

Kingston Conservation Commission Minutes

September 22, 2009

7:03p.m. The chairman called the meeting to order.
Present: Gary Langenbach (chairman), Ryan Overholt, William Underhill, Sue Chamberlain, Marilyn Kozodoy

7:03p.m. Continued a Public Hearing for a Notice of Intent for Cranberry Road and Smith's Lane, Map 76, Lots 4 & 8
Present: Jay Talerman, Esq., Anne Bingham, Esq., David Eastridge, Renny Chapman

Jay Talerman, Esq. referred to a letter received from Anne Bingham, Esq. representing abutters. He stated that there were two main issues addressed in the letter from Anne Bingham, Esq. They were: who is the applicant and do they have the right to apply and whether all other permits need to be in place prior to seeking a permit from the Conservation Commission. He stated that he never viewed the applicant as having to be the owner of the property but it was important that the owner of the land acknowledges that they are aware of the filing. He also stated that he didn't think it was necessarily productive to require an applicant to have all other permits in place prior to filing with the Conservation Commission.

The chairman stated that there have been instances in the past where the applicant had filed with the Conservation Commission before filing with the Planning Board.

Jay Talerman, Esq. stated that part of the intent of the regulation is to have a natural order to the permits. He stated that any approval could be conditioned to say that no work is taken hereunder until all other permits are in place.

Maureen Thomas stated that Town Administrator Jill Myers signed the Notice of Intent on behalf of the town. Bernie McCourt from District 5

Mass Highway had said that it was common practice for NOI's to be signed by them.

Dave Eastridge stated that they have been getting mixed messages from Mass Highway as far as getting the NOI signed. He stated that they have not yet been able to obtain a signature from Mass Highway.

Renny Chapman stated that he could not recall ever getting a sign off from Mass Highway for commercial projects.

Maureen Thomas stated that the Department of Environmental Protection (DEP) didn't think it was a requirement for Mass Highway to sign off on the project and Mass Highway wasn't concerned about it.

Anne Bingham, Esq. stated that her concern was that no Environmental Impact Report (EIR) has been issued for this project. The entire layout of the project could change. There is a lot of other land that Thorndike Development has Purchase and Sale agreements on and there is other access available to the site.

Jay Taleran, Esq. stated that the Massachusetts Environmental Protection Agency (MEPA) was not a permit and may impact other state agencies. He stated that the Commission could proceed without an EIR in place.

Maureen Thomas stated that some alternatives were written within the Riverfront Area analysis and that the best alternative with the least impacts to the resource areas was what the applicant was proposing.

Anne Bingham, Esq. stated that she was referring to an alternative that would not involve the use of Cranberry Road at all.

Maureen Thomas stated that she had received further comment from Anne Bingham, Esq. today and read the email aloud. She stated that she asked Thorndike Development about the landfill cap and they responded that there would be no impact to the landfill or cap.

Dave Eastridge stated that they could add the delineation of the landfill cap on the plans once the location had been verified.

Maureen Thomas stated that Renny Chapman from BSC Group reviewed the delineation and submitted a report.

7:45p.m. Daniel King arrived.

Renny Chapman stated that he responded specifically to the drainage divide. He stated that he walked the area and was comfortable that the drainage divides represented were appropriate. He stated that the southbound ramp was outside of the Commission jurisdiction with no work proposed within the buffer areas, but there was a discharge point approximately 130' from the wetlands.

The chairman stated that he had grave concerns about the drainage.

Renny Chapman stated that the Commission could request additional information regarding TSS (total suspended solids) removal, etc.

Renny Chapman reviewed his report with the Commission and the public.

The chairman stated that the surface area for the ramp would increase 8' – 10'square feet. He also stated that a culvert currently goes under the onramp.

Dave Eastridge stated that David Pickard had mentioned that there was only an out pipe exposed. The beginning of the pipe was possibly crushed, plugged or abandoned.

Renny Chapman stated that the stormwater from about 550' of Cranberry Road discharges about 100' from the Riverfront Area.

Renny Chapman continued reviewing his report.

Dave Eastridge stated that the catchbasin on the south west side could be clogged and that they could add one to the west side.

Maureen Thomas stated that she thought it was a good idea to have soil test pits done during the review process.

Dave Eastridge stated that he was trying to create one revision to the plans addressing all comments from BSC Group, the Conservation Agent and the Commission.

Maureen Thomas stated that Commission would want to see the wetland restoration area before the final plan set.

Dave Eastridge stated that the wetland restoration area needed to be coordinated with the auto dealership since it was the same area that they selectively prune for visibility.

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

8:00p.m. VOTE: 6-0-0
Continued to October 20, 2009 @ 7:45p.m.

Maureen Thomas stated that the Commission would need an additional \$2500.00 to have their responses reviewed by BSC Group.

8:00p.m. Continued a Public Hearing for a Request for Determination of Applicability for Kingston Bay, Icabods Flat

The applicants requested a continuation of the Public Hearing.

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

8:00p.m. VOTE: 6-0-0
Continued to October 6, 2009 @ 7:45p.m.

8:00p.m. Continued a Public Hearing for a Notice of Intent for Off Parting Ways Road, Map 105, Lot 7

The applicant requested a continuation of the Public Hearing.

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

8:00p.m. VOTE: 6-0-0
Continued to October 20, 2009 @ 7:30p.m.

The Commission introduced themselves to new Commission member Ryan Overholt.

Discussion

8:17p.m. Continued a Public Hearing for a Notice of Intent for Elder Avenue, Map 57, Lot 74

Present: Rich Tabacyzinski, Mark Manganello

Maureen Thomas stated that since the last meeting the Commission had hired Matt Creighton from BSC Group. She stated that he felt the isolated vegetated wetland should be re-evaluated during the spring.

Rich Tabacyzinski reviewed the areas where the flagging had changed and the revisions to the plans. He stated that he believed that the isolated vegetated wetland was not a vernal pool and if it was a vernal pool they would have to revise their plans substantially.

Sue Chamberlain stated that if the applicant wanted to get thru the permitting quickly, they would need to re-design the project outside of the 100' no disturb zone to a vernal pool.

Marilyn Kozodoy stated that two Commission members thought they heard a wood frog while on a site visit to the property.

The chairman stated that he saw a frog jump and heard a call that sounded like a wood frog.

Discussion regarding the difficulty the applicant's consultant had evaluating the vernal pool late in the breeding season which could have been after any indicator species had moved out of the immediate pool area

William Underhill stated that he would like to wait and see if the isolated vegetated wetland was a vernal pool.

Maureen Thomas stated that this filing was for the roadway and drainage. She stated that the house lots would be filed for separately. She referenced section 4.04 of the Regulations.

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

8:39p.m. VOTE: 6-0-0
Continued to May 4, 2010

8:40p.m. Opened a Public Hearing for a Request for Determination of Applicability for 36 Elm Street, Map 57, Lot 74
Present: Tom Poulos

Tom Poulos presented the project to the Commission.
The chairman asked if there were any preliminary designs.

Tom Poulos stated that there were not any preliminary designs. He described where the ADA ramp would be located.

The chairman stated that he would like to see a preliminary sketch of the proposed project.

Tom Poulos stated that the retaining wall portion had changed. He discussed what materials would be used.

Daniel King motioned to continue the Public Hearing.
William Underhill seconded the motion.

9:00p.m. VOTE: 6-0-0
Continued to October 6, 2009 @ 8:45p.m.

Agent Updates:

- Mission statement for the Conservation Commission required for the budget
- 18 Brook Street – set new deadline for completion of work

Daniel King motioned to set a new deadline for October 22, 2009 for 18 Brook Street.

William Underhill seconded the motion.

9:02p.m. VOTE: 6-0-0

- 6 Prospect Street – asked to file an RDA
- 99 Monks Hill Road – donation of land

Sue Chamberlain motioned to submit a memo to the Board of Selectmen recommending them to accept the land donation.

William Underhill seconded the motion.

9:06p.m. VOTE: 6-0-0

- South Shore Medical Center denial by Water Commission to use pervious pavement

William Underhill motioned to write a letter to the Water Commission to implore them to allow pervious pavement within a Zone 2 and reference DEP's tentative change in their policy.

Daniel King seconded the motion.

9:12p.m. VOTE: 6-0-0

- 40R earth removal permit discussion

Sue Chamberlain motioned to adjourn.

William Underhill seconded the motion.

9:17p.m. VOTE: 6-0-0