

Kingston Conservation Commission Minutes

May 20, 2008

- 7:00p.m.** The chairman called the meeting to order.
Present: Gary Langenbach (chairman), Marilyn Kozodoy, Sue Chamberlain, James Dehner, William Underhill, William Whitehill
Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary
- 7:00p.m.** Informal meeting with the Senior Center Building Committee representatives
Present: Jack Burry, Ron Gleason
- Jack Burry presented draft plans to the Commission. He reviewed the conceptual plans with the Commission.
- 7:05p.m.** **William Kavol arrived.**
- Sue Chamberlain commended the Senior Center Building Committee on looking at a different design for the area. She stated that some of the parking spaces may be encroaching upon a vernal pool.
- Maureen Thomas stated that the previous design was closer to the wetland line and more parking spaces were within the 25' no disturb buffer zone.
- The chairman stated that he would like to see no activity within 50' of the vernal pool.
- James Dehner stated that they could make something work on the current site. He stated that he was hoping to see another design of the building that would not encroach upon the 25' no disturb buffer zone.
- The chairman discussed pervious and impervious areas.
- James Dehner stated that he understood that there had been time and money invested in this project, but stated that the current proposal put a lot of pressure on the Commission. He stated that it was not the Commission's fault that the building had been designed

in a way that would not fit the lot properly to maintain the no disturb buffer zones.

Maureen Thomas stated that she had mentioned to Jack Burry and Ron Gleason that the Senior Center Building Committee should make a request for a waiver regarding setbacks to the Conservation Commission.

James Dehner stated that the proposed project would need to be justified thru better mitigation.

William Underhill stated that the Commission was here to uphold the laws that the town made for the environment.

The chairman stated that drainage would be their main hurdle. He also stated that he was concerned with the proposed grading.

James Dehner stated that he would like everyone to consider the use of the patio and the impacts it will have. He stated that the area would need to be salted and sanded in the winter.

7:30p.m. Opened a Public Hearing for a Request for Determination of Applicability for 8 Shore Drive, Map 38, Lot 218
Present: Eric and Kathryn Carlson

Kathy Carlson presented the proposed project to the Commission.

Discussion regarding roof runoff

Kathy Carlson stated that her son had installed removable steps. She also stated that the platform was pre-existing.

Maureen Thomas asked if there were any footings for the railing.

Eric Carlson stated that the railing was attached to the stairs.

Sue Chamberlain motioned to close the Public Hearing.
James Dehner seconded the motion.

7:41p.m. **VOTE: 7-0-0**

Sue Chamberlain motioned to issue a Negative Determination of Applicability with conditions.
William Underhill seconded the motion.

7:41p.m. **VOTE: 7-0-0**

Reviewed the draft minutes of April 1, 2008

James Dehner motioned to accept the minutes of April 1, 2008 as corrected.

Marilyn Kozodoy seconded the motion.

7:47p.m. VOTE: 7-0-0

7:50p.m. Continued a Public Hearing for a Notice of Intent for 18 Shore Drive, Map 38, Lot 222

The applicant requested a continuation.

Marilyn Kozodoy motioned to continue the Public Hearing.

William Underhill seconded the motion.

**7:51p.m. VOTE: 7-0-0
Continued to August 19, 2008 @ 8:45p.m.**

Agent Updates:

- 49R Main Street – property owner received \$300 fine and letter issuing deadline of May 26th to commence removing the fill
- 83 Howlands Lane – no filing received

William Underhill motioned to issue an enforcement order to the property owner of 83 Howlands Lane and issue a deadline of two weeks from the date of receipt of the letter requesting the property owner to file a Notice of Intent.

Marilyn Kozodoy seconded the motion.

7:57p.m. VOTE: 7-0-0

Agent Updates continued:

- 71 Country Club Way – fill removed and seeding on slope occurred
- Old Orchard Lane – Highway Department normally would clear along the street and railroad for the school buses to be able to see down the railroad prior to crossing the tracks. The property owner hired a contractor and he ended up clearing twice as much as the Highway Department would normally clear.
- 40-R Request for Site Visit to verify mean annual high water for the vernal pools – May 28, 2008 @ 5p.m.

8:17p.m. Continued a Public Hearing for a Notice of Intent for Cole Avenue, Map 58, Lot 105

Applicant and representative could not attend and requested a continuance.

Maureen Thomas stated that she had email communication with Bob Gray and Steve Kotowski regarding the wetland line and the possibility of having a consultant review.

Maureen Thomas read a letter received from Paul Nachtwey (property owner) received via fax on May 20, 2008

The chairman stated that it was unclear as to whether the applicant wanted to close the Public Hearing. He recommended sending a letter to the applicant to request clarification.

Discussion regarding wetland delineation

James Dehner stated that they were questioning the delineation of a difficult site that may be hard to read and not questioning the integrity of the botanist.

The chairman stated that the letter from the applicant was unclear as to whether he wanted to close the Public Hearing. He also stated that he, with the agreement of the Commission, was willing to hire an outside consultant with the Wetland Protection Fund.

Maureen Thomas stated that there was a lack of sufficient information to make an educated decision.

James Dehner stated that this was a difficult site and the wetland line had been changed once before by their botanist.

William Underhill motioned to issue a letter to the applicant (Paul Nachtwey) to request clarification and to inform the applicant that the Commission was willing to hire an outside consultant with the Wetland Protection Fund.

Marilyn Kozodoy seconded the motion.

8:39p.m.

VOTE: 7-0-0

Sue Chamberlain motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:39p.m.

VOTE: 7-0-0

Sue Chamberlain motioned to re-open the Public Hearing.

James Dehner seconded the motion.

8:39p.m.

VOTE: 7-0-0

Marilyn Kozodoy motioned to hire an outside consultant with the Wetland Protection Fund pending the applicant's response.

Sue Chamberlain seconded the motion.

8:42p.m. VOTE: 7-0-0
Sue Chamberlain motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

8:42p.m. VOTE: 7-0-0
Continued to 6/17/2008

8:46p.m. Continued a Public Hearing for a Notice of Intent for 187 Summer Street, Map 20, Lot 3

Applicant requested a continuance

8:47p.m. Opened a Public Hearing for a Notice of Intent for off Grove Street, Map 22, 31 & 32, Lots 29, 15 & 5-2

Present: Brian Donahoe, Karen Horn, Peter DelPrete

Brian Donahoe presented the project to the Commission and the public.

Sue Chamberlain asked what the bridge would be made of.

Brian Donahoe stated that it would be made of treated Southern Yellow Pine. He stated that a preservative was used on the wood that was not CCA.

The chairman disclosed that he was the chairman of the acquisitions committee for Wildlands Trust, and had recused himself from any involvement on the part of that committee regarding this property.

The chairman asked if the wooden piles would be laminated.

Brian Donahoe stated no.

James Dehner asked how the bridge would be treated during the winter.

Brian Donahoe stated salt and/or sand would be used to treat the bridge during the winter.

James Dehner stated that the bridge would be plowed and the salt and sand would end up in wetland below the bridge.

Maureen Thomas stated that the cart path to the south of the property was to remain and asked if the applicant would consider

removing the pipe and continuing the pedestrian walkway as mitigation.

Brian Donahoe stated that they could do that.

The chairman asked if Natural Heritage and Endangered Species Program (NHESP) suggested some type of mitigation.

Brian Donahoe stated that NHESP was looking at relocating the turtles and installing turtle barriers (silt fence) to keep the turtles from returning to the site.

Maureen Thomas asked if the turtle barriers would be within the jurisdiction of the Conservation Commission.

Brian Donahoe stated no.

James Dehner asked if there was a timeline for the Conservation Restriction to be signed and closed.

Brian Donahoe stated that they would like the Conservation Restriction completed within the next six months if possible.

Maureen Thomas asked if NHESP had reviewed the most recent plans from the Zoning Board of Appeals.

Brian Donahoe stated that the revisions in April did not affect the plans that had been sent to NHESP.

The chairman asked the applicant to explain why the set of plans presented to the Commission did not reflect the Order of Resource Area Delineation (ORAD).

Brian Donahoe believed that the Notice of Intent process was equivalent to an ORAD. He stated that he was requesting the Commission to look at the stream.

James Dehner stated that the Commission would need to hear back up information as to why they did not agree with the ORAD.

Brian Donahoe stated that this winter they had flown over the area, observed the area and walked the river. He presented pictures to the Commission of the river after the February rain fall.

James Dehner asked if there was any field data to substantiate changing the wetland line. He stated that the field indicators were

based on photos and field observations and the hydrology was based on photos. He asked if they had looked at the soils.

Brian Donahoe stated that they did not need to look at the soils.

James Dehner asked what method was used for the Bordering Vegetated Wetland (BVW).

Brian Donahoe stated that they did not disagree with the BVW. He stated that they disagreed with the Riverfront line.

Sue Chamberlain stated that a bank can look defined but the hydrology beneath the surface may continue.

James Dehner stated that he could not make a decision with what had been presented. He stated that the Commission should perform a site walk and would probably need to hire an outside consultant to determine the delineation.

Pine duBois asked what the difference was between the old and new line.

Brian Donahoe stated that there was a difference of approximately 70' – 100'.

Pine duBois asked if both lines were shown on the plans.

The chairman stated no.

James Dehner motioned to continue the Public Hearing. Sue Chamberlain seconded the motion.

9:40p.m.

VOTE: 7-0-0

Continued to 6/17/08 @ 7:45p.m.

Site visit 6/13/08 @ 5:00p.m.

9:47p.m.

Opened a Public Hearing for a Notice of Intent for 73 Evergreen Street, Map 36, Lot 103

Present: Frank Westgate

Frank Westgate presented the project to the Commission.

Maureen Thomas asked if the test pits for the rain gardens had been scheduled.

Frank Westgate stated that they were scheduled for the end of May.

James Dehner stated that it appeared that there was nothing out of the ordinary occurring on this site. He stated that the high flow of water into the gutters would infiltrate into rain gardens.

Maureen Thomas requested a planting plan for the rain gardens.

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

10:05p.m. VOTE: 7-0-0
Continued to 6/17/08 @ 7:30p.m.

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

10:13p.m. VOTE: 7-0-0
Continued to 6/17/08 @ 8:30p.m.

Discussion regarding Barrows Brook comment

Sue Chamberlain motioned to adjourn.
Marilyn Kozodoy seconded the motion.

10:30p.m. VOTE: 7-0-0