

Ferrisburgh Conservation Commission

Subject: Arnold Bay Road Site Visit Special Meeting report and Conservation Commission recommendations regarding the Tree Clearing in and along the Arnold Bay Road Right of Way.

Background:

1. On July 30, 2018, Mr Rick Ebel, Selectboard Chairman, formally requested that the Conservation Commission conduct a site visit to Arnold Bay Road to get the opinion of the Conservation Commission regarding the following items: conservation issues related to the loss of wildlife habitat due to the removal of the hedgerow and trees, water quality impacts as related to increased sedimentation due to loss of the heavily vegetated hedgerow buffer strip and water quality issues related to future agricultural tile drainage proposed by the adjacent land owner.
2. The conservation commission does not meet during the July and August, so we could not conduct a site visit until our September meeting.
3. Craig Heindel, Conservation Commission chair, recused himself due to potential conflict of interest and John Medenwald, Conservation Commission member assumed the lead responsibility for this issue.
4. On Tuesday, September 11, 2018, the Conservation Commission conduct a properly warned special meeting in order to conduct the site visit before our regularly scheduled meeting.

Site visit proceedings:

1. Once everyone in attendance had signed the attendance roster, the special meeting was called to order. Conservation Commission members present were: John Medenwald, Karen Pettersen, Jen Cirillo and Dennis Armell, Absent: Amy Dohner, Recused: Craig Heindel. Other attendees: Michael and Julie Adams, Reed and Vanessa Hampton, Jodi Fidler and David Putter, Tom and Carol Spencer, Carol and Chris Jakubik, Marie and Katia Berger, Cheryl Shea, Al and Brigitte Woody, JC Ewing, Sean Willerford and Annie Hopper, Dennis Hopper, Kate Brewer, Doug Fletcher, Pete Zimmermann, Danielle Plouffe-Wineman, Deb Hartenstein.
2. John Medenwald explained to those present what the Conservation Commission had been directed by the Selectboard to do and then opened it up for comments.
3. Most of the comments could be placed in the following categories:
 - a. Questions about how the adjacent landowner could legally clear the tree's in the ROW?
 - i. General answer by John Medenwald, this is an ongoing legal issue between the Town and the landowner and that is not something the Conservation Commission can answer, and it is not what the Selectboard asked us to do on this site visit.
 - b. Concerns over habitat loss due to the removal of the heavily vegetated hedgerow.
 - i. General answer by John Medenwald, in the past, the Conservation Commission has recommended to the Planning Commission that we prefer vegetated hedgerows as a corridor for movement of small game and birds from one forested block to another. In the case of Arnold Bay Road, this hedgerow runs

parallel to the road which is forested on the west side of the road and open farmland on the east side of the road. While the hedgerow did provide some habitat and screened wildlife in the field from the road, it is not oriented as a movement corridor across the field between the forested blocks.

- c. Concerns over increased erosion and sedimentation due to the loss of the heavily vegetated hedgerow.
 - i. General answer by John Medenwald, the discussion branched into an explanation of the requirements of vegetated buffer strips required by the existing Large Farm Permit issued by the VT agency of Agriculture for the subject parcel. The field is large, planted in row crops and generally slopes towards the roadside ditch along Arnold Bay Road with much of the drainage area farther southwesterly and concentrated into several culverts under Arnold Bay Road, then across adjacent parcels and eventually leading into Lake Champlain.
 - 1. In the Large Farm Permit are requirements for vegetated buffer strips, some 15' wide and some 25' wide, with the heavily vegetated hedgerow removed and replaced with a grass buffer strip, the Conservation Commission believes that the surface water runoff velocity will increase at the roadside ditch and will increase the chances of erosion and increased sedimentation that will have a negative impact on the water quality where it enters Lake Champlain. We do not feel that the grass buffer strip will be wide enough to contain all the sedimentation that may result from large rain events.
 - a. There are provisions in the Large Farm Permit to require site specific wider vegetative buffer strips in the case of erosion and sedimentation leaving the subject parcel.
 - 2. Roadside ditching done by the Town Road Crew, we observed that the Town Road crew recently conducted ditch maintenance and culvert replacement along Arnold Bay Road. The roadside ditch flowlines were re-established and re-vegetated. They are for the most part very shallow and should work to help reduce the velocity (but not eliminate sedimentation) of the stormwater runoff. Several of the neighbors expressed concern about additional culverts placed under the road and what this new runoff will do to their properties.
- d. Concerns over water quality impacts of the proposed new subsurface tile drainage of the adjacent fields.
 - i. General answer by John Medenwald, the discussion branched into an explanation of the Required Agricultural Practices (RAPs) related to subsurface tile drainage required by the existing Large Farm Permit issued by the VT agency of Agriculture for the subject parcel.
 - 1. Currently, the Agency of Agricultural is revising the subsurface tile drainage RAP. They conducted a series of public meetings this Spring and have revised their RAP and have sent it forward to the Legislative Committee on Administrative Rules (LCAR) to be voted on in the upcoming legislative session.

- a. The following wording is directly from the proposed rule:
“The standards and rules that follow are intended to improve the quality of all of Vermont’s waters by reducing and eliminating cropland erosion, sediment losses, and nutrient losses through improved farm management techniques, technical and compliance assistance, and, where appropriate, enforcement. This rule strives to balance the complexity, variability, and requirements of farm management with the need to improve that management in order to meet the State’s goals in improving and protecting water quality”.
 - b. The purpose of this RAP is for “farm and land management practices that will control and reduce agricultural nonpoint source pollution and subsequent nutrient losses from farm fields and production areas to surface and ground waters of the State or across property boundaries. The RAPs also establish minimum construction and siting requirements for farm structures in floodplains, floodways, river corridors, and flood hazard areas.”
 - c. The revised subsurface tile drainage RAP does not change much other than requiring rodent barriers at the tile outlets.
 - d. It also continues the requirement of the Large Farm Permit to follow a nutrient management plan (Section 6.03) and requires application of nutrients at less than UVM phosphorus crop nutrient removal rates on cropland fields with “pattern tile drainage” if soil tests demonstrate greater than 20 PPM of phosphorous.
 - e. Section 11 of the proposed Tile RAP allows for Site-Specific On-Farm Conservation Practices when the Secretary determines, after inspection of a farm, that a person engaged in farming is complying with the Required Agricultural Practices Rule but there still exists the potential for agricultural wastes to enter the waters of the State, the Secretary shall require the person to implement additional, site-specific, on-farm conservation practices designed to prevent agricultural wastes from entering the waters of the State.
- e. Concerns over aesthetics of the loss of the tree line road.
 - i. General answer by John Medenwald, the Conservation Commission listened as most of the neighbors present all expressed concerns about the loss of the tree lined road and the enjoyment they derived from walking along the tree lined road and observing the birds and wildlife.
 - f. A number of neighbors voiced concerns over regarding whether the land owners were in compliance with the RAP’s required by their Large Farm Permit. They raised the following issues: drainage tile installation timing, the buffer strip, the loss of shade, animal crossings, proposing a moratorium on all agricultural activity until compliance

with the Large Farm Permit, existing tile drainage installation causing gullies and foaming on their property, need for engineered design of ditches and culverts, increased flow and erosion on their property after the tree cutting, an existing swale converted to a 4 foot wide by 6 foot deep ditch on their property after the tree cutting and many asked for the Ferrisburgh Selectboard work with the Panton Selectboard on this issue since both Arnold Bay Road and this field continues into Panton.

- i. General answer by John Medenwald, the Conservation Commission listened as most of the neighbors present all expressed these concerns and suggested that they take pictures of any sedimentation, erosion, foaming after rain events and send them to both the Conservation Commission and the Selectboard.

Recommendations:

1. The Town needs to move forward with legal proceedings to resolve the issue of “ownership” of the trees within the road ROW.
2. The habitat loss and increased erosion/sedimentation associated with the removal of the heavily vegetated hedgerow is somewhat significant. We recommend requiring revegetation with a shrub and tree mix after coordination with the Tree Warden and Town Attorney. Provisions can be made to alleviate the landowner concerns regarding roots growing into the tile drainage by requiring solid drain piping thru the plantings and then connecting to the drain tile outside the root infiltration area.
3. Request an inspection by the Agency of Agriculture of the Large farm Permit Holder to ensure compliance with all aspects of the large farm permit.
4. Forward this and work with the Panton Selectboard since Arnold Bay Road continues into Panton as well.

Respectfully submitted

John Medenwald

Karen Pettersen

Jen Cirillo

Dennis Armell