

Kingston Conservation Commission Minutes

February 19, 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 Independence Center LLC I & G Account balance of \$783.97 (account #26613)
- Marilyn Kozodoy motioned to close account # 26613 and return the balance of \$783.97 to Independence Center LLC.
Sue Chamberlain seconded the motion.
- 7:02p.m.** **VOTE: 4-0-0**
- Discussion regarding the Charityezone LLC I&G Account balance of \$0.53 (account #26611)
- Sue Chamberlain motioned to close account #26611 and move the balance of \$0.53 to the General Fund.
William Underhill seconded the motion.
- 7:02p.m.** **VOTE: 4-0-0**
- Discussion regarding the bid of \$3000.00 received from Goscon, Inc. for the Sampson Park deck project
- Marilyn Kozodoy motioned to award Goscon, Inc. the bid for the Sampson Park deck project.
Sue Chamberlain seconded the motion.
- 7:04p.m.** **VOTE: 4-0-0**
- 7:04p.m.** **William Whitehill arrived.**
- Discussion regarding the Jones River Watershed Association's request for a support letter for Pine Brook restoration on Cranberry Watershed Preserve

Sue Chamberlain motioned to issue a support letter for the JRWA grant application to the Massachusetts Environmental Trust (MET) for restoration of Pine Brook.

William Underhill seconded the motion.

7:05p.m. VOTE: 5-0-0

Discussion regarding:

- Tall Timbers – want to eliminate cranberry bog as a Bordering Vegetated Wetland from the ORAD because they say it was built in an upland and is now abandoned
- 187 Summer Street – failure to not follow perpetual conditions of order originally issued in 1984

Marilyn Kozodoy motioned to issue an Enforcement Order for 187 Summer Street.

William Underhill seconded the motion.

Discussion

7:15p.m. VOTE: 5-0-0

Discussion regarding:

- 5 Smelt Pond Road enforcement issue
- Appointing chairperson for Elm Street Public Hearing at 8:00p.m.

William Underhill motioned to appoint Marilyn Kozodoy as chairperson for the Elm Street public hearing.

Sue Chamberlain seconded the motion.

7:17p.m. VOTE: 4-0-1 (Gary Langenbach abstained)

Reviewed draft minutes of January 8, 2008

William Underhill motioned to accept the minutes of January 8, 2008 as corrected.

Marilyn Kozodoy seconded the motion.

7:18p.m. VOTE: 5-0-0

Gary Langenbach recused himself for discussions regarding Elm Street.

Discussion regarding Elm Street – William Whitehill voting, enhancing the turtle nesting area and compromising the 100' no disturb buffer zone to a potential vernal pool, find out whether the potential vernal pool is a vernal pool.

7:30p.m. William Kavol arrived.

7:30p.m. Continued a Public Hearing for a Notice of Intent for Cole Avenue, Map 58, Lot 105

Marilyn Kozodoy motioned to continue the Public Hearing per the applicant's request.
William Underhill seconded the motion.

7:32p.m. VOTE: 6-0-0

Discussion regarding:

- rain gardens at Kingston Intermediate School – detention basin will be put out to bid
- Sampson Fund request for repair of the bridges at Hathaway Preserve

7:45p.m. Opened a Public Hearing for a Request for Determination of Applicability for 15 Winthrop Street, Map 19, Lot 11
Present: Todd Bryan

Todd Bryan presented the proposed project to the Commission.

Discussion regarding proving that a bog was constructed from an upland

Maureen Thomas stated that the closest point of the proposed structure to the wetland was 90'.

Discussion regarding whether to file a Notice of Intent

Sue Chamberlain asked how they were planning to access the proposed dwelling.

Todd Bryan stated that they would be using the existing bog road with no improvements.

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

7:59p.m.

VOTE: 6-0-0

Continued to 3/4/2008 @ 8:30p.m.

Site visit 2/28/2008 @ 5:00p.m.

Gary Langenbach recused himself as chairman.

Marilyn Kozodoy was acting chairperson.

Marilyn Kozodoy read a statement dated February 19, 2008 (attached to minutes) regarding her July 2006 filing of a Disclosure of Appearance of Conflict of Interest.

8:02p.m.

Opened a Public Hearing for a Request for Deviation / Amendment for Elm Street, Map 64, Lot 29-7

Present: Brad Holmes, Brian Wallace, Andrew Weiss

Brian Wallace presented color coded maps to the commission and gave a summary of the proposals.

Marilyn Kozodoy read the email from Jon Regosin (Regulatory Review Manager for Natural Heritage & Endangered Species Program) forwarded via email to the conservation office on February 19, 2008 (attached)

Brad Holmes reviewed the site visit performed with Jon Regosin.

Brian Wallace stated that they were trying to give the commission alternate plans to consider.

Maureen Thomas requested the applicant to explain to the commission what the turtle nesting area would require as far as construction.

Brian Wallace reviewed the process with the commission.

Maureen Thomas stated that the commission should perform a site visit. She asked if the applicant was planning to look at the potential vernal pool this spring to see if it was a vernal pool.

Brian Wallace stated that they were not planning on looking at the potential vernal pool in the spring.

Maureen Thomas stated that the proposal extended into the 100' no disturb buffer zone to a vernal pool.

Brian Wallace stated that if the request for amendment was denied, it would not affect the project. He stated that they were filing because of the request made by NHESP. NHESP would accept what was currently proposed and permitted.

Sue Chamberlain asked Brian Wallace if he would be willing to allow commission members to certify vernal pools on the property.

Brian Wallace stated that he did not have an issue with the commission certifying a vernal pool in flagging area D.

William Kavol asked how large the staging area would be.

Brian Wallace stated that it would be a three day activity. He stated that the current plan had 2,675 square feet of disturbance within the 100' buffer zone. The proposal by Jon Regosin had 5500 square feet of disturbance within the 100' buffer zone and the proposal by the applicant had 3125 square feet within the 100' buffer zone.

Paula McDonough from 146 Elm Street asked how they would stop people from using the area where the nesting area was located.

Marilyn Kozodoy stated that the condominium association and/or management group would be responsible for enforcement on their property.

Brian Wallace stated that there would be extensive signage and a post and rail fence. He stated that they were not proposing to change the walkway.

Paula McDonough asked how they would enforce people not using ATV's in the area.

Maureen Thomas stated that it would be part of the Conservation Restriction and the holder would have the responsibility.

Paula McDonough asked who would be performing the turtle sweeps.

Brian Wallace stated that they currently had proposals and it would probably be a turtle biologist from ENSR.

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

8:40p.m. VOTE: 5-0-0
Continued to March 4, 2008 @ 8:45p.m.
Site visit February 28, 2008 @ 4:00p.m.

8:40p.m. Gary Langenbach returned as chairman.

8:40p.m. Continued a Public Hearing for a Request for Determination of Applicability for 14 Braunecker Avenue, Map 67, Lot 92
Present: Andrew Ruprecht

Maureen Thomas stated that conditions on the Negative Determination would include:

- installing silt fence down slope of the limit of grading
- pool dewatering to occur by truck
- re-vegetate newly graded area before the removal of the silt fence

Sue Chamberlain motioned to close the Public Hearing.
Marilyn Kozodoy seconded the motion.

8:44p.m. VOTE: 5-0-0

Sue Chamberlain motioned to issue a Negative Determination with conditions.

Marilyn Kozodoy seconded the motion.

8:44p.m. VOTE: 5-0-0

8:45p.m. Continued a Public Hearing for a Notice of Intent for 41 Winter Street, Map 10, Lot 59
Present: Steve Kotowski, Leo Laliberte

Steve Kotowski presented revised plans to the commission.

Discussion regarding activity on section of property not yet owned by Leo Laliberte

8:52p.m. William Kavol arrived.

Discussion regarding preconstruction conditions

Marilyn Kozodoy requested contours on the plans and stated that there were filing requirements to be met.

Steve Kotowski explained why previous plans did not have contours on the plans.

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

9:00p.m. VOTE: 6-0-0
Continued to March 4, 2008 @ 7:20p.m.

9:06p.m. Continued a Public Hearing for an Abbreviated Notice of Resource Area Delineation for 26 Evergreen Street, Map 35, Lot 27 & 56
Present: Renny Chapman, John Burrey, Steven Solbo

Renny Chapman reviewed the site visit and stated that flag 2-16 that was in question was in the correct location. He requested that the wetland line be approved as shown on the plans.

Maureen Thomas stated that she believed that the Commission agreed with the wetland line.

Discussion regarding the wetland by-law and previously disturbed areas

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

9:15p.m. VOTE: 6-0-0

Sue Chamberlain motioned to issue an Order of Resource Area Delineation.

9:15p.m. VOTE: 6-0-0
Marilyn Kozodoy seconded the motion.

9:15p.m. Informal meeting regarding 26 Evergreen Street
Present: Renny Chapman, John Burrey, Steven Solbo

Renny Chapman presented a draft plan to the Commission and the public.

Marilyn Kozodoy asked why they would not consider scaling down the building to fit the property so as to comply with the WPA and Town Regulations and By-Law.

Jack Burrey stated that the building was designed based on need.

Maureen Thomas asked if part of the building had an overhang.

Jack Burrey stated that there was an outdoor porch with an overhang.

The chairman asked if they had considered requesting the Planning Board to consider scaling back the parking.

Renny Chapman stated that they had not yet considered the option of scaling back the parking.

The chairman stated that he would not want to see a wall in a buffer zone.

Renny Chapman asked if he was more open to a steeper slope.

The chairman stated that it would depend on the location.

Marilyn Kozodoy requested that Renny Chapman point out the toe and angle of slope on the plan.

Discussion regarding porous pavement

The chairman stated that based on the limit of conceptual work, they needed to scale back the project. He also stated that they needed to consider going to the Planning Board to ask for less parking.

Marilyn Kozodoy requested Renny Chapman to restate the responsibility of the Conservation Commission.

Renny Chapman stated the responsibility of the Conservation Commission.

The chairman stated that the location of the back of the proposed building was not filled or previously disturbed and would be an issue if they wanted to conduct any proposed work in that area.

Ron Gleason presented a letter to the Commission from the chairman of the Senior Center Building Committee (Paul Gallagher).

Sue Chamberlain stated that she understood the committee's concerns, but she stated that there was more of an encroachment that what the commission would be comfortable with. She stated that the Commission could not act like the 25' no disturb buffer zone didn't exist because it would set a precedent. She stated that she could not accept the limit of work as shown.

Marilyn Kozodoy stated that she supported the continuation to work on the site with the understanding that there would have to be some design changes in order to comply with the WPA and Town Regulations and By-law.

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

10:20p.m. VOTE: 6-0-0