

Kingston Conservation Commission Minutes

October 16, 2007

7:00p.m. The chairman called the meeting to order.
Present: Gary Langenbach (chairman), Marilyn Kozodoy, William Underhill, Sue Chamberlain, James Dehner, William Kavol
Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

7:00p.m. Informal meeting with Selectperson Jean Landis-Naumann regarding communication and relationships between the Conservation Commission and Board of Selectmen

7:22p.m. Continued a Public Hearing for a Request for Determination of Applicability for 101 Independence Mall Way and Raboth Road, Map 89, 83 & 83, Lots 4, 11-1 and 1 respectively
Present: Mark Wagner, John Wyman, Rich Tabaczynski

Maureen Thomas discussed the delineation of the riverfront area.

Mark Wagner stated that they had received a letter from Natural Heritage and Endangered Species Program regarding the conservation restriction.

The chairman discussed reasons why the Conservation Commission couldn't handle a conservation restriction and different groups that could hold the conservation restriction.

Discussion regarding the conservation restriction

William Underhill motioned to close the Public Hearing.
William Kavol seconded the motion.

7:30p.m. **VOTE: 6-0-0**

William Underhill motioned to issue a negative determination.
Sue Chamberlain seconded the motion.

7:30p.m. **VOTE: 6-0-0**

7:32p.m. Continued a Public Hearing for a Notice of Intent for Lake Street / Chipman Way, Map 14 & 15, Lots 1, 5 & 6 and Lot 2

Present: Theo Kindermanns, Lawrence Winokur, Esq., Alex Speigel

Maureen Thomas stated that she had received additional information since the last public hearing, including revised plans, information on the turtle crossing to the east of the site, and information about use of fertilizers, herbicides and pesticides.

Theo Kindermanns reviewed the revisions to the plans with the Commission.

Sue Chamberlain asked how often herbicides and pesticides were applied.

Maureen Thomas reviewed a reply from Alex Spiegel that she had received regarding usage, frequency and restrictions of the herbicides and pesticides.

Maureen Thomas reviewed a section of the Operations and Maintenance Plan submitted with the filing regarding pesticides, herbicides and fertilizers.

James Dehner stated that there was a way that a restriction could be written for the use of herbicides and pesticides as well as when they are used.

Theo Kindermanns presented a sketch to the Commission showing the proposed conservation restriction area.

Discussion regarding Conservation Restriction area

Discussion regarding groundwater monitoring wells

The applicant agreed to install groundwater monitoring wells.

Lawrence Winokur requested the opportunity to see the special conditions prior to their issuance.

Maureen Thomas stated that in some instances, the full twenty-one days is needed to issue the Orders of Conditions and special conditions and there may not be time to issue a draft prior to the issuance of the Orders.

James Dehner stated that the applicant could appeal the Orders if there were conditions that were not discussed during the Public Hearing.

The Commission, agent and applicant decided on locations for the groundwater monitoring wells while referring to the plans.

James Dehner stated that the groundwater monitoring wells should be subject to final placement in the field on a site visit.

James Dehner motioned to close the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:16p.m.

VOTE: 6-0-0

William Underhill motioned to issue Orders of Conditions with special conditions.

James Dehner seconded the motion.

8:16p.m.

VOTE: 6-0-0

Discussion regarding establishing a policy for the review of special conditions prior to their issuance

Sue Chamberlain motioned to establish a policy that once a Public Hearing is closed, the special conditions would not be subject to a draft issuance and review by the applicant.

Marilyn Kozodoy seconded the motion.

8:21p.m.

VOTE: 6-0-0

8:22p.m.

Continued a Public Hearing for a Notice of Intent for 24 Sunset Road, Map 59, Lot 8 & 10

Present: Dr. Courtland Harlow, Mrs. Harlow, Daniel Harlow, Courtland Harlow III

Maureen Thomas stated that the current structure was in the velocity zone and needed to meet velocity zone standards and regulations. She stated she performed a site visit with the chairman, John Veracka, Paul Armstrong and Daniel Harlow. She asked the applicant if he was planning to raze the structure.

Dr Harlow stated that he needed to ask Paul Armstrong what portion of the structure could be saved. He stated that they wanted to save as much of the structure as possible.

Maureen Thomas stated that she had sent Christopher Penny from the Flood Hazard Management Program an email. She read his response aloud.

Maureen Thomas stated that she believed the Commission needed to know what portions of the structure would be saved to proceed with the public hearing.

The chairman stated that two additional issues that needed to be resolved were restoring the old deck and allowing a structure on the existing foundation.

Discussion regarding velocity zone regulations

Discussion regarding the possibility of cantilevering the deck

Daniel Harlow asked if the whole foundation or just the side wall of the foundation did not meet code (referring to Christopher Penny's letter).

The chairman stated that if there was 50% or more of an improvement to the structure, the entire structure would need to meet code for the velocity zone.

Daniel Harlow discussed Richard Savickey's historic wharf property with the Commission.

Maureen Thomas stated that the historic wharf property was in a resource area and did not have a top of a coastal bank because the sides of the wharf were not considered a coastal bank. She also stated that during the public hearing for the historic wharf property, it was stated several times that it was a unique property with a unique situation.

Discussion regarding the possibility of moving the house further away from the resource area

Daniel Harlow asked if the digging aspect was what constitutes disturbance within the 25' no disturb buffer zone.

Maureen Thomas stated construction and existence of the construction over time constitutes disturbance.

The chairman stated that the Commission received an opinion from town council stating that there was no grandfathering option.

James Dehner stated that the Commission looks at projects case by case. He stated that it was very clear with Mr. Savickey's property that the Commission was not setting a precedent.

Sue Chamberlain motioned to continue the Public Hearing.
William Underhill seconded the motion.

9:07p.m.

VOTE: 6-0-0

Continued to November 20, 2007 @ 7:45p.m.

9:11p.m.

Continued a Public Hearing for a Notice of Intent for Ryan's Way,
Map 52, Lots 3-1 thru 3-14

Present: Mark Flaherty, Bob Gray, Matt Dacey

Mark Flaherty stated that that the ZBA approved a 30 unit subdivision with 8 affordable housing units. All housing units would be outside of the riverfront area. There would be a 50' no disturb buffer zone to the wetlands. Mark Flaherty reviewed the project with the Commission and the public.

James Dehner asked if the applicant had a planting plan for the areas within the Commission's jurisdiction.

Mark Flaherty stated that there was an erosion and control plan and stated that there would be plantings within the biocenters.

The chairman asked if there would be anything that would keep the individual swales from being filled.

Mark Flaherty stated that it would have to be enforced by the homeowners association.

The chairman asked if there would be any boundary for homes along the pond.

Maureen Thomas stated that they could post the 25' no disturb buffer zone.

Maureen Thomas suggested that the Commission not require a conservation restriction and post the area with bounds instead.

Matt Dacey stated that there would be a fence installed 6' off of the pavement.

Maureen Thomas also recommended signage.

Discussion regarding conservation restriction versus a donation to the town

Maureen Thomas asked about the existence of trout.

Bob Gray stated that they were not aware whether there was brook trout, but were hoping that they would not have to address the issue since there were no homes within the Riverfront Area.

Maureen Thomas requested a detail of the plantings for the biofilter swales, profile for biofilter, existing drainage infrastructure and a plan for replanting after the drainage system was on line.

Mark Flaherty stated that the plantings would be replaced after the drainage was on line.

Matt Dacey stated that they could deed the property to the town or keep it in the homeowners association if the town decided that they did not want the property.

Bob Gray stated that if the conveyance to the town was not acceptable to the Selectmen, they could fall back on having to place it under a conservation restriction.

Discussion regarding special conditions

William Underhill motioned to close the Public Hearing.
James Dehner seconded the motion.

9:54p.m. VOTE: 6-0-0

William Underhill motioned to issue Orders of Conditions with special conditions.

Sue Chamberlain seconded the motion.

9:54p.m. VOTE: 6-0-0

10:00p.m. Opened a Public Hearing for a Notice of Intent for Cole Avenue, Map 58, Lot 105

Present: Steve Kotowski

Steve Kotowski presented the project to the Commission.

The chairman stated that he would like the house and where the riparian zone crosses the property to be staked for the site visit.

The chairman asked how much riverfront area was on the property.

Steve Kotowski stated that the riverfront area was 17,182 square feet.

The chairman asked what percentage of the riverfront area would be used with the proposed project.

Steve Kotowski stated that 7% of the riverfront area would be used.

The chairman stated that the applicant did not have a sewer hook up and asked if they were on the waiting list.

Steve Kotowski stated that the applicant wanted to go before Conservation to obtain a permit prior to a sewer connection.

The chairman stated that there would be no clearing allowed within the inner riparian zone and requested that there be a posting of the inner riparian zone.

Marilyn Kozodoy asked if the applicant was willing to build a home without a yard.

The chairman stated that the Commission would not allow a yard within the inner riparian zone and the applicant would have to appeal.

Marilyn Kozodoy motioned to continue the Public Hearing.
William Underhill seconded the motion.

10:11p.m. **VOTE: 6-0-0**
Continued to 11/6/2007 @ 8:00p.m.
Site Visit 10/27/2007

10:14p.m. Opened a Public Hearing for a Request for Determination of Applicability for 22 Reed Street, Map 17, Lot 72
Present: Steve Kotowski

Steve Kotowski presented the proposed septic system replacement project to the Commission.

The Commission scheduled a site visit.

Sue Chamberlain motioned to continue the Public Hearing.
William Underhill seconded the motion.

10:17p.m. **VOTE: 6-0-0**
Continued to 11/6/2007 @ 8:15p.m.
Site Visit 10/27/2007

10:17p.m. Opened a Public Hearing for a Request for Determination of Applicability for 41 Winthrop Street, Map 18, Lot 32
Present: John Earner

John Earner presented the project to the Commission.

James Dehner asked how many square feet of buffer area disturbance was proposed.

John Earner stated that he was not sure.

The chairman requested that a narrative of the filtering system and maintenance be presented at the continuation of the Public Hearing.

William Underhill motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

10:27p.m.

VOTE: 6-0-0

Continued to 11/6/2007 @ 8:30p.m.

Site Visit 11/27/2007

Marilyn Kozodoy motioned to adjourn.
William Underhill seconded the motion.

10:30p.m.

VOTE: 6-0-0