

Bristol Conservation Commission
Minutes
October 14, 2021
6:00PM
Location: Holley Hall and Zoom

Members Present: Carolyn Dash, Chair (CD), Zelie Smith, (ZS), Helen Young (HY), Jono Chapin (JC), Alex Smith (AS)

Members of the Public: Alex Mihavics (AM)

The October 2021 BCC meeting was called to order at 6:05

II Public Comment Period

There were no public comments

III Addition of Items to the Agenda

Lewis creek boat stewards letter of support

IV Review and approval of minutes from Sept 9th

A motion to approve the minutes was made by JC and seconded by AS

V Correspondence

All new correspondence is addressed under VII-C and can be viewed at the end of the minutes.

VI Old Business

Bristol Trail Network (BTN)

The BTN fall intern and volunteers moved the wood chips from Sycamore Park parking lot to parts of the trail around Sycamore Park.

Parks Updates:

- a. Eagle Park
 - i. The sumac is encroaching on the perennial garden and needs to be removed. Members of the BCC have volunteered to address the new sumac growth.
 - b. Town Green
 - i. Tree trimming was done by the town before the harvest festival. The park got new trash and recycling bins.
 - c. Sycamore
 - i. Wood chips were moved from the parking lot to the BTN. An apple tree has fallen and is being propped up. the parks and rec dept is looking into a more permanent solution.
- B. **Website:** Explore Bristol pdf
- a. The pdf is being spread around relevant websites as well as printed copies at holley hall

VII New Business

A. Policy on future park memorials-

- a. A form has been created- members of the public can fill it out and submit it to the rec dept who will approve or deny. If approved it will go on to BCC,

which will approve or deny. If approved the application will go to the Select Board.

B. Emerald Ash Borer

- a. Flight season is over because it is past september. The committee will now reassess the trees and determine which ones need to come down.
- b. EAB is continuing to spread throughout Vermont

C. Zoning Permit 20-027

- a. Related correspondences are added to the end of the Minutes
- b. BCC is under consensus that Kristen Underwood can draft a letter for the BCC to review about zoning permits in flood zones.

IX Next Meeting: November 11, 2021

X Adjournment

A motion for adjournment was made by JC motion and seconded by ZS. The motion was approved and the meeting was adjourned at 7:03.

To: Kris Perlee, Zoning Administrator

Re: Permit # 20-027

From: Randy Durand

Date: Oct. 16, '20

cc: Chairs, SB, ZBA, Planning Commission, Town Administrator

Town Plan, p. 47, Task # 5 - Apply the findings of geomorphic assessment to determination of setback requirements necessary to preserve riparian corridors.

Zoning Regulations, Section 806, p. 71. Upon issuance of a permit the following open space uses shall be permitted... provided that they do not require the erection of structures...

Applicant - Rebecca Mashak, Hinesburg, Vt. Permit # 20-027

Permit application received - 6-8-20

Permit application approved - 7-17-20

Location - S of Sargent's Welding, Rockydale, across the New Haven River

Site visible from Rte 116 - No

Hello Kris: I would like to support your decision to withhold a Certificate of Occupancy for the permit listed above. I know this has been a difficult determination. This is a request to send the application to the ZBA for the following reasons:

- the application was submitted after the "primitive cabin" was built
- the cabin site was inaccurately sketched on a map as 345' from the river (actually about 80')
- the cabin site is in the flood hazard area, a purview of the ZBA
- the cabin is accessed from a right of way, purview ZBA
- a structure in a flood hazard area would be a conditional use, ZBA
- without a posted building permit and no visibility from Rte 116 there was no opportunity for an appeal
- it is my understanding that if any application presents false information and it is challenged then it is not an appeal and therefore not subject to the time line of applications.

As you know we have met on several occasions since June about this matter. I understand that you have been denied access to the site. The site, however, can be easily seen from the river. Now, with the leaves coming down, it can be viewed from across the river as well. I think it is time for the ZBA to review this application. - Randy Durand, 681 Rockydale Rd, Bristol, Vt.



Town of Bristol
Holley Hall
P.O. Box 249
Bristol, VT 05443
(802) 453-2410 ● Fax 453-5188

September 13, 2021

Review of Zoning Permit 20-027 – Rebecca Mashak, 7208 Rockdale Rd.

In October 2020, I, the Selectboard, and other Town officials received a letter from Randy Durand expressing concern about the approval of Zoning Permit 20-0027 for construction of a cabin on land along the West Haven River and whether proper procedures were followed. Below is an outline of the review and my investigation into this concern and my conclusion.

TIMELINE

June 8, 2020 – Rebecca Mashak applied for a Zoning Permit for a primitive cabin to be built on her property at 7208 Rockydale Rd.

June 15, 2020 – I sent an e-mail to Rebecca explaining that I needed a map with measurements to ensure the proposed structure isn't in the floodplain.

June 19, 2020 – Received an email with a map showing the proposed location for the camp.

June 29, 2020. Received email from Rebecca asking for a status of permit. I responded that I was working on ensuring that the proposed location is not in the floodplain. I spent most of the day trying to locate the proposed build site and its relationship to the floodplain. This is difficult due to the fact that there are no digital maps of the floodplain in our area. I used a copy of the Zoning District map and located the location of the camp based on the map provided to me from Rebecca.

July 15, 2020 – I approved the Zoning permit based on my findings. I communicated with Rebecca that the permit was approved and would be mailed out. She asked if they could begin construction. I questioned whether construction had begun. She stated that they had begun building, but stopped when they realized they would need a permit. I explained that construction needed to be halted until August 1, 2020. After that point the appeal period will have passed, and they could resume building.

August 17, 2020 – I received an email from Randy Durand asking if I had used the maps that

the applicant provided to make my decision. I responded that I did use the maps from the application. We had a back and forth discussion about what was on the maps. After providing Randy with the information I used to make my decision, he replied with the following

It just occurred to me that you might not have the two maps that I have copies of. So does the number 345' sound familiar? That's the number between the "X" and the NHR. If you used that number in your determination then the cabin would be out of the flood plain and they're good to go. I would agree that the permit should be approved based on that map. - Randy

August 18, 2020 – I received an email from Randy asking if we could meet to discuss an anomaly he found on the map that the applicant provided. We agreed to meet on August 24, 2020 at 11:00am on the bandstand due to Covid-19 concerns.

August 24, 2020 – I met with Randy, and he voiced concerns that the applicants one of measurements were incorrect. He felt that the measurement from the river was incorrect. I agreed to follow-up with the applicant.

August thru September 2020 – I placed a couple of calls to Rebecca to try to coordinate a site visit. Between our schedules not working and Covid-19 issues (Rising cases in Vermont and the fact that I cannot wear a mask) I was unable to schedule this meeting. I decided to just go to the site. When I arrived at the access road to the site, there was a chain across the road and "KEEP OUT" signs clearly posted.

October 19, 2020 – I received a letter from Randy Durand voicing his concerns with my decision and wanted the issue sent to the ZBA for review. At this point I rechecked my measurements and still believed that without a site visit I could not confirm the location of the cabin. Winter then set in and access to the cabin was eliminated until spring.

February 24, 2021 – I received an email from Carol Clauss asking for an update on the issue. I replied later that day that I would be working with the owner in the spring, once the snow was gone, to try to resolve this issue. I also had concerns about whether I had authority to enter the site as the property was Posted.

February thru June, 2021 – I once again reached out to the owner a number of times. After not being able to coordinate a visit with her, I just went on site.

July 30, 2021 – I went on site. I took a couple of GPS readings with my cell phone. The first was at the point where the driveway begins on Rod Cousino's property. The second one was at the actual camp. I then created a map using Vermont Interactive Maps that plotted both points. The starting point showed on the satellite map

about 250' further north than my actual position. I then adjusted the location of the cabin the same 250' feet. See map below.

The next step was to create a scale copy of the Zoning District Maps that depict the flood plain. I then went old school and cut out the map and overlaid it on the map above. This allowed me to locate the location of the cabin. Image of map is below

SUMMARY:

After the process described above, I believe that this project is NOT in the Flood Hazard Area. While the measurements provided by the applicant were off some, I believe that they tried to provide accurate data with their application. Based on my investigation, there are NO violations surrounding the camp that was built per permit 20-027



Kris Perlee
Zoning Administrator
Town of Bristol

2852 South 116 Rd
Bristol, VT 05443

23 September 2021

Kris Perlee, Zoning Administrator
Town of Bristol
1 South Street, PO Box 249
Bristol, VT 05443
zoning@bristolvt.org

Re: Zoning Permit 20-027, Mashak property, Parcel No. 060214

Dear Kris:

I would like to express my concern that a cabin recently constructed on the above listed parcel off Rockydale Road in Bristol is located within the FEMA floodplain.

I respectfully disagree with the reasoning and methods provided in your 13 September 2021 memo to determine the location of the cabin on the subject property, and request that you re-visit the site with a mapping-grade or survey-grade GPS unit to more accurately locate the position of the cabin relative to the property boundaries. Additionally, I suggest you request assistance from the Addison County Regional Planning Commission (ACRPC) to obtain digitized versions of the paper FEMA Flood Insurance Rate Maps (FIRM) to determine the location of the FEMA floodplain on the subject parcel. While official Digital-FIRM (or "DFIRM") maps are not yet available for Bristol, these digitized versions of the paper maps are not available through ACRPC and there is precedent for their use. For example, the Zoning District Map on page 13 of the Town of Bristol Zoning regulations and the Flood Map on page 12 of the Town of Bristol All-Hazards Mitigation Plan both use this digitized layer to depict the position of the FEMA floodplain. Until FEMA DFIRM maps are produced for Bristol, these digitized versions of the paper maps are the best resource we have to protect public health and safety.

As part of a geomorphic assessment of the New Haven River completed in 2010, I was provided with this digitized version of the FEMA floodplain by Kevin Behm at ACRPC. In Figure 1 (attached) I have overlaid the floodplain near the parcel in question on a 2018 aerial photograph. Figure 2 depicts the same features on a topographic base map. The FEMA floodplain encompasses the flat river terrace and extends to the south and east to meet a steep valley wall that comprises the southern half of the parcel.

The cabin is clearly visible from the river and positioned on this flat terrace (Figure 3), and thus, I suspect the cabin is located within the FEMA floodplain. Point A on Figure 2 is my estimation of where you indicate the position of the cabin to be, based on review of your 13 September 2021 memo. If this cabin position was correct, the cabin would be nestled at the base of the steep slope, which I expect you would agree it is not. Therefore, I believe that the GPS coordinates from your phone (and the stated offsets) that you relied upon to locate the cabin site were incorrect. I request that a more accurate method be used to locate the cabin site and any associated outbuildings – such as a licensed survey, or a mapping-grade GPS.

I agree with you that review of zoning permit applications for riverside parcels can be challenging due to

the fact that DFIRM layers for Bristol are not currently available on the VT Flood Ready Atlas or the VT Natural Resource Atlas. Fortunately, Andrew L'Roe at ACRPC and Kyle Medash, VTDEC Regional Floodplain Manager (802-490-6154; kyle.medash@vermont.gov) are both available to assist town Zoning Administrators in these determinations. Consulting them will help to assure due diligence with respect to Bristol's continued compliance with the National Flood Insurance Program and ensure protection of public health and safety. I encourage you to reach out to these professionals as you review this determination, once the cabin site and any associated outbuildings are accurately located on the subject parcel.

Respectfully,



Kristen L. Underwood

Cc: Valerie Capels, Town Administrator
Peeker Heffernan, Selectboard Chair
Kevin Hansen, Planning Commission, Chair
Kevin Brown, Development Review Board, Chair
Carol Claus, Development Review Board, Member
Carolyn Dash, Bristol Conservation Commission, Chair

Attachments

Figure 1 – Parcel Location on Aerial Imagery Base

Figure 2 – Parcel Location on Topographic Base

Figure 3 – Photograph of cabin from New Haven River

Figure 3. Cabin and outbuilding on Mashak property,
view to southeast from New Haven River.