



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

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84-70

Petition of the Town of Wellesley/Natural Resources Commission/Department of Public Works

27 Brook Street (Fuller Brook Park at Cold Stream and Fuller Brooks)

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing in the Upper Town Hall Main Hearing Room on Thursday, December 6, 1984 at 8 p.m. on the petition of the TOWN OF WELLESLEY/NATURAL RESOURCES COMMISSION/DEPARTMENT OF PUBLIC WORKS requesting a Special Permit for Site Plan Approval for the construction of the existing culvert work at the confluence of COLD STREAM BROOK and FULLER BROOK near 27 BROOK STREET at FULLER BROOK PARK, located in a Flood Plain District. Said request is pursuant to Section XIVB, Part E-1 and Part E-2b(2), Section XVIA and Section XXV of the Zoning Bylaw.

On November 19, 1984, the petitioner requested a hearing before this Authority and thereafter due notice of the hearing was given by mailing and publication.

Presenting the case at the hearing was Len Phillips, Superintendent of the Park and Tree Department. He stated that a footbridge built in the 1950's was recently removed by the Department of Public Works (DPW) because it was rotted and the foundation crumbling. A contractor doing the sewer project work in town used the bridge occasionally, contributing to the deterioration. The sewer contractor put culverts near the bridge to allow him to cross Fuller Brook for the sewer work. When the sewer work was completed, the culverts were removed by the sewer contractor. The DPW then put in new culverts in the same location, without approval of the Wetlands Protection Committee or Site Plan Approval from the Board of Appeals for work in a Flood Plain area. Mr. Phillips stated that the DPW intends to replace the culverts with a footbridge in a few years when the budget allows.

Opposed to the request were: Carol Fyler, 18 Springdale Avenue, Vice Chairman of the Natural Resources Commission, Robert Abrahamson, 8 Dexter Road, Naomi Stonberg, 31 Brook Street, Robert A. Broder, 2 Middlesex Street, Chairman of the Design Review Board. Opposition focused on the feeling that DPW is doing projects that would not be allowed by the private sector, that the DPW is not consulting with the NRC before beginning projects on park land, that the design of the culverts was poor and that no steps were taken to correct erosion on the banks on either side of the culverts. All opposed were in favor of a new footbridge to span the brook.

Statement of Facts

The property in question is located at the confluence of Cold Stream and Fuller Brooks, on Town of Wellesley Park Land, Fuller Brook Park, near the Hunnewell School.

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A footbridge built in the 1950's was removed by the DPW in the summer of 1984. The bridge was not replaced, but twin culverts were installed by the DPW to allow the brook to be crossed. The culvert work was done in violation of the Zoning Bylaws and the Wetlands Protection Act.

In response to a letter of October 24, 1984 from Susan Glazer, Design Review Administrator, to Pat Berdan, Director of Public Works, the DPW filed applications for Site Plan Approval to the ZBA and for a public hearing before the Wetlands Protection Committee.

The application before the ZBA was not endorsed by the Natural Resources Commission, which has authority for all park land in the Town.

The Design Review Board held a preliminary site plan review on November 8, 1984 and a final review on November 29, 1984, with the unanimous opinion that the culverts be removed and a bridge restored in their place. Site plans and other submission materials were sent to the Planning Board, Wetlands Protection Committee, Town Engineer, Board of Health and Fire Chief, as required by Section XVIA. Written responses were received and are on file at the Board of Appeals office. The Planning Board recommended that the culverts be removed and replaced with a suitable footbridge.

The Natural Resources Commission, in a letter of 12/6/84, stated that the plan before the Board of Appeals does not have the sanction of the Natural Resources Commission, and that the commission intends to pursue the immediate restoration of the footbridge with the Board of Public Works.

The Wetlands Protection Committee opened a public hearing on the project on November 13, 1984 which was continued until December 3, 1984 and continued again until a future date.

A letter of opposition to the culverts was received from Robert C. Abrahamson, 8 Dexter Road.

Decision

This Authority has made a careful study of the evidence submitted.

It is the opinion of this Authority that the installation of the twin culverts at the confluence of Fuller Brook and Cold Stream Brook constituted a violation of section XIVB of the Zoning Bylaws of the Town of Wellesley.

This Board is disappointed to note that there has been no co-ordination or cooperation between the town boards with jurisdiction over this parkland area, namely the Board of Public Works and the Natural Resources Commission. It would be in the best interest of the Town if communication, cooperation and trust could be established between these boards.

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The request before this Authority for Site Plan Approval for the existing culverts at the confluence of Fuller Brook and Cold Stream Brook is hereby denied. The application is invalid because there is no proper party involved.

This Authority makes the following conditions to the denial:

1. That the proper parties involved, the Natural Resources Commission and the Board of Public Works, agree to a plan and come before this Authority with a proper application, within 60 days of the date of this decision, for a project to traverse the brook in the area of Fuller Brook and Cold Stream Brook.
2. If, within 60 days of this decision, the Natural Resources Commission and the Board of Public Works cannot agree upon a plan, the Board of Public Works must replace the original footbridge with an identical footbridge and remove the culverts which are presently in place. An application for Site Plan Approval for such footbridge must be filed with this Authority by May 1, 1985. The Zoning Enforcement Officer is hereby requested to enforce the terms of this decision.

APPEALS FROM THIS DECISION, IF ANY, SHALL BE MADE PURSUANT TO GENERAL LAWS, CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN 20 DAYS AFTER THE DATE OF FILING OF THIS DECISION IN THE OFFICE OF THE TOWN CLERK.

cc: Planning Board

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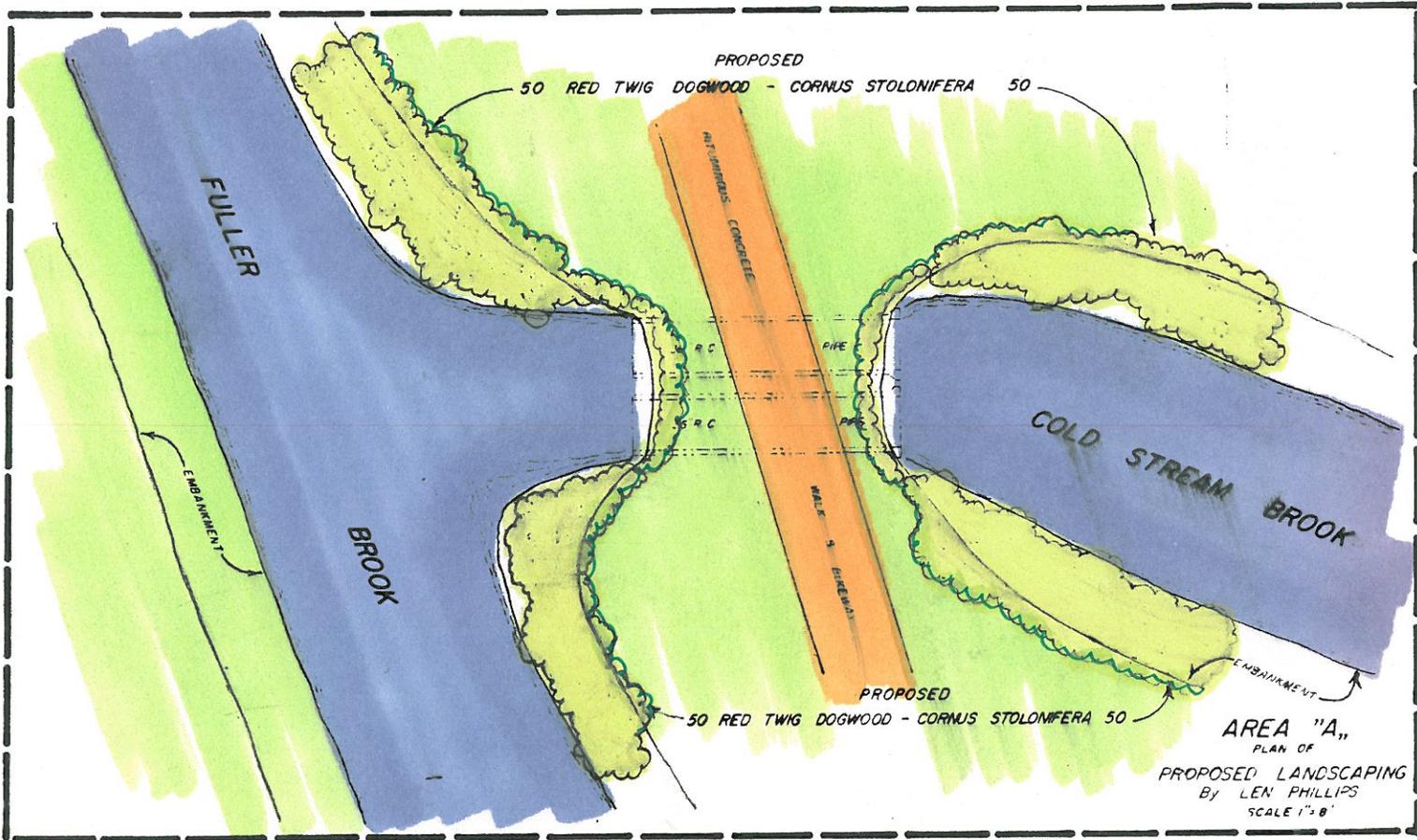

Stephen S. Porter, Chairman


John A. Donovan, Jr.


William E. Polletta

REC'D
H.B. H.H. S.C. B. 1/23/85

EXHIBIT A



TOWN OF WELLESLEY	
DEPARTMENT OF PUBLIC WORKS	
by	
John E. Bezanson	Town Engineer
October 2, 1984	Scale: Horiz. 1"=40' Vert. 1"=4'
Location	COLD STREAM BROOK - SOUTH OF WASHINGTON STREET
Project	LAYOUT & PROFILE
Engineer	
Draftsman	
Checked	