

Kingston Conservation Commission Minutes

August 4, 2009

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

Agent Updates:

- Ratify enforcement order for 49R Main Street

7:02p.m. **William Kavol arrived.**

Agent Updates continued:

- Pre-trial conference did not occur for 49R Main Street on July 30th. It was rescheduled to September 4, 2009 along with 18 Brook Street
- Foster Lane – never received a filing for the installation of a float system in Stony Brook as well as the placement of a shed within the 100' buffer and 200' riverfront area requested in November 2008. Letter sent requesting filing be submitted by August 31, 2009
- 35 Reed Street – called representative and left message regarding filling of the 25' no disturb zone with wood chips
- 37 Rigdale Drive Conservation Restriction – need signatures of Conservation Commission and Board of Selectmen. Once the Board of Selectmen sign the CR, it will be submitted to DCS for their review and signature
- Lowes Conservation Restriction – DCS contacted the Conservation Agent regarding a recent review of a very preliminary draft that was submitted to them prior to the current Conservation Agent. The agent will send Lowes a letter in an attempt to reestablish contact with them and state that the town would like to move forward on the CR and that they will not get a Certificate of Compliance without the CR in place.

- Wapping Road Dam drawdown RDA – temporary drawdown of Jones River behind the Wapping Road dam to complete final survey work in order to better understand the sediments, topography, etc.
- 99 Monk’s Hill Road – considering donating a couple of acres of land that connect Little Smelt Pond and Smelt Pond via a perennial stream with pond frontage. Neighbors were also offered the land and she is waiting to hear from them. Should know within a month whether the neighbors are interested in the land
- Senior Center – possibility of installing a ground source heat pump. The applicant needs to submit a Request for Amendment and submit additional information.
- Conservation Agent spoke with Paul Basler regarding the Hathaway parking lot and the thinning of vegetation at Sampson Park
- Sam Beane – repairing the Hathaway kiosk after it was destroyed a month after he originally repaired and revitalized it.
- Forest stewardship application for Sampson Park and Camp Nekon
- Set up site visit for 9 Tarkiln Road
 - August 10, 2009 5:30p.m. at the Town Hall

Marilyn Kozodoy motioned to re-organize.
Daniel King seconded the motion.

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

William Underhill nominated Gary Langenbach as chairman.
Marilyn Kozodoy seconded the motion.

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

William Underhill nominated Sue Chamberlain as Vice Chairperson.
Marilyn Kozodoy seconded the motion.

7:33p.m. VOTE: 6-0-0

William Underhill nominated Marilyn Kozodoy to represent the Commission on the Community Preservation Committee to replace William Underhill due to his resignation effective August 12, 2009.
Sue Chamberlain seconded the motion.

7:34p.m. VOTE: 6-0-0

7:36p.m. Informal Meeting – 21 Pottle Street – Request for Extension of the Orders of Conditions

Present: John Moon

The chairman stated that they received an email from Mark Casey addressing the weep hole. He stated that after reviewing the plans he realized that the pipe was elevated to so that it would drain back down to the pump chamber.

Maureen Thomas read the special conditions of the Orders of Conditions.

The chairman stated that he would have preferred that the project had never been permitted because it did not meet the standards, but would extend them because a previous commission had approved them.

Marilyn Kozodoy stated that if the Commission made a mistake early on by permitting this project then it should not be extended.

Maureen Thomas stated that if the Orders were extended for three years, sewer may become available and it would allow for a better project. If the Orders are not going to be extended, the project would be built prior to the Orders expiring with a septic system.

William Underhill motioned to extend the Orders of Conditions for three years with the condition of the inspection of erosion controls by the Conservation Agent prior to the commencement of work included in the cover letter.

Daniel King seconded the motion.

7:44p.m. **VOTE: 6-0-0**

Reviewed the draft minutes of June 23, 2009

Marilyn Kozodoy motioned to accept the minutes of June 23, 2009 as corrected.

Daniel King seconded the motion.

7:47p.m. **VOTE: 5-0-1 (Daniel King abstained)**

Reviewed the draft minutes of July 7, 2009

Marilyn Kozodoy motioned to accept the minutes of July 7, 2009 as corrected.

Daniel King seconded the motion.

7:53p.m. VOTE: 6-0-0

7:53p.m. Continued a Public Hearing for a Notice of Intent for Cranberry Road & Smith's Lane, Map 76, Lots 4 and 8

The applicant requested a continuation of the Public Hearing.

William Underhill motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

**7:53p.m. VOTE: 6-0-0
Continued to September 1, 2009 @ 7:30p.m.**

Discussion regarding the Off Parting Ways Road site visit

8:07p.m. Break

8:15p.m. Opened a Public Hearing for a Request for Determination of Applicability for Kingston Bay, Icabods Flat

Present: John Wheble, Thomas Taylor, Greg Barker, Diane Murphy – Cape Cod Cooperative

John Wheble presented the project to the Commission.

Diane Murphy discussed the process and presented informational pamphlets on aquaculture.

Maureen Thomas reviewed the interests of the Wetlands Protection Act that apply to the filing and the standards that they would need to adhere to.

Maureen Thomas mentioned that the cages used for the oysters provide habitat and asked if they would be in the way of migratory fish.

Diane Murphy stated that the cages would not interfere with the migratory fish.

Maureen Thomas stated that she contacted Natural Heritage and Endangered Species Program (NHESP) regarding the project. She stated that she received a letter from NHESP stated that the project was within priority habitat and was not exempt from review. She stated that the Commission could not issue a permit until the area was reviewed under the Massachusetts Endangered Species Act.

Discussion regarding the filing process, different committees and boards, MESA review

Daniel King motioned to continue the Public Hearing.
Marilyn Kozodoy seconded the motion.

8:40p.m.

VOTE: 6-0-0

Continued to September 22, 2009 @ 7:30p.m.

8:42p.m.

Continued a Public Hearing for an Abbreviated Notice of Resource Area Delineation (ANRAD) for off Parting Ways Road, Map 105, Lot 7

Present: Christian Farland, Bill Cushing

Christian Farland reviewed the permanent markers for the vernal pool no disturb area. He stated that the vernal pool area out back would have six posts 50' apart. He also stated that 100' haybale line would be surveyed in.

Maureen Thomas stated that when the Commission performed their site visit there were hardly any wetland flags. She stated that the Commission could not approve a wetland line that they could not observe. She stated that the wetland line needed to be re-flagged and that she only saw two wetland flags on site.

Christian Farland stated that 75% of the flags should still be on site and said that the wetland line was fairly conservative.

The chairman stated that normally with a project of this size the commission would ask for money from the applicant to have the resource area delineation reviewed. He stated that the Conservation Agent had asked over a year ago for the applicant to file an ANRAD.

Maureen Thomas stated that she normally performs a site visit once the resource area delineation had been reviewed. She stated that the Commission was hoping to look at the wetland line themselves and feel comfortable with the delineation.

The chairman stated that when the Commission agrees to a wetland line and an Order of Resource Area Delineation is issued, the wetland line could not be changed for three years. He stated that the road was not within buffer zone but the filings for the house lots later in the development process were the issue. He stated that the Commission could not find the flags on site so that they could determine whether they agreed with the wetland delineation.

Bill Cushing stated that he had the Hanover Conservation Agent look at the flagging and he felt that it was a conservative delineation. He asked if he could construct the road while continuing the ANRAD process.

The chairman asked if they were proposing to bound wetland A.

Christian Farland stated that wetland A was off of the property.

The chairman stated that if the Commission allowed construction of the road prior to the issuance of the ORAD, there would need to be a Memorandum of Understanding (MOU) in place. The chairman stated that in the meantime the Commission would ask for money from the applicant to hire an outside consultant. He explained the review process to the applicant.

Bill Cushing asked if the road could be constructed.

The chairman stated that the Commission might be able to draft a MOU before the ANRAD process was complete.

William Underhill stated that they could continue the ANRAD and issue a MOU with certain provisions for the installation of the road. He stated that they could start the project while the process having the wetland delineation reviewed and agreed upon continued.

The Commission and applicant reviewed the plans showing the roadway.

Maureen Thomas stated that the road was over 140' away from any resource area.

The chairman stated that Town Counsel would be at the Town Hall on August 10th and during that time the Conservation Agent can meet with them and draft an MOU which would then be submitted to the applicant's attorney for review.

William Underhill motioned to request the applicant to submit \$2000.00 to hire an outside consultant to review the resource area delineation.

Daniel King seconded the motion.

9:20p.m. VOTE: 6-0-0

Discussion regarding the bid process

Sue Chamberlain motioned to have the Conservation Agent and Town Counsel draft a Memorandum of Understanding with no work beginning until the document is reviewed and signed by Conservation Commission and the applicant.

Marilyn Kozodoy seconded the motion.

9:21p.m. VOTE: 6-0-0

William Underhill motioned to continue the Public Hearing.

Daniel King seconded the motion.

9:21p.m. VOTE: 6-0-0

William Underhill motioned to adjourn.

Sue Chamberlain seconded the motion.

9:25p.m. VOTE: 6-0-0