

Kingston Conservation Commission Minutes

September 9, 2008

7:06p.m. The chairman called the meeting to order.
Present: Gary Langenbach (chairman), Marilyn Kozodoy, William Underhill, James Dehner
Staff: Maureen Thomas, Conservation Agent and Brandi Gordon, Secretary

Signing of documents

Reviewed the draft minutes of August 5, 2008

Marilyn Kozodoy motioned to approve the minutes of August 5, 2008 as corrected.

William Underhill seconded the motion.

7:11p.m. **VOTE: 4-0-0**

Agent Updates:

- Court date with property owner of 49R Main Street – discussion about consideration of lowering the fine amount
It was the consensus of the Commission to allow the Conservation Agent to decide whether to lower the fine

7:14p.m. **William Kavol arrived.**

7:17p.m. Informal meeting regarding the Senior Center

Present: Paul Gallagher, Heidi Sokol, John Caitlin, Bob Clark

Heidi Sokol stated that she had walked the site last week with the Conservation Agent, Gary Langenbach and John Caitlin. She presented the plans to the Commission showing disturbed areas, wetland lines and setbacks. She stated that they wanted to get a sense from the newly configured reduced parking plan that it would be a reasonable approach. She asked about the location of the areas to restore.

Maureen Thomas stated that the 25' no disturb zone was previously disturbed.

The chairman stated that it would depend on what types of areas were historically filled on the site by the Town. He stated that if upland was filled it would not be an issue. He asked if the Planning Board had agreed to reduce the parking for the proposed Senior Center.

Heidi Sokol stated that she has left messages with the Planning Department to discuss reducing the parking with the Town Planner. She stated that they had not yet received approval.

Paul Gallagher stated that everyone understands that the area that was filled by the Highway Department needed to be fixed. He stated that it needed to be cleaned up in conjunction with and not tied to the Senior Center project. He stated that the Senior Center Building Committee did not have the funds for this.

The chairman stated that the area in the back (north) was in worse shape than last fall with the addition of wood chips and crushed asphalt.

Discussion regarding Pottle Street – use asphalt in back by Senior Center

John Caitlin stated that in Belmont the town was ordered to take care of a parking issue. The town had to separately fund the additional parking issue and they were given a time frame for it to be completed.

Maureen Thomas stated that if the permit was not contingent on restoring disturbed areas during construction. It would look like the Commission was just allowing the work to occur and issuing such a permit could possibly be subject to an appeal. She stated that she believed there was a way to do it where it wouldn't affect the Senior Center budget.

The chairman stated that when a project is permitted with restoration work, the Massachusetts Association of Conservation Commissioners (MACC) recommends that the restoration work is completed first.

James Dehner stated that any off site mitigation should require signatures from all involved parties.

The chairman stated that he did not have an issue with the location of the building or parking. He stated that he was concerned about drainage.

7:49p.m. Continued a Public Hearing for a Notice of Intent for 187 Summer Street, Map 20, Lot 3

Present: Robert Kraus, Esq., David Baker, Mark Manganello

Mark Manganello reviewed the revised plans with the Commission and public. He stated that they fine tuned the planting list and location. He stated that they were proposing to repair and widen the concrete spillway, keep tree stumps in place for stabilization, remove Japanese Knotweed by hand in high visibility areas when possible and provide a detailed monitoring plan.

Maureen Thomas asked if they were proposing to use herbicides on the Japanese Knotweed.

Mark Manganello stated that they would have a licensed pesticide applicator on site.

Maureen Thomas asked if the chain link fence was to be removed and disposed of offsite.

David Baker stated that they were not removing the chain link fence.

Discussion regarding chicken wire to prevent litter from blowing into the brook and its possible negative impact on wildlife movement

Maureen Thomas asked about the accuracy of the existing conditions plan for the trees.

Mark Manganello stated that the trees were surveyed.

Maureen Thomas asked how they were planning to access the area to remove sediment.

Mark Manganello stated that they would access the area through the gate or at the other end.

Maureen Thomas asked about the Japanese Knotweed being pulled out by hand.

Mark Manganello stated that they would do so to the extent practicable.

Maureen Thomas requested that the Commission receive the qualifications of the landscaper that will be used for the project. She also requested pictures of the site prior to any work commencing.

James Dehner asked how the applicant would address shoots growing from the remaining stumps as it would create a scrubby atmosphere.

Mark Manganello stated that the applicant could come back to the Commission or the Orders of Conditions could stipulate that once they grew to a certain height they could be cut back.

The chairman stated that he wanted the area to look natural and not landscaped.

Maureen Thomas stated that there could be a condition in the Orders of Conditions that the applicant would have to meet with the Conservation Commission regarding maintenance or removal of native species.

Maureen Thomas stated that she needed a revised request for waiver that was more detailed.

William Underhill motioned to close the Public Hearing.

James Dehner seconded the motion.

8:22p.m.

VOTE: 5-0-0

William Underhill motioned to issue Orders of Conditions with special conditions subject to the receipt of the requested additional information by the Commission.

Marilyn Kozodoy seconded the motion.

8:22p.m. VOTE: 5-0-0

8:23p.m. Continued a Public Hearing for a Notice of Intent for 37 East Avenue, Map 49, Lot 114 & 115

Present: Kevin Grady

Kevin Grady reviewed the revised plans with the Commission and the public. He stated that the foundation drain was disconnected.

The chairman asked if the applicant planned on constructing the revetment soon.

Kevin Grady stated no.

Maureen Thomas asked the applicant to propose two drywells that would be connected to the foundation drain.

Kevin Grady stated that there was very little to no infiltration in the soils, but there may be some flood storage.

Jim McGillicuddy from 41 East Avenue asked where the foundation drain would discharge if connected.

Maureen Thomas stated that it should be discharged to the applicant's backyard and maybe the wall. She stated that it was important to have a drywell on the property.

Kevin Grady stated that he was not sure as to whether a drywell could be proposed at the existing elevation because they may not be able to give it enough depth.

Marilyn Kozodoy asked why the applicant was not proposing rain gardens as he did previously.

Kevin Grady stated that the rain gardens were for previously proposed impervious areas.

Harriet Dunkley from 2 Bayview Avenue asked if there would be more than one contractor on the site.

Kevin Grady stated that he was not installing the wall or overseeing the site.

Maureen Thomas stated that the permit can be conditioned to have check points along the way.

Harriet Dunkley asked where the water goes once it reaches the wall.

Kevin Grady stated that it would naturally go through the wall (no piping).

James Dehner stated that the applicant could install a black tank for watering purposes.

William Underhill motioned to continue the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:45p.m.

VOTE: 5-0-0

Continued to October 7, 2008 @ 7:45p.m.

8:45p.m.

Opened a Public Hearing for a Request for Determination of Applicability for 45 Winthrop Street, Map 18, Lot 30

Present: Janice Roussel

Janice Roussel presented the project to the Commission.

Maureen Thomas stated that she had discussed erosion controls and removal of water by truck if needed. She stated that the deck was 54' from the wetland line and the above ground pool was within 30' from the wetland. The area was a pre-existing fenced in yard.

James Dehner requested that the applicant use TREX materials for the deck.

James Dehner motioned to close the Public Hearing.

Marilyn Kozodoy seconded the motion.

8:51p.m.

VOTE: 5-0-0

James Dehner motioned to issue a Negative Determination of Applicability with conditions.

Marilyn Kozodoy seconded the motion.

8:51p.m. VOTE: 5-0-0

8:51p.m. Continued a Public Hearing for a Notice of Intent for 22 Evergreen Street, Map 35, Lot 28-2

Present: Dana Junior

Dana Junior reviewed the revisions to the plans with the Commission.

The chairman stated that some of the applicant's argument has merit, but there was a reason for concern. The chairman read section 4.02 of the Kingston Wetland Protection Regulations (KWPR) which states that no portion of a Title V septic system may be upon or within 100' of a wetland (Areas Subject to Protection). He stated that allowing the project would set a precedent and he was not in favor of the project.

Dana Junior asked how the plan as presented would propose more of a threat to the wetlands than a sewer lot.

The chairman stated that he felt that a Title V septic system doesn't protect resource areas as well as a sewer lot since the discharge is not treated.

Dana Junior stated that there were other things that could be done with a Title V system to aerate or treat it with chemicals.

Marilyn Kozodoy stated that it was the wording of section 4.02 of the KWPR and the distance of the Title V system to the wetlands. She stated that section 4.02 states no part of the system can be upon or within 100' of a wetland (Areas Subject to Protection).

The chairman again stated that it would not be a good precedent to set.

Dana Junior asked if there would be a way to gain more favor from the commission if the permit was conditioned upon connecting to sewer.

The chairman stated that there was no way to know when sewer would be available.

James Dehner stated that he did not think that new regulations would affect this filing because it was a pre-existing non conforming lot.

Maureen Thomas stated that even with a 50' setback from a wetland for a structure the applicant could likely still fit a house on the lot.

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

9:10p.m. VOTE: 5-0-0

Marilyn Kozodoy motioned to issue a denial based on the Town of Kingston Wetlands Protection By-law and section 4.02 of the Kingston Wetland Protection Regulations.

William Underhill seconded the motion.

9:10p.m. VOTE: 5-0-0

9:11p.m. Opened a Public Hearing for a Request for Determination of Applicability for Sampson Park, Map 55, Lot 1

Present: Ben Wierman, Troop 49

Ben Wierman presented the proposed project to the Commission.

The chairman stated that he would like the bridges as narrow as possible due to the growth of ferns.

James Dehner asked if cutting of the materials would occur off site.

Ben Wierman stated yes.

Marilyn Kozodoy requested that the applicant and crew make every effort to remain on the trail during work and limit the cutting to trail access.

The chairman requested that the boardwalks be 3' in width or less.

Maureen Thomas asked if the trail would be cleared out to the road.

Ben Wierman stated yes.

William Underhill motioned to close the Public Hearing.

9:25p.m. James Dehner seconded the motion.
VOTE: 5-0-0

William Underhill motioned to issue a Negative Determination of Applicability with conditions.

9:25p.m. Marilyn Kozodoy seconded the motion.
VOTE: 5-0-0

Discussion regarding:

- 18 Brook Street – removal of sediment in pond
- Smelt Pond Bogs – site visit September 17th
- 9 Smelt Pond Road

Marilyn Kozodoy motioned to adjourn.
James Dehner seconded the motion.
9:45p.m. **VOTE: 5-0-0**