

Kingston Conservation Commission Minutes

December 2, 2008

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

Discussion regarding the re-appointment of William Underhill to the Community Preservation Committee

Marilyn Kozodoy motioned to re-appoint William Underhill to the Community Preservation Committee.

Sue Chamberlain seconded the motion.

7:02p.m. **VOTE: 4-0-0**

7:02p.m. Informal meeting – 18 Brook Street

Present: Bill O'Brien

Bill O'Brien stated that he had done everything that the Conservation Agent wanted him to do out on the site except move the pile of dirt that had been there for 18 years. He stated that he and the Conservation Agent measured where the buffer zone and no disturb zone was on his property. He stated that some of the dirt may have gone into the pond. He stated that he was asked to install a silt fence. He stated that he seeded the area and the next rain event washed away the seed along with some dirt. He installed a second silt fence and seeded the area with winter rye. He stated that he was trying to level out the area with a dip. He stated that water was flowing to the pond but that it was not dirty water. He stated that he made a berm around the pile and thought that he did everything that needed to be done.

Marilyn Kozodoy stated that a fine would not have been issued if the work had been completed.

Maureen Thomas stated that she had taken pictures of the area and that it did not look like there was a berm. She stated that she had made a drawing to explain it better because she didn't think that Mr. O'Brien understood what she meant by using the term "berm".

Bill O'Brien stated that the Conservation Agent had been very good about everything and he had no complaints. He presented a note that was on the water pump to the Commission.

Discussion regarding deadline and work that was/was not completed

Bill O'Brien stated that the winter rye that was seeded had begun to sprout.

Maureen Thomas stated that some of the winter rye had come up but not enough.

Bill O'Brien stated that he seeded winter rye and placed hay around the berm.

The chairman asked where the manure had been placed.

Bill O'Brien stated that he shovels the manure out of the barn.

The chairman asked if the manure was contained.

Bill O'Brien stated that he had contacted the state and that had told him that he did not have to cover the manure.

The chairman stated that he would not need to cover the manure if it was not washing into a resource area.

Bill O'Brien stated that he needed to add dirt for the pen for the animals. He stated that he has had animals for 21 years at this location and did not understand why it was now a problem.

Maureen Thomas stated that the new activity was impacting Lucas Pond.

The chairman stated that all the Commission was trying to do was protect the pond and stream.

Marilyn Kozodoy asked what would happen if the work was not completed.

The chairman stated that the agent could perform a site visit and if the work was completed correctly the fine could be rescinded. If the work was not completed, then the fine stands.

Sue Chamberlain recommended that the Commission give the property owner a two week moratorium. If the work was not completed in two weeks, then it would go to court. She told the property owner to work with the Conservation Agent and get the work completed.

Marilyn Kozodoy stated that the work should be completed by December 12th for review at the December 16th meeting.

Maureen Thomas asked the applicant for an update on 49R Main Street.

Bill O'Brien stated that it would have gone well if he didn't have to move the dirt because it made a mess.

Maureen Thomas asked if the trees had been planted.

Bill O'Brien stated that 28 trees had been planted.

Maureen Thomas stated that Mr. O'Brien needed to plant the rest of the maples for the winter and move them later to protect them from freezing.

Sue Chamberlain motioned to suspend Bill O'Brien's fine for 18 Brook Street for two weeks to give the property owner an opportunity to comply with the Enforcement Order issued on October 3, 2008.

William Underhill seconded the motion.

Discussion on the motion

7:32p.m. VOTE: 5-0-0

**7:33p.m. Opened a Public Hearing for a Notice of Intent for 187 Summer Street, Map 20, Lot 3
Present: Jack O'Leary, John Cadete**

Jack O'Leary presented the project to the Commission.

William Underhill asked why the proposed building was not parallel with the existing building on the property.

Jack O'Leary stated that the location of the building would not interfere with visibility or accessibility.

Maureen Thomas asked where the infiltration area would be located.

Jack O'Leary referred to sheet four and five of the plans.

Maureen Thomas asked if they were proposing to use a perforated pipe within the crushed stone.

Jack O'Leary stated yes.

Maureen Thomas stated that silt socks and a hay ring should be used if dewatering was necessary.

Jack O'Leary stated that haybales would be located at the area of disturbance with haybales around the basin.

Maureen Thomas asked if the haybales would be on the pavement or at the cut.

Jack O'Leary stated that they can be placed at the cut if needed.

Maureen Thomas asked if they were connecting the infiltration system to the existing drainage system.

Jack O'Leary stated that they were connecting to the existing drainage system for overflow.

Maureen Thomas asked where materials would be stockpiled.

Jack O'Leary stated that stockpiles would be located behind the haybales on the pavement.

Sue Chamberlain asked if there would be any preventative measures to keep trash and liquids contained to the dumpster.

Jack O'Leary stated that there would be a berm around three sides of the dumpster.

The chairman asked how many parking places the Planning Board would require.

Jack O'Leary stated that there were 341 existing parking places and under the by-law they would need 308. He stated that there would be a net loss of 11 spaces with the construction of the building.

Marilyn Kozodoy motioned to continue the Public Hearing.

William Underhill seconded the motion.

7:55p.m.

VOTE: 4-1-0 (William Kavol opposed)

Continued January 6, 2009 @ 7:30p.m.

8:03p.m.

Opened a Public Hearing for a Notice of Intent for 8 Braintree Avenue, Map 59, Lot 34

Present: Mark Casey, Walter Foster

Mark Casey presented the revised plans to the Commission. He presented the project to the Commission and showed the overlay and drawings of the proposed house.

Maureen Thomas asked if the existing deck had a roof.

Walter Foster stated that the existing deck did not have a roof.

Maureen Thomas asked if anything was being proposed within the 25' no disturb zone.

Mark Casey stated no.

Maureen Thomas asked if the decking was impervious or if there was spacing between the decking.

Walter Foster stated that the decking was spaced.

Maureen Thomas stated that she was not comfortable with the velocity zone delineation. She stated that in order to ensure that the V4 delineation was correct, the Commission would need to see an overlay of the FEMA maps.

Mark Casey stated that he could obtain an overlay from Mass GIS.

Discussion regarding the velocity zone and elevations

Mark Casey stated that the applicant would like to install a flag pole that was a mast from an old boat.

Walter Foster stated that the flag pole would be 6" in diameter and footed at least 4'.

Mark Casey stated that the flag pole would need a 12" sona tube and there would be five 12" sona tubes being removed from the site.

Marilyn Kozodoy motioned to continue the Public Hearing.

William Underhill seconded the motion.

8:24p.m.

VOTE: 5-0-0

Continued to 12/16/2008 @ 8:30p.m.

8:26p.m.

Opened a Public Hearing for a Request for Deviation / Amendment for 37 East Avenue, Map 49, Lot 115

Present: Kevin Grady

Kevin Grady presented the Request for Deviation to the Commission and the public.

William Underhill asked if the applicant's parking area stopped at the roadway.

Kevin Grady stated yes. He also stated that they would use pavers to extend the driveway along the wall and would not change any grades or add fill.

Marilyn Kozodoy asked if there was an alternative.

Kevin Grady stated that there was not anywhere else to go on the site.

Maureen Thomas stated that an alternative would be to not go with the Zoning Board of Appeals (ZBA) request. She asked if the applicant was originally looking to just extend the driveway slightly.

Kevin Grady stated yes and the ZBA thought that it would be better not to stack the cars.

William Underhill stated that he felt that it should not be allowed within the velocity zone.

William Underhill motioned that it was the consensus of the Conservation Commission that no parking be permitted within the velocity zone and any extension of the driveway be constructed of pervious material. Parking in front of the building needed to be explored.

Marilyn Kozodoy seconded the motion.

8:59p.m.

VOTE: 5-0-0

Marilyn Kozodoy motioned to continue the Public Hearing.

William Underhill seconded the motion.

8:59p.m.

VOTE: 5-0-0

Continued to 12/16/2008 @ 8:45p.m.

9:00p.m.

Continued a Public Hearing for a Notice of Intent for 18 Shore Drive, Map 38, Lot 222

Present: Steve Kotowski, Robert Kraus, Esq., Kevin Doyle

Steve Kotowski reviewed the proposed project with the Commission. He stated that the applicant decided to keep the existing building in the same location. The total proposed footprint would be 20-22 feet and living space would be extended to the structural support. He stated that they would cantilever out to the limit of the deck.

Kevin Doyle presented drawings to the Commission.

Steve Kotowski reviewed the drawings with the Commission.

Kevin Doyle stated that there was vegetation currently growing under the deck.

Robert Kraus, Esq. stated that his current home was a prototype of what would be done at this site.

Steve Kotowski stated that they were eliminating the ideas that were shown in the proposed area of the plan.

The chairman stated that he would rather see the expansion parallel with the road which would keep it from being closer to the water.

Robert Kraus, Esq. stated that the pylons were not changing.

The chairman stated that they were proposing to take a deck with no roof and change it into a structure. He stated that Coastal Zone Management (CZM) stated that a structure moved closer to water would result in an impact.

Kevin Doyle stated that the structure itself doesn't hurt the environment.

Marilyn Kozodoy read notes aloud from the site visit to this property with Rebecca Haney from CZM regarding placement of a structure and its potential impact on the top of a coastal bank. .

The chairman stated that the Conservation Commission has not allowed a structure like this before and doesn't believe that it would be permitted now.

Maureen Thomas stated that the velocity zone didn't appear to be delineated correctly.

Steve Kotowski discussed the velocity zone delineation. He stated that the survey was consistent with the field topographic survey. He also stated that he disagreed with overlaying the FEMA maps and scaling them down to the current plan.

Maureen Thomas stated that the Commission has had numerous cases of structures within velocity zones reviewed and each review consultant used a FEMA map overlay and scaled them down to the current plan. She stated that this was the current practice that the Commission used to base its decisions.

Robert Kraus, Esq. stated that what the applicant was proposing would not diminish the strength of the coastal bank. He stated that it was not inconsistent with what had been done on Shore Drive.

The chairman stated that allowing what was proposed for this and other properties would cumulatively have an impact.

Steve Kotowski reviewed the coastal bank portion of the project with the Commission.

Marilyn Kozodoy stated that Rebecca Hainey from CZM had discussed using stones half way up the slope of the coastal bank and using coconut fiber mats for less reflection of wave action. She also stated that the rocks that were moved over should be brought back to their original location.

Kevin Doyle stated that he had researched the fiber mats and he couldn't understand why they would want them at the toe of the slope. He stated that the mats would last up to twenty years. He stated that he was proposing to plant trees.

The chairman stated that Rebecca Hainey was attempting to keep it natural since there was a soft spot.

Maureen Thomas asked if anyone had contacted any of the bioengineering firms as suggested by the Commission.

Kevin Doyle stated that he had only researched the coconut fiber mats online.

Robert Kraus, Esq. stated that there was a limited lifespan for the fiber mats. He stated that they wanted to compromise with the Commission and that there was not a lot to talk about if it was CZM's opinion or nothing. He stated that there would be a combination of vegetation to support and enforce the revetment.

Steve Kotowski stated that they scaled back the project considerably.

The chairman stated that the Commission may compromise between the rocks and the fiber mats, but that he was only speaking as one member of the Commission.

Maureen Thomas asked if the applicant could add a couple of coconut fiber logs to the bottom of the revetment.

Kevin Doyle stated that once a plant is established it has an infinite tow hold.

Maureen Thomas stated that vegetation would grow in the coconut fiber mats. They would become part of the embankment.

Kevin Doyle stated that he thought he was enhancing a 50' by 100' lot.

Maureen Thomas stated that some of the project did not comply with the local by-law.

Marilyn Kozodoy stated that in the past 1.5 years there have been many classes given by state agencies for Conservation Commissioners that discussed basing decisions on laws and science. Suggestions for this project were the result of these trainings and consultation with CZM.

William Underhill motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.
10:01p.m. VOTE: 5-0-0
Continued to January 6, 2009 @ 7:45p.m.

Reviewed the draft minutes of October 21, 2008

William Underhill motioned to accept the minutes of October 21, 2008 as corrected.
Sue Chamberlain seconded the motion.
10:04p.m. VOTE: 5-0-0

William Kavol motioned to adjourn.
William Underhill seconded the motion.
10:05p.m. VOTE: 5-0-0