



Town of Orleans

Park Department

Paul O. Fulcher
Park Superintendent

Phone (508) 240-3775
Fax (508) 240-3388

August 11, 1993



TO: CONSERVATION COMMISSION
FROM: PARK SUPERINTENDENT *POF*
SUBJECT: WITHDRAWAL OF REQUEST FOR DETERMINATION FOR KENT'S POINT

This letter is to officially withdraw the request for determination for Kent's Point conservation land that was to be heard on Tuesday, August 17, 1993.

The reason for the withdrawal is that after careful consideration I felt that the Conservation Commission should go through a hearing process as the land managers and decide exactly what you would like done on the property first. After that process is completed I will file a request for determination or notice of intent for the work to be done on the property.

cc: Town Executive
Board of Selectmen
Abutters
Keziah's Lane Association
DEP SOUTHEAST REGIONAL OFFICE

KEZIAH'S LANE ASSOCIATION, Inc.
P.O. Box 731 (President's address)
Orleans, MA 02653
August 9, 1993



Orleans Conservation Commission
Orleans Town Hall
Orleans, MA 02653

re INCREASED USE OF KENT'S POINT

Gentlemen:

By undated letter, abutters were advised of the intent to increase the use of Kent's Point by the installation of parking, nature trails, and an outlook. The Keziah's Lane Association should be given standing as an abutter since the incorporated Association has standing over part of the access involved (Frost Fish to the Kent Road). We request formal notice of the hearing and any Town actions affecting that access henceforth.

Acting on a member's copy, the Association reviewed the proposal at it's Annual Meeting August 7th and will send representation to the August 17th Hearing planned.

The Association recognizes that the proposal is within the intent of the Town's acquisition voted by Town Meeting provided the use is limited. The Association has a direct and compelling interest in access. Town Officials have been observed by members using Keziah's Lane and not Frost Fish Lane, the only legal public access to Kent's Point. Private citizens have been seen making similar use compounding the safety problem at the intersection of Keziah's Lane with Monument Road and Herring Brook recently acknowledged by the Traffic Study Committee naming it a dangerous intersection.

The basic problem is that Frost Fish Lane is not a "user friendly" access and lacks proper maintenance. The Association strongly recommends making Frost Fish Lane "user friendly" concurrent with any improvements on Kent's Point. Filling of pot holes is not sufficient. It further reminds the Town that neither contractors nor Town officials have any right to use Keziah's Lane from Monument Road to Frost Fish Lane regarding the development or use of these facilities. The improvement and limitation of use must be made conditions of Conservation Commission approval.

Scheduling of events by public or private organizations that may exceed the seven space parking given the probability of random use must be prohibited. This limitation should be made a condition of approval to prevent both excessive road use and ecological damage from indiscriminate off road parking.

A reasonable time for opening and closing consistent with it's intended use such as sunrise to sunset should be made a condition because the road itself is not lighted making the uninitiated user a hazard to residents using the common section of the road.

The Association welcomes any opportunity it can be provided to consult with the appropriate committee(s) charged with the continued use of this beautiful facility to ensure that we are good neighbors.

Sherman C. Reed, President

cc Town Executive, Town Counsel, Police Chief
Association Members, Bernt Rathaus

SHERMAN AND JOAN REED
55 Keziah's Lane (P. O. Box 731)
Orleans, MA 02653
August 9, 1993



Orleans Conservation Commission
Town Hall
Orleans, MA 02653

re INCREASED USE OF KENT'S POINT

Gentlemen:

We are in receipt of undated notification of proposed improvement on the Kent Property. As direct abutters having 589.45' of surveyed frontage on the Kent property, we endorse the Keziah's Lane Association requested conditions for Commission approval.

In addition, we request that the carrying or discharge of firearms be strictly prohibited on the Kent Property as a condition of approval. In a legal sense, the discharge of firearms within 500' of a public way or dwelling applies since the proposed action building the small two space public parking lot makes the Kent Road a public way which now effectively blankets the property with the exclusion unless the road were closed to the public. In any case, the property has become a wildlife preserve inimical to the discharge of firearms. Trails and associated parking provide too ready an access for the hunter and target shooter. Consequently, "posting" of the property with adequate signing is an essential condition of Commission approval.

The potential for after sunset use of the property as improved is considerable. Suitable random patrolling to prevent unauthorized after dark use is recommended.

Joan S. Reed

Sherman C. Reed

AUGUST 3, 1993 HEARING TOWN HALL

ORLEANS, MA.

1. Paul Fulcher has submitted a Request for Determination for the Town of Orleans, Kent Point Recreation Area. He has notified abutters (4 I think?) However, he thinks that the Conservation Commission, in their role as Land Managers, should inform the people of Orleans as to what is proposed. He wanted to know if this could be done at one meeting or will there have to be two. If the RD is advertised - could the list of proposed work be advertised once?

2. Harry M. Johnson 35 Old Duck Hole Road DEP #SE
54-923

Revised Plan submitted by Felco.

3. George & Susan Krouse 42 Old Field Road DEP #SE
Revised Plan submitted by Ryder & Wilcox, Inc.
Not acceptable.

4. Planting plan for John & Marcia Carsey - off Portanimicut Road, DEP #SE 54-747. We have not received one from J. Bologna yet.

5. Frederick & Wendy B. Cohen - 68 Namequoit Road
Conditions to be formulated.

DATE 8/9/93

TO : OWNERS OF Kents Point
AND CONSERVATION COMMISSION MEMBERS
FROM : ABUTTER, Katherine H. Udall

I HAVE REVIEWED THE MATERIAL AND:
 FIND NO PROBLEMS WITH THE PROPOSED PLANS
OR
 HAVE A CONCERN AS STATED HERE:

we PLAN ON ATTENDING THE HEARING ON 8/17/93

SINCERELY,

Katherine H. Udall

SIGNATURE

DATE

Please return to:
Orleans Conservation Commission
Town Hall 19 School Street
Orleans, MA 02653

TO Abutters to: KENT'S POINT CONSERVATION LAND
 Assessor's Map No. 14 Parcel No. 987
 Owned by : TOWN OF ORLEANS , MANAGED BY CONSERVATION COMMISSION
 FROM : Owner _____ Other PAUL FULCHER, PARK SUPERINTENDENT

In accordance with Section 7 of the Orleans Wetland Protection By-Law, we are notifying you that a filing has been made with the Orleans Conservation Commission with regard to work at the above captioned location.

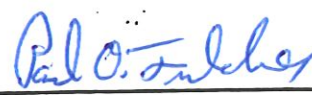
Proposed work includes:
 SEE ATTACHED DESCRIPTION OF WORK.

We would suggest even more parking spaces.

The filing was made in accordance with the requirements of MGL ChB 840, the Massachusetts Wetlands Protection Act and the Orleans Wetlands Protection By-Law.

Copies of the filing and plans are on file with the Conservation Commission and are available to the public. A public hearing will be held on AUGUST 17, 1993 at the Orleans Town Hall and will be publicized in the Cape Codder Newspaper no less than 5 days prior to the hearing. If you have any questions please call the Orleans Conservation Commission at 508 440-3700 or PAUL O. FULCHER, phone (508) 240-3775 X327

Please complete and return the enclosed

Sincerely,

 PAUL O. FULCHER
 PARK SUPERINTENDENT



Town of Orleans

Park Department

Paul O. Fulcher
Park Superintendent

Phone (508) 240-3775
Fax (508) 240-3388

ATTACHMENT FOR A DETERMINATION OF APPLICABILITY FOR KENT'S POINT CONSERVATION AREA

Work to be performed at Kent's Point to establish parking areas and walking trails.

1. Cut brush and mow trail annually as needed, 60" wide from points "A-B" and "C-D", as marked by ribbons on the property and map. Work will not require the cutting of any trees in excess of 2" in diameter.
2. Cut trees and brush, remove top soil, grade, and install either processed stone or native hardening for a five car parking lot at point #1.
3. Enlarge parking area at point #2 making the existing parking lot 8' deeper and 8' wider so vehicles can back out without driving into bushes. Mark two spots for parking and one area for turn around.
4. Five sections of split rail fence to be installed at overlook "D" with signs stating keep off fragile bank.
5. Benches similar to the ones at Paw Wah trail to be placed at area marked "E".
6. Spray poison ivy with Roundup on both trails on an annual basis as needed.
7. Cut brush along roadway from entrance to property to parking lot #2 to meet Town bylaw requirements.
8. Installation of sign at entrance to and parking lot #1 to include directional and rules and regulations and box for guide of property.
9. Fill existing pot holes with hardening and remove soft sand and replace with hardening.

1995

p. 1 of 2

9 Feb. Kent's Point Draft Schedule

Scenario No. 3

RAB Jr.

Kent's Point Conservation Area is now very lightly visited because Miss Kent still leases the point for her own private use, because access by car over the legal route is difficult, hostile encounters occur for those entering by Kegiah's Lane and parking is inadequate; because there are limited paths and no benches or tables, and because there has been little publicity.

First there ought to be a posting of a summary of rules and regulations. The few who do visit should know what is allowed and prohibited. A sign was installed. Then clearing the driveway for emergency access should be done.

Next Front Fish Lane should be made "passible", safe for emergency vehicles and a proper drainage system installed. While F.F. Lane is being made passible, a parking lot and bike rack should be constructed near the entrance (see plan) and an unlocked gate placed just beyond across the driveway, with a sign attached which reads: "Entrance for handicapped and authorized vehicles only."

To further encourage visitors to walk the property, the North Trail should be reestablished, primarily by mowing the grass and poison ivy which have sprung up, and signs warning of ticks and poison ivy installed along with signs marking the borders.

Then the principal handicapped parking lot should be built at the low area near the water and a short wooden ramp to an observation platform constructed.

1995


p. 2 of 2

9 Feb Scenario No. 3 for Kent's Point (continued)

A kiosk with maps and educational material should be placed in the parking lot near the beginning of the trail, and benches and tables installed.

The short trail to Lonnie's River overlook (with a picnic table and fence?) should be cut.

Remaining trails could then be established.

Send to


SHERMAN C. REED
55 Keziah's Lane
Orleans, MA 02653
May 1, 1995

Chairman, Orleans Conservation Commission
Orleans Town Hall
Orleans, MA 02653

re Open Space Committee Flier & Current Kent's Point Negotiation

Dear Mr. ^{*Chenette*} Groezinger,

This communication is in behalf of (1) the Board of Directors of the Keziah's Lane Association and (2) the several groups within the Association for which I hold limited powers of attorney. It is based on advice of our Counsel.

Our negotiations have proceeded to mutual benefit and were close to positive fruition until the extremely wide distribution this past week of the flier attached. You will recall that I brought the flier to your attention and to the attention of Richard Houghton (the Town's appointed negotiator) earlier in the week. I was assured at that time that neither you (or the Commission) nor Mr. Houghton reviewed or approved the document or had any knowledge of the document prior to issuance.

The document is prepared by the Orleans Open Space Committee and paid for in part by Town funds. The other groups participating in the funding are believed to include in their management active members of official town committees.

You will recall that our two legal positions remain at variance but with some common ground. You will recall further that we have agreed to seek compromise without recourse to court suit based on understanding of the needs and interests of the diverse groups that comprise our "constituencies". Counsel has advised us to seek "further assurances" from you before any further action on our part based on the Open Space Committee action.

The solution of the problem between us (and indeed probably between you and the Frost Fish Lane folk) lies in the trust in and ability to commit by a single Town Agency. It is our understanding that the Conservation Commission is charged by law to manage open space and in our case to control access to it through private property. The Open Space Committee has produced an Open Space management document at variance with our agreements as follows:

1. It purports to represent the Town by inviting "residents and visitors alike" to visit Kent's Point to take part in activities not supported by an approved management plan. All of this is outside the terms of the Town's legal position as given us by Town Counsel.
2. It features a "small beach" next to Dickinson Park on their map. Dickinson Park is primarily a beach which is frequently overloaded in summer season strongly

suggesting Kent's Point is intended as an overflow to Dickinson Park.

3. Although several parties were advised by me as to the usurpation of authority of the Open Space Committee early last week, the Committee continued to distribute the flier as a Town document on Saturday at the Library and will probably continue to do so at today's meeting and at Town meeting. We can only view this as calling into question the Conservation Commission's authority to reach agreement.
4. Our understanding of the law is that donation of moneys and property to perform Town functions must be formally accepted by Town Meeting to avoid conflict of interest and to ensure that the Town Meeting wished the function performed at all. The financial participation of the Orleans Supporters of Open Space and the Orleans Conservation Trust is certainly to be remarked in this light.

In view of the uncertainties generated on our side by what has happened, please provide us with assurances needed to proceed. In particular, it would be most appropriate to see the proposed Conservation Commission action to shield us from liability in written form. The Open Space Committee invitation to all makes expeditious but correct action mandatory. Unfortunately the reduction in trust makes my review mandatory.

I remain most optimistic that a satisfactory resolution will be achieved.



Sherman C. Reed,
President, Keziah's Lane Association, Inc.

cc Richard Houghton
Town Executive
Town Counsel
Board of Directors, KLA
KLA Counsel

310 CMR 10.99

Form 1



Commonwealth
of Massachusetts



DEP File No.

(To be provided by DEP)

City/Town Orleans

Applicant: _____

**Request for a Determination of Applicability
Massachusetts Wetlands Protection Act, G.L. c. 131, §40**

THE ORLEANS WETLAND PROTECTION BYLAW

1. I, the undersigned, hereby request that the Orleans
Conservation Commission make a determination as to whether the area, described below, or work to
be performed on said area, also described below, is subject to the jurisdiction of the Wetlands
Protection Act, G.L. c. 131, §40, and/or the Orleans Wetland Protection Bylaw

2. The area is described as follows. (Use maps or plans, if necessary, to provide a description and the
location of the area subject to this request.)

Location: Street Address 39 Keziah's Lane, Orleans, MA 02653

Lot Number: N/A Assessor's Map 14 Parcel No. 987

3. The work in said area is described below. (Use additional paper, if necessary, to describe the
proposed work.)

See attached sheet.

4. The owner(s) of the area, if not the person making this request, has been given written notification of this request on August 3, 1993 (date)

The name(s) and address(es) of the owner(s):

Town of Orleans
19 School Street
Orleans, MA 02653

5. I have filed a complete copy of this request with the appropriate regional office of the Massachusetts Department of Environmental Protection August 3, 1993 (date)

~~DEP Northeast Regional Office
5 Commonwealth Avenue
Woburn, MA 01801~~

DEP Southeast Regional Office
20 Riverside Drive
Route 105
Lakeville, MA 02347

~~DEP Central Regional Office
75 Grove Street
Worcester, MA 01605~~

~~DEP Western Regional Office
State House West, 4th Floor
436 Dwight Street
Springfield, MA 01103~~

6. I understand that notification of this request will be placed in a local newspaper at my expense in accordance with Section 10.05(3) (b) 1 of the regulations by the Conservation Commission and that I will be billed accordingly.

Signature Paul O. Fulcher Name Paul O. Fulcher
Park Superintendent
Town of Orleans, Parks & Beaches Dept.
Address P.O. Box 122, Orleans, MA 02653 Tel. (508) 240-3775



Town of Orleans

Park Department

Paul O. Fulcher
Park Superintendent

Phone (508) 240-3775
Fax (508) 240-3388

ATTACHMENT FOR A DETERMINATION OF APPLICABILITY FOR KENT'S POINT CONSERVATION AREA

Work to be performed at Kent's Point to establish parking areas and walking trails.

1. Cut brush and mow trail annually as needed, 60" wide from points "A-B" and "C-D", as marked by ribbons on the property and map. Work will not require the cutting of any trees in excess of 2" in diameter.
2. Cut trees and brush, remove top soil, grade, and install either processed stone or native hardening for a five car parking lot at point #1.
3. Enlarge parking area at point #2 making the existing parking lot 8' deeper and 8' wider so vehicles can back out without driving into bushes. Mark two spots for parking and one area for turn around.
4. Five sections of spilt rail fence to be installed at overlook "D" with signs stating keep off fragile bank.
5. Benches similar to the ones at Paw Wah trail to be placed at area marked "E".
6. Spray poison ivy with Roundup on both trails on an annual basis as needed.
7. Cut brush along roadway from entrance to property to parking lot #2 to meet Town bylaw requirements.
8. Installation of sign at entrance to and parking lot #1 to include directional and rules and regulations and box for guide of property.
9. Fill existing pot holes with hardening and remove soft sand and replace with hardening.