBA), David Mears (counsel for applicant), Joseph DeFoor (applicant), Cara DeFoor (applicant), and Jon Harrington (engineer for applicant)

A hearing was held regarding the following application:

Application #ZP24-20 by Joseph and Cara DeFoor for a variance to relocate a portion of their driveway on parcel #010B at 1799 Pomfret Road, Pomfret.

CALL TO ORDER:

Chair Benjamin Brickner called the meeting to order at 6:00 pm. The hearing was recorded.

Mr. Brickner then asked if anyone on the Zoning Board of Adjustment wished to disclose any conflicts of interest ex parte communications relevant to the proceeding. No members disclosed a conflict of interest or ex parte communication.

HEARING ON APPLICATION #ZP24-20

Mr. Brickner then opened the hearing on Application #ZP24-20.

The ZBA then afforded any persons wishing to achieve status as an interested person an opportunity under 24 V.S.A. § 4465(b) to identify themselves. David Mears, Joseph DeFoor, Cara DeFoor and Jon Harrington were sworn in.

The subject property is a 48.89± acre parcel located at 1799 Pomfret Road in the Town of Pomfret (parcel ID #010B).

During the hearing the following testimony was heard:

1. Attorney David Mears reviewed the history of the proposed construction, including the prior application (ZP24-02) for conditional use approval for a new bridge over Barnard Brook, which approvals was denied by the ZBA. The Applicant appealed this decision to the Environmental Court, which appeal is presently in abeyance while the Applicant instead seeks a variance via the application now under consideration, ZP24-20.

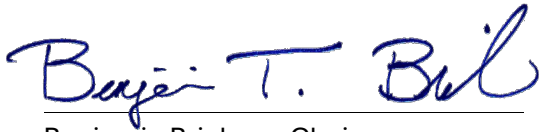
2. Jon Harrington, civil engineer for the Applicant, reviewed the project site plan. The new bridge location (and thus the driveway relocation) was determined after consultation with Scott Jensen, the River Management Engineer with ANR. Mr. Harrington used HEC-RES hydraulic modeling to evaluate stream conditions both during and after development.
3. The bottom of the new bridge will be at 719 feet, which is 1.0 feet above BFE as required by the Town's flood regulations. The bottom of the existing bridge is 1.8 feet below BFE and thus is not compliant with the Town's flood regulations. The existing driveway approaches are also below BFE on both sides. While the relocated driveway will also be under BFE, this is the case only on the northern approach and for a shorter distance when compared to the existing driveway.
4. Mr. Harrington described what would be required to bring the existing bridge into compliance with the Town's flood regulations. The existing bridge would need to be elevated at least 2.8 feet such that its bottom were at least 720.8 feet, which is 1.0 feet above BFE at that location. The span likely would need to be lengthened and the driveway approached raised on both sides, which would entail placing substantial additional fill in the flood plain. Due to the existing bridge's proximity to the Applicant's property line, adding fill in that location could have an adverse effect on neighboring property.
5. Mr. Harrington explained that the same considerations apply to installing a new bridge alongside the existing one. Doing so would also require vehicles to navigate S-turns to minimize deviations in the current driveway path.
6. Mr. Harrington explained that while fill would be added to the floodplain to create new vehicular approaches to the new bridge on both sides, this new fill would be more than offset by material to be removed from the floodplain on both sides of the northern approach to the new bridge. The fill removal will improve drainage in the floodplain and avoid any increase in flood levels as a result of the proposed construction.
7. Shaun Pickett asked whether the relocated driveway might act as a dam to flood water, noting that flooding has become more common in this area. Mr. Harrington answered that the relocated driveway was designed to allow flood waters to pass over unobstructed and thus would not raise the calculated water elevation. The relocated driveway will be at roughly the same elevation at the surrounding field.
8. Kyle Hansen asked what the lowest elevation for the new proposed driveway and the current existing driveway is. Mr. Harrington answered that the new proposed driveway is at 716.5 feet and the existing driveway is at 717.5 feet.
9. Mr. Brickner asked about updates noted on the plans. Mr. Harrington answered that they were minor, such as to add the BFE under the bridge and to show where grading will change as a result of fill removal from the flood plain.
10. Mr. Brickner asked if the Applicant had consulted with emergency services about access constraints via the existing bridge. Cara DeFoor stated that the existing bridge is non-compliant in several respects and that it was unlikely a full-size fire apparatus would be able to cross it. Joseph DeFoor noted that utility trucks already do not cross the bridge, requiring the Applicant's propane tank to be relocated on their property.

ADJOURNMENT AND DELIBERATIVE SESSION

Mr. Brickner moved and Lindsay Hyde seconded that the hearing on Application ZP24-20 be adjourned to 6:00 pm on Thursday, December 5. Unanimous. The hearing was adjourned at 6:48 pm.

The ZBA thereafter entered into a deliberative session pursuant to 1 V.S.A. 312(e).

These minutes approved at Pomfret, Vermont, this 5th day of December 2024.

A handwritten signature in blue ink that reads "Benjamin T. Brickner". The signature is written in a cursive style with a horizontal line underneath the name.

Benjamin Brickner, Chair