

Kingston Conservation Commission Minutes

June 22, 2010

7:01p.m. The chairman called the meeting to order.
Present: Gary Langenbach (chairman), William Underhill, Sue Chamberlain, Marilyn Kozodoy, William Kavol
Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

Agent Updates:

- Guaranty & Inspection accounts

Marilyn Kozodoy motioned to close account # 041-26618 (6 Old Orchard Lane – Baymark LLC) and return the funds to the applicant.
Sue Chamberlain seconded the motion.

7:02p.m. **VOTE: 5-0-0**

William Underhill motioned to close account # 041-26613 (Independence Center LLC) and return the remaining funds to the General Fund.
Marilyn Kozodoy seconded the motion.

7:03p.m. **VOTE: 5-0-0**

Agent Updates:

- Payment of bill from Fred E Nava & Son, Inc. for work at Cranberry Watershed Preserve

William Underhill motioned to authorize the expenditure from the FY10 budget to pay the invoice received from Fred E Nava & Son, Inc in the amount of \$1033.00.

William Kavol seconded the motion.

7:07p.m. **VOTE: 5-0-0**

Agent Updates:

- Senior Center – erosion controls installed this week and construction most likely starting next week. Preconstruction meeting possibly on Monday
- Correira Bog – need to schedule a site visit with the Cape Cod Cranberry Growers Association, NRCS and the Conservation Commission. Roger Correira installed a cofferdam and placed fill in the area that was restored in order to firm up the new floodplain area/BVW created through the restoration process for access to his canal for cleaning with machinery. He said he would remove the fill once he finishes

deepening and cleaning his channel and will re-seed back to what it was at the completion of the restoration project.

- Kelleher Bogs – Wapping Road – received complaint that work is being conducted within the Commission jurisdiction including dumping stumps within 100' of wetlands/river, filling in the river, stripping bogs, etc.

7:19p.m. Continued a Public Hearing for a Request for Determination of Applicability for 125 Pottle Street, Map 35, Lots 2, 5, 9 & 19

Present: Jack Riordan

The chairman stated that he was concerned about how well the rain gardens will function. He stated that the rain gardens will help with runoff.

Maureen Thomas stated that she could continue to monitor the project and if any issues arise she would address them at that time. She stated that the project could be permitted through a Negative Determination of Applicability with conditions. She discussed the conditions with the Commission.

Marilyn Kozodoy motioned to close the Public Hearing.

William Underhill seconded the motion.

7:24p.m. **VOTE: 5-0-0**

Sue Chamberlain motioned to issue a Negative Determination of Applicability with conditions.

Marilyn Kozodoy seconded the motion.

Discussion

7:26p.m. **VOTE: 5-0-0**

William Underhill had mentioned that he heard talk about South Shore Medical Center possibly moving.

The chairman stated that they are outgrowing their facilities and eventually the Commission will be unable to approve any more activity.

7:30p.m. Continued a Public Hearing for a Notice of Intent for Off Elm Street, Map 62 Lots 5 thru 13, Map 71 Lots 1 thru 10 and 12 thru 21, Map 79 Lots 2 thru 4

Present: Deb Keller, Peter Opachinski, Dana Miller

Deb Keller stated that she submitted additional information and a mitigation planting plan for the D and E series wetland flags. She reviewed the changes with the Commission.

Discussion

Deb Keller stated that they added a meandering look to the drainage areas. She reviewed the plans with the Commission. She reviewed other low impact options that she had researched. She stated that they would be adding wetland seed mix to the basins.

Maureen Thomas stated that it seems like the applicant tried to incorporate the Commission's requests.

The chairman asked if there would be treatment before the swales for the drainage from the roadways.

Deb Keller stated that they added a forebay and stormceptor.

The chairman stated that the applicant was putting a conservation restriction on 130 acres of open space and asked how much of the 130 acres was bogs and supporting roadway.

Peter Opachinski stated that he was not sure.

Discussion

Maureen Thomas asked Deb Keller if basin 3 would not handle a 100 year storm due to high groundwater and poor soils.

Deb Keller stated yes.

Discussion regarding open space

Discussion regarding H series wetland flags

Maureen Thomas stated that Deb Keller could look at basin 3 prior to the review.

William Underhill motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:06p.m.

VOTE: 5-0-0

Continued to July 6, 2010 @ 8:30p.m.

8:14p.m.

Opened a Public Hearing for a Notice of Intent for 26 Wapping Road, Map 44, Lot 49

Present: Alex Mansfield, Pine duBois, Nick Wildman

Alex Mansfield presented a slideshow to the Commission and public.

Maureen Thomas asked about what they were proposing to use to keep sediments in place.

Alex Mansfield stated that they would use rip rap and stabilization fabric to keep sediments from mobilizing.

Maureen Thomas mentioned that it was possible that the road collapse during the sewer project may have contributed to sedimentation.

Dan Sheehan from Riverside Drive stated that 25 years ago the Jones River Watershed Association realized that a lack of water was having an impact on the river. He stated that they went thru a two year fight to maintain a two year minimum flow. He stated that the sluice above the dam was never maintained. He asked what the normal water level was before removal and what level it would be after removal. He felt that maintenance of the dam would do just fine.

Nick Wildman stated that this was one of 24 priority projects across the state.

Pine duBois stated that there were low oxygen and high nutrient levels. The function of the water would be improved by improving water quality.

Discussion regarding flow rates and depth of water pre and post dam removal

Roger Correira from 75 Wapping Road stated that everything should be done in moderation. He mentioned that he did not see water fowl this year with the low amount of water.

William Underhill motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

9:14p.m.

VOTE: 5-0-0

Continued to July 6, 2010 @ 7:05p.m.

9:14p.m.

Opening of a Public Hearing for a Notice of Intent for 5 Tarkiln Road, Map 13, Lot 23

The applicant requested a continuation.

William Underhill motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

9:14p.m.

VOTE: 5-0-0

Continued to July 20, 2010 @ 7:30p.m.

9:15p.m.

Opened a Public Hearing for a Notice of Intent (remand) for 22 Evergreen Street, Map35, Lot 28-2

Present: Dana Junior, Lenore White, James F. Creed, Esq.

Lenore White presented the project to the Commission and the Public.

The chairman stated that if there was no new information then the project would more than likely be denied again.

Maureen Thomas stated that she felt Town Counsel made an error in reading the document. She stated that there was no lack of information on the applicant's part although this was the reason given as to why it was remanded back to the Conservation Commission. She read section 4.02 of the Regulations and Article 2.B(i) of the By-Law which were the reasons for denial.

Lenore White agreed that the By-law said that it was presumed to protect but it does not say it is presumed to not protect if any portion of a septic system is within 100' of a wetland.

James Creed, Esq. stated that a municipal sewer connection was approved next door within 100' of a wetland and asked how it was different from a septic system.

The chairman stated that it involved the treatment of gray water. Gray water is not treated by a traditional septic system but is treated by municipal sewer.

Maureen Thomas stated that there was no nutrient removal with a traditional septic system.

James Creed, Esq. stated that gray water happens outside 100' in both circumstances. He stated that the Commission would have to concede that the end point happens outside of the 100'.

Maureen Thomas stated that Title V systems were included in the By-Law and Regulations, but there was no language in the By-Law and Regulations addressing municipal sewer connections. She stated that the decision was based on the language of the By-Law and Regulations.

James Creed, Esq. stated that the Commission was trying to give them the bum's rush out the door.

The chairman stated that it was remanded due to lack of information. There is no new information to be considered.

James Creed, Esq. stated that he knows firsthand the arguments of the Commission.

Lenore White stated that she did not believe there would be any impacts to the wetlands.

Maureen Thomas stated that there must have been a reason why the Commission added the language to the By-Law regarding septic systems. She stated that presumably the reason was because the Commission was concerned that septic systems placed within the 100-foot buffer would cause harm to the environment.

Gary Langenbach confirmed that presumption.

Marilyn Kozodoy clarified the presumption by stating that the placement of components of a subsurface sewage disposal system within the 100-foot buffer could potentially cause harm to the environment.

Dana Junior stated that they had gone through the process and explained that the most reasonable path from his perspective his path was to appeal the decision. It was remanded and there was no agreement so now everyone could move on.

Sue Chamberlain motioned to close the hearing and take it under advisement. William Underhill seconded the motion.

9:44p.m. VOTE: 5-0-0

Discussion regarding paying Conservation Agent's mileage out of the Wetlands Protection Fund

Sue Chamberlain motioned to pay the Conservation Agent's mileage out of the Wetlands Protection Fund.

Marilyn Kozodoy seconded the motion.

9:45p.m. VOTE: 5-0-0

Discussion regarding 22 Evergreen Street remand

Sue Chamberlain motioned to issue a denial.

William Underhill seconded the motion.

Discussion regarding findings

9:49p.m. VOTE: 5-0-0

Agent Updates:

- StormSmart Coasts Workshop – July 16, 2010 at Plymouth Town Hall
- Elm Street Bridge public hearing

Community Preservation Committee discussion

Marilyn Kozodoy stated that at the last CPC meeting, Pine duBois had requested that the Conservation Agent or Commission flag the wetlands to assess the difficulty of permitting and feasibility of a second access road to the Pottle Street fields. She asked what was appropriate as far as expectations of the Conservation Agent.

The chairman stated that the Commission could go out and measure the distance from the wetlands to the uplands. He stated that it was approximately 600'.

Maureen Thomas asked if the wetland was at the tow of the slope.

The chairman stated yes.

The chairman stated that the CPC would need to find out the minimum width necessary for a two way road that the Planning Board would approve. Then the CPC would need to multiply the width and find out the square footage of alteration. If the minimum area to be filled exceeded 5,000 square feet then the project would require an Army Corp. permit.

Sue Chamberlain motioned to adjourn.

William Kavol seconded the motion.

10:09p.m. VOTE: 5-0-0