



ZONING BOARD OF APPEALS
TOWN HALL WELLESLEY, MA 02181

STEPHEN S. PORTER, Chairman
JOHN A. DONOVAN, JR.
ROBERT R. CUNNINGHAM

MARY ANN McDOUGALL
Executive Secretary
Telephone
~~225-1064~~
431-1019

WILLIAM E. POLLETTA
FRANKLIN P. PARKER
SUMNER H. BABCOCK

85-20

Petition of Town of Wellesley/Natural Resources Commission/Board of Public Works
Fuller Brook Park at Cold Spring Brook and Fuller Brook

Pursuant to due notice, the Special Permit Granting Authority held a Public Hearing on Thursday, April 25, 1985 at 8 p.m. in Room 17 of the Town Offices at the Phillips Building, 12 Seaward Road, Wellesley Hills on the petition of the Town of Wellesley/Natural Resources Commission/Board of Public Works requesting a Special Permit for approval of site plans pursuant to Section XVIA, XIVB, and XXV of the Zoning Bylaws for the construction of a footbridge at Fuller Brook Park at the confluence of Cold Spring Brook and Fuller Brook, located in a Flood Plain District.

On March 19, 1985, the petitioners 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 Charles Steward, Chairman of the Natural Resources Commission and Walter Woods, Chairman of the Board of Public Works, who stated that they are in agreement concerning the application and design of the footbridge. Mr. Porter asked Mr. Woods when the footbridge would be completed. Mr. Woods stated that he expected that funding would be obtained within a month and the work could be completed within three months. Mr. Steward stated that the Board of Public Works had made a commitment to the Natural Resources Commission to build the bridge.

Statement of Facts

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

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

On November 19, 1984 an application was filed with the Zoning Board of Appeals requesting approval of plans for the culverts in place at the site. The application was declared invalid because there was no proper party involved and the application was denied in a decision dated December 21, 1984 (ZBA Case 84-70) with the following conditions: "1. That the proper parties involved, the Natural Resources

cc: Town Counsel
NRC
BPW
Selectmen

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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 Spring 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."

A letter of February 20, 1985 was received and is on file at this office stating that the Board of Public Works and the Natural Resources Commission had agreed upon a plan to replace the footbridge. On March 19, 1985, an application was filed requesting Site Plan Approval for the construction of a footbridge, signed by Charles Steward, Chairman of the Natural Resources Commission and Walter Woods, Chairman of the Board of Public Works.

Construction sketches of the footbridge were submitted, drawn by John E. Bezanson, Town Engineer, dated 1/29/85.

The Design Review Board held a preliminary review of the footbridge plans on March 14, 1985 and commented in a letter of March 18, 1985, recommending modification of the design. A letter of April 16, 1985 reiterated the comments and suggestions of March 18. On April 24, 1985 the Design Review Board met with Pat Berdan, Len Phillips, John Bezanson and Steve Fader of the Department of Public Works to discuss the design of the bridge and made recommendations to the ZBA in a letter of April 24, 1985.

The Wetlands Protection Committee closed its Public Hearing on the footbridge on March 18, 1985 and commented to the ZBA in a letter of April 19, 1985. An Order of Conditions (DEQE 324-106) was issued on the project on April 8, 1985 by the Wetlands Protection Committee.

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 of the Zoning Bylaw. Written responses were received and are on file at the ZBA Office.

Decision

This Authority has made a careful study of the evidence presented. This Board is dealing with the illegal construction by the Board of Public Works of the Town of Wellesley of twin culverts in the area of the confluence of Cold Spring and Fuller Brooks on Wellesley Park Land. The area involved is in a Flood Plain District, and the construction constitutes a violation of Section XIVB and Section XVIA of the Zoning Bylaws.

The Board of Public Works appeared before this Authority at a Public Hearing on December 6, 1984 with a request to allow the existing culvert work. The request was denied by this Authority (ZBA Case 84-70) for reasons as stated in the Statement of Facts of this document.

This Board has concern about illegal construction in the Town by private citizens as well as by town departments. This Authority will deal with the parties responsible for this project as it has dealt with other parties in the past who have violated the Zoning Bylaws of the Town.

RECEIVED OFFICE
DIRECTOR
TOWN OF WELLESLEY
MAY 6 1985

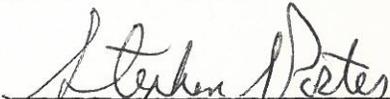
Petition of Town of Wellesley/Natural Resources Commission/Board of Public Works
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This Board notes that the proper parties, the Natural Resources Commission and the Board of Public Works, have now agreed upon a plan to traverse the brook and have come before this Board with a proper application for a footbridge. As required by Section XVIA, Town Boards have reviewed the plans and submitted written recommendations to this Board which are on file at this office. The Board notes that the Design Review Board and the Wetlands Protection Committee favor a smaller scale bridge than that proposed.

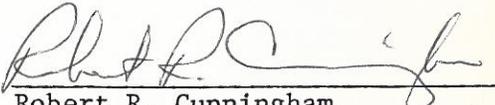
It is the opinion of this Authority that the proposed footbridge, according to plans submitted and drawn by John Bezanson, Town Engineer, dated 1/29/85, complies with Sections XVIA and XIVB of the Zoning Bylaws. The project has been reviewed by the Wetlands Protection Committee and an Order of Conditions has been issued in order to protect the Watershed Protection District.

A Special Permit is hereby granted and Site Plan Approval is given to the Natural Resources Commission and the Board of Public Works pursuant to Section XVIA, XIVB, and XXV of the Zoning Bylaws for the proposed footbridge at Fuller Brook Park as shown in plans submitted to this Authority, subject to the following conditions:

1. That all work shall be performed in accordance with plans submitted and on file with this Authority.
2. That all design and construction must comply with all applicable state and local codes.
3. That this decision is subject to the Wetlands Protection Committee Order of Conditions, DEQE 324-106, dated April 8, 1985.
4. That all requirements of the Board of Health and the Department of Public Works shall be complied with.
5. That the Board of Public Works must remove the illegally constructed culverts and complete the construction of the footbridge including associated grading and landscaping within 90 days of the date of this decision. Failure of the petitioner to do as directed will result in court action. The Building Inspector is hereby requested to enforce the terms of this decision and to institute a fine of \$100. per day to the Board of Public Works if the footbridge project is not completed within 90 days of the date of this decision.
6. That upon completion of the project, a complete set of "As Built" plans shall be submitted to the Inspector of Buildings.



Stephen S. Porter, Chairman



Robert R. Cunningham



William E. Polletta

RECEIVED
TOWN ENGINEER'S OFFICE
JUL 6 1985

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
mam