

TOWN OF POMFRET
Zoning Board of Adjustment

Memorandum of Decision

Permit Application: ZP25-11
Property Address: 2568 Pomfret Road
Parcel No.: 0124

Property Owner: Alan Ricks
155 Lexington Avenue
Cambridge, Massachusetts 02138

Applicant: Four Lite Designs, LLC
2117 Gird Lot Road
Weathersfield, Vermont 05156

This Memorandum of Decision (this “Decision”) is issued by the Pomfret Zoning Board of Adjustment (the “ZBA”), in connection with Zoning Permit Application ZP25-11 (the “Application”) by Justin Pouliot of Four Lite Designs, LLC (the “Applicant”) on behalf of property owner Alan Ricks (the “Owner”).

The Application seeks to construct a replacement bridge (the “Replacement Bridge”) to Owner’s residence located at 2568 Pomfret Road (the “Property”) through the Zone A Special Flood Hazard Area of Pomfret Brook. The Replacement Bridge is subject to conditional use review under Section IV.C of the Pomfret Flood Hazard Area Regulations (the “Flood Regulations”). The Application also seeks a variance, if necessary, from the requirement in Section VII.B.11 of the Flood Regulations that the Replacement Bridge be at least one foot above the base flood elevation (“BFE”).

For the reasons discussed below, and subject to the conditions and limitations specified below, the ZBA grants conditional use approval of the Application and authorizes a variance from the requirement in Section VII.B.11 of the Flood Regulations. The ZBA directs the Zoning Administrator (the “ZA”) to issue a zoning permit consistent with this Decision.

I. Procedural History

A. Application

Applicant seeks to construct a Replacement Bridge in substantially the same location as an existing bridge (the “Existing Bridge”) for vehicular access purposes. The Replacement Bridge (and the Existing Bridge) is in the special flood hazard area (Zone A) of Pomfret Brook, as depicted on FEMA’s flood insurance rate map (FIRM) 50027C0345E, effective September 28, 2007.

The Application, dated May 22, 2025, was referred by the ZA to the ZBA on May 23, 2025, for conditional use review and approval of a variance from the requirement in Section VII.B.11 of the Flood Regulations. The Application and all supporting documents are on file with the ZA, including the following exhibits:

1. Site Plan dated April 15, 2025, “Existing Conditions Bridge Crossing, Christina De La Cierva & Alan Ricks”, by Smith & Pospesil Land Surveying Company, PLLC.
2. Proposed Layout Site Plan; Precast Layout, Elevation & Details; Plan Views & Reinforcing dated May 29, 2025, by Michie Concrete Products, Project No. 25-15627.
3. Letter dated May 29, 2025, from Ned Swanberg, Central Vermont Floodplain Manager, to the ZA.
4. Email dated June 6, 2025, from Ned Swanberg, Central Vermont Floodplain Manager, to the ZA.

On May 30, 2025, notice of a public hearing was posted at the Town Office, North Pomfret Post Office, and Teago General Store. On June 5, 2025, notice of the same was published in *The Vermont Standard*, a newspaper of general circulation in Pomfret. The ZA also timely notified the Property abutters of the site visit and hearing as required by 24 V.S.A. 4464.

B. Site Visit and Public Hearing

Following a site visit at the Property on June 24, 2025 at 6:30 pm, the ZBA considered the Application at a public hearing on June 24, 2025 at 7:00 pm at the Town Office. Present at the site visit were ZBA members Benjamin Brickner, Kyle Hansen, Lindsay Hyde, Shaun Pickett, Michael Schmell and Seth Westbrook, along with Justin Pouliot (Applicant), Preston Bristow (ZA) and Robert Overbay (abutter). Present at the hearing were ZBA members Benjamin Brickner, Kyle Hansen, Lindsay Hyde, Shaun Pickett, Michael Schmell and Seth Westbrook, along with Justin Pouliot (Applicant) and Preston Bristow (ZA). The hearing was closed at 7:33 pm on June 24, 2025.

Proceedings related to the public hearing are more particularly described in the draft hearing minutes available on the ZBA’s page on the Town of Pomfret’s website.¹ These minutes identify those persons who participated in the hearing.

II. Applicable Regulations

A permit is required by Section IV of the Flood Regulations for all proposed development in a special flood hazard area, including filling, grading and excavation.

If the proposed development is neither exempt from the Flood Regulations under Section IV.A, nor eligible for an administrative permit from ZA under Section IV.B, conditional use approval by the ZBA is required under Section IV.C, which directs the ZBA to ensure the applicable standards in Section VII have been met and that potential flood damage as a result of the proposed development has been minimized.

Section VII.B.11 requires that “any access road to habitable structures . . . be at least one foot above base flood elevations and able to withstand a 100-year flood event without failing.” The Replacement Bridge is a component of the access road to the Applicant’s residence and subject to this requirement. The ZBA may grant variances under the Flood Regulations in accordance with

¹ See Town of Pomfret, Zoning Board of Adjustment, *available at* <https://pomfretvt.us/index.php/dep/planning-zoning/zo>.

Section IX, which requires that applicable requirements of the Vermont Planning and Development Act (24 V.S.A. 4469) and National Flood Insurance Program Regulations (44 C.F.R. 60.6) be met.

III. Findings of Fact

The ZBA received written submissions and heard testimony from the Applicant. The ZBA evaluated the parties' submissions and testimony; the findings of fact described below reflect the evidence the ZBA found most relevant and compelling.

1. The Existing Bridge has a 15-foot 6-inch clear span; the Replacement Bridge will have a 26-foot clear span, opening up the channel of Pomfret Brook by approximately 10 feet.
2. The Replacement Bridge will use a 30-foot precast concrete deck set slightly askew to accommodate the driveway approach.
3. The Replacement Bridge substructure will be elevated slightly higher than the existing structure: approximately 4 inches on the Pomfret Road side and approximately 11 inches on the private property side.
4. The Replacement Bridge will be in substantially the same location as the Existing Bridge. To improve the northbound Pomfret Road intersection angle and to better align with existing abutments, the upstream edge of the Replacement Bridge will be approximately one foot farther downstream of the Existing Bridge and the downstream edge will be approximately three feet farther downstream.
5. The BFE at the Replacement Bridge location has not been determined, and therefore it is unknown where either the Replacement Bridge or the Existing Bridge sits relative to BFE.
6. Foundation work will include abutment blocks on the private property side and enhancements to the current foundation on the Pomfret Road side.
7. The Replacement Bridge will be designed to highway standards with appropriate weight ratings.
8. Guardrails will be installed along both Pomfret Road and the Replacement Bridge. The Pomfret Road guardrails will match the current guardrails; the Replacement Bridge guardrails may be of a distinctive design.
9. Bank armoring will be added on the north side of the Replacement Bridge using abutment blocks.
10. The Replacement Bridge design has been influenced by input from both Scott Jensen, River Management Engineer, and Ned Swanberg, Central Vermont Floodplain Manager.
11. A stream alteration permit application has been submitted and administratively received by the Watershed Management Division on June 19, 2025. A copy of the file-stamped application was provided to the ZBA.
12. The Replacement Bridge orientation will remain skewed rather than perpendicular to Pomfret Road to improve access, particularly for emergency vehicles.

13. The new concrete deck will provide better width and durability compared to the existing structure.
14. Construction timeline is estimated at 3 weeks to one month once work begins.
15. Work must be completed by October 15 per state limitations on construction work in and adjacent to streams.
16. If ZBA approval is substantially delayed, Applicant may install a temporary, 100,000-pound rated bridge as the Existing Bridge is a safety risk, particularly for heavier vehicles.

IV. Conclusions of Law

The Proposed Development is neither exempt from the Flood Regulations nor eligible for an administrative permit from ZA. Therefore, conditional use approval by the ZBA is required and the applicable provisions of the Flood Regulations apply, including the requirement of Section VII.B.11 that the access road and Replacement Bridge be at least one foot above BFE, unless a variance is granted.

The Flood Regulations normally require bridges to be built at least one foot above BFE. However, the Replacement Bridge must connect directly to Pomfret Road at the same height as the existing pavement. Regardless of where the Replacement Bridge will sit relative to BFE, requiring the Replacement Bridge to be elevated would create a hump or cliff that would make the Replacement Bridge practically unusable for vehicles. Strict compliance with this requirement would be both dangerous and impractical.

Furthermore, the length of the Replacement Bridge, and the corresponding width of the river channel under the Replacement Bridge, will be increased by approximately 10 feet. Ned Swanberg, Central Vermont Floodplain Manager, in his letter of May 29, 2025, to the ZA states, “[t]he proposed bridge will be less of a restriction on flood water conveyance than the existing structure.”

Thus, the Replacement Bridge, regardless of its elevation relative to BFE and as compared to the Existing Bridge, will not will not result in increased flood heights, increased susceptibility to flooding or erosion, or other threats to public safety or infrastructure (including emergency services during flood events), or extraordinary public expense, as required by Section IX of the Flood Regulations.

For these reasons, the ZBA concludes that the requirements of Section IX of the Flood Regulations necessary to authorize a variance from Section VII.B.11 of the Flood Regulations have been met.

V. Decision

Based on information presented to the ZBA, the findings and conclusions described above, and subject to the conditions and limitations specified in Section VI below, conditional use approval is **granted** for the Replacement Bridge and a variance from the requirement in Section VII.B.11 of the Flood Regulations is **authorized** for the Replacement Bridge. The ZA is directed to issue a permit consistent with this Decision.

VI. Conditions and Limitations

To ensure the Proposed Development meets the applicable provisions of the Flood Regulations, as the same have been varied herein, this Decision is subject to the following conditions and limitations:

A. The Proposed Development shall conform in all material respects to the Application materials including Applicant's submissions, plans, written representations to the ZBA and testimony, except as expressly modified herein. Any material change to the foregoing shall require further review and approval by the ZBA under the then-applicable regulations.

B. The Proposed Development shall be constructed consistent with applicable requirements of the Flood Regulations, except as the same have been varied herein. The applicable requirements are described in Section VII.B of the Flood Regulations.

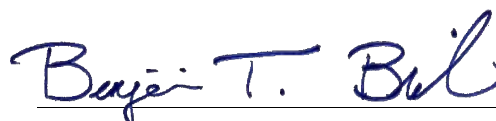
C. The Proposed Development shall conform to all applicable federal, state, and local laws, ordinances, and regulations, whether or not the same have been expressly referenced herein.

D. This Decision applies only to the subject matter contained herein. The conformity of any other structures, uses, or activities with applicable zoning bylaws was not considered by the ZBA and is not addressed by this Decision.

E. By acceptance of this Decision and the permit authorized herein, Applicant for itself, its successors, assigns and affiliates agrees to be bound by this Decision and the conditions and limitations described herein.

* * * * *

This Decision approved at Pomfret, Vermont, as of this 8th day of July, 2025, and signed by the chair of the Pomfret Zoning Board of Adjustment on its behalf pursuant to 24 V.S.A. 1141.

A handwritten signature in blue ink, reading "Benjamin T. Brickner", written over a horizontal line.

Benjamin Brickner, chair
Zoning Board of Adjustment

ZBA members Benjamin Brickner, Kyle Hansen, Lindsay Hyde, Shaun Pickett, Michael Schmell, and Seth Westbrook voted in the affirmative. ZBA member Susan Burgess did not participate in this Decision.

NOTICE: This Decision may be appealed to the Environmental Division of the Superior Court by an interested person who participated in the proceedings before the Zoning Board of Adjustment. Such appeal must be taken within 30 days of the date of this Decision, pursuant to 24 V.S.A. 4471 and Rule 5(b) of the Vermont Rules for Environmental Court Proceedings.