

FINALIZED 10/12/2022



Conservation Commission Meeting Minutes Wednesday, August 10, 2022

Town of Kingston
26 Evergreen Street, Room 200
Kingston, MA 02364

Present: Kalina Vendetti (Chair), Megan Hickey, Glen Duffy, Dorothy MacFarlane,

Virtual: Jim Franklin (Vice-Chair)

Absent: Vittorio 'Buz' Artiano

Staff: Matt Penella, Conservation Agent

Mike Perrin, Assistant Conservation Agent

Location: Town Hall Offices Room 200

Commission Meeting Opened: 6:30 p.m.

Chairperson Kalina Vendetti: The date is August 10th, 2022. The time is 6:35pm. We will now vote to open the meeting.

VOTE TO OPEN: PASSES 5-0-0

Kalina: Please note we are doing a hybrid meeting with in-person and virtual attendance. If a member of the virtual public would like to make comments during a public hearing, please use the "raise hand" function on Zoom, and you will be assigned a speaking time. If you are listening in via Telephone Dial-In, press *9 to raise your hand, and then press *6 to unmute yourself. This meeting is being recorded by PacTV and a record of this meeting will be posted on the Kingston town website as soon as we are able. Anyone intending to make an audio or video recording of this meeting should notify the Chair at this time.

BUSINESS:

I. Signing Documents

Kalina: Will the Agent please brief us on what needs to be signed?

Mike: We have a bill for Beals and Thomas for Tall Timbers peer review. We have a bill for MassCor for signs. We have a bill for membership dues for Massachusetts Association of Conservation Commissioners. We have my reimbursement for mileage for July. We have three bills for Forestry Suppliers for trail markers. We have a bill for membership dues for the Massachusetts Society of Municipal Conservation Professionals. We have a reimbursement for Matt Penella for drinks for the Open Space Forum. We have a reimbursement for me pizza for the Forum. We have a bill for WB Mason for nametags. We have the Order of Conditions for Off Baker Ave. We have the Determinations of Applicability for Off Baker Ave.

II. Action Items

a) Winthrop St Gesture of Appreciation

Kalina: Will the agent please brief the commission on the proposed Gesture of Appreciation for the Blackwater Memorial Forest parking lot?

Matt: We do not have any updates.

b) 41 Winter St RDA

Kalina: Will the agent please brief the commission on the RDA submitted for 41 Winer St? Does the representative have any comments?

Mike: We received an RDA for repair to existing retaining wall and replacement of existing fence. The fence replacement constitutes removal of a few trees. I was on the site on April 20th and found some of the trees were not necessary. Some trees do hang over power lines. The work is within 100ft of a BVW with the closest distance being roughly 20ft. The wall is compromised. The homeowner said he would be open to remediations in the form of native plantings along the BVW.

Tom Nugent, 41 Winter St: It is as Mike describes. I had an arborist look at the tree and he identified some hazard trees. The retaining wall can wait if the Commission wants.

Mike: Do you plan to repair or replace the retaining wall?

Tom: I think replacing the stones with blocks would be best.

Matt: If there are any major changes for the wall, we would need more information to ensure no expansion occurs.

Mike: This work was originally submitted as an Administrative Review Form, but I felt the scope of work constituted an RDA. The trees looked alright.

Matt: The trees are white oaks. These are valuable trees for wildlife.

Mike: Paul Basler, the tree warden, said he was OK with clearing the trees. Are there any trees you could leave?

Tom: Potentially.

Matt: I think a site visit is necessary.

Mike: It seems like the retaining wall should be a different filing later down the line.

VOTE: Glen makes the motion, Dot seconds; PASSES 5-0-0

III. Enforcement

IV. Public Hearings

Section A – Thomas St/Cushman Dr (multiple parcels)

Kalina: The time is 7:00PM. I open a continued hearing for 33 Cushman Dr for an ANRAD received for the delineation of resource areas. The Applicant is Cushman Farms LLC and the representative is Lori Macdonald of Coneco Engineers and Scientists. The applicant has requested to continue the hearing until August 24, 2022 Section A.

VOTE: Glen makes the motion, Dot seconds; PASSES 5-0-0

Section B – 64-70 Summer St (Map 36 Lots 9 & 10-2)

Kalina: The time is 7:01PM. I open a continued hearing for 64-70 Summer St for a Notice of Intent received for work associated with parking lot and stormwater management improvements within 200 feet of Stoney Brook and within 100' of a wetlands resource area. The Applicant is the Sean Dormady and the representative is Darren Grady of Grady Consulting LLC. The applicant has requested continuance until August 24, 2022 Section B.

VOTE: Dot makes the motion, Glen seconds; PASSES 5-0-0

Section C – 15 Kingston St (Map 68 Lot 92-3)

Kalina: The time is 7:02PM. I open a hearing for 15 Kingston St for an amendment to existing Orders of Conditions for the relocation of footprint and additional of small structures within 100' of a wetland resource area. The Applicant is Harleyphil LLC and the representative is Kevin Grady of Grading Consulting LLC.

Mike: During the July 13, 2022, the Commission decided it was a major deviation so this is the reason for the hearing. The Commission requested a revised plan with all dimensions shown and closest distance to wetlands. They also recommended plantings as mitigation for the additional 100sq feet of coverage. A revised plan was submitted, but still lacks dimensions for some structures and it does not have additional plantings. The closest point to wetlands should also be shown off the replication zone, not the wetlands flag. I recommend additional revisions.

Kevin Grady, Grady Consulting: The amendment proposes 100 additional square feet of coverage through additional proposed structures. The limit of work and impacts remain the same. We are reducing the impervious coverage due to a concrete slab that was removed from the property.

Matt: For this amendment, you are adding 100sq feet of coverage.

Kevin: We are proposing an additional drywell as mitigation. It is a straightforward amendment for additional structures. Most of the house is outside of the buffer. I think the project conforms.

Mike: You are also changing the location of the footprint closer to the wetland in the backyard.

Kevin: It will be an additional 0.1% of coverage.

Jim: I would like to see the revisions discussed. I would also like to see plantings at 2:1 instead of the additional drywell for mitigation.

Kevin: We can agree to the 200sq feet of additional plantings in the buffer zone and provide the revisions.

Matt: The Commission can close the hearing and vote to issue Orders of Conditions contingent on Grady providing these revisions to the Conservation Department.

VOTE: Glen makes the motion to close, Jim seconds; PASSES 5-0-0

VOTE: Megan makes the motion to issue the Orders of Conditions with special conditions as discussed, Dot seconds; PASSES 5-0-0

Section D – 79 Elm St (Map 55 Lot 7)

Kalina: The time is 7:29PM. I open a continued hearing for 79 Elm St for a Notice of Intent received for work associated with the construction of a single-family dwelling and addition to an existing single-family dwelling within 100 feet of a wetland resource area. The Applicant is Yeshayah Bust and the representative is Erik Schoumaker of McKenzie Engineering Group.

Erik Schoumaker, McKenzie Engineering: We provided an additional plan showing proposed structures, driveway, site grading, and drainage features. We also completed a drainage study and report. We designed a drainage depression to protect the wetlands and Elm St. This is an

alternative to a leaching drywell. We are removing the old septic system which will allow for more recharge. We also bumped out the limit of work around the proposed foundations. We added a landscaping plan prepared by our architect, which will separate the two houses and buffer from the roadway.

Matt: What about impervious coverage percentages within jurisdiction? We need to see these calculations.

Erik: Can do.

Matt: We still have concerns over septic failure so close to the road, which would flow down to the river.

Jim: Space seems limited.

Erik: We are exceeding all requirements according to zoning bylaw. The only feature of the septic system that is within jurisdiction is this section of storage chamber within 200ft of the river. The distribution box is outside of jurisdiction.

Matt: Both systems are technically within our jurisdiction. I would be concerned about flowage into the road then into the river.

Erik: The septic system will need approval from the Board of Health. Perc tests were done and witnessed by the Health Agent. I conducted a soil evaluation and the soils are good to handle this septic system, contrary to the belief of the neighbors.

Michael O'Connell, 67 Elm St: My backyard and basement is wet. I am concerned about the septic. The additional water from the septic is going to cause problems to structures and wetlands for 79 Elm as well as the neighbors. This is an overdevelopment, especially with the high water table.

Erik: Groundwater is different for the two lots.

Matt: The previous single-family dwelling is going to be replaced with three housing units. Is it safe to say flowage will increase?

Erik: Sizes and design flow are based on rooms. In theory there will be additional design flow.

Matt: There is still a concern for groundwater and flooding from neighbors. I do not think it is feasible to hook sewer up to this property.

Pine duBois, 93 Elm St: The high water table is flooding my basement. It is a real concern. The water level is much higher than what was found. The Jones is already identified as the highest contributor of nitrogen into Cape Cod Bay. There are underground streams on this property. This is an overdevelopment, as shown through the addition of fill. Sampson Park is essential for habitat and water purification in Kingston, and this project threatens the park. The plan should specify where the fill is coming from as well.

Donald Hill, 60 Elm St: I oppose this project. For the protection of the wetlands and for the concern for the neighbors.

Yeshayah Bust, applicant: The septic systems could be moved to be outside of jurisdiction. The septic grade is below the street grade. I originally wanted to propose two duplexes, and also considered constructing a road along the left side of the property to the uplands and building units back there. We did consider many options. We would be open to donating the 5-acres of upland behind the houses to the Town.

Erik: The existing septic system proposes more leaching than what is proposed. We believe we are complying with performance standards for both wetlands and intermittent stream, which is a farm ditch.

Pine: It is not a farm ditch, but I do not doubt it has been altered. It is a genuine emergent stream, which continues under the road and into Sampson Park. It is illegal to have a septic system where it is currently placed, which should have been corrected before people moved in.

There needs to be more understanding on the impact. Natural heritage and Endangered Species Program removed the area from their maps due to the existing house.

Angel Matos, 88 Elm St: I urge you to think about future issues this will cause. The whole area is wet and this is too much development.

Matt: I do not have a recommendation. I do not have a regulation that blocks this. The Commission can look at cumulative impacts.

Erik: The septic systems will need to be approved by the Board of Health before construction. We did not find a river flowing under the houses.

Dot: Do you see any water in the basement?

Yeshayah: I have not seen any water in the basement. The basement is concrete and may have a sump pump.

Pine: There are modifications to the basement to deal with water.

Jim: I do not think they provided enough for the burden of proof. I am concerned about cumulative impacts. I make a motion to close the hearing.

VOTE: Jim makes the motion, Glen seconds; PASSES 5-0-0

Jim: I make a motion to deny the application due to absence of proof of burden that wetlands will not be impacted.

VOTE: Jim makes the motion, Glen seconds; PASSES 5-0-0

V. Action Items Cont.

c) Off Rt 44 RDA

Kalina: Will the agent please brief the commission on the previously continued RDA submitted for Off Rt 44?

Matt: We determined that the Negative 4 determination was not appropriate because no work was shown. We did receive comments from the Water Department that the entirety of the land is inside of towns water resource overlay district, which is inaccurately reflected in the plan. I spoke with MEPA about the previous document, and they said the language would not prevent the sale of the property. She said it was not clear if the project would trigger review. I spoke with Town Counsel and he told me I could change the Negative 4 determination to a Negative 1 determination with limitations. I recommend issuing a Positive 2A and 2B as well as the Negative 1. The 2A and 2B confirm the wetland boundaries that we reviewed and states that there were flags outside of the area that we did not confirm. The Negative 1 states that the area is not under subject to the Act of the buffer zone, but we would attach a limitation that large scopes of work in the area would expand jurisdiction beyond the 100ft buffer due to its sensitivity.

Bill Madden, GAF Engineering: We filed the RDA on June 8th. We indicated on the plan the area of question. The plan that we submitted only calls for identification of wetlands. The form states that you can do this. We conducted a site visit after our first public meeting. We received the agents report which states that there are no wetland resource areas in the subject area. We see the Negative 1 and Negative 6 as the only appropriate determinations. There was a lot of 'what ifs' in the agent report. The plan reflects the Zone II areas, not water resource protection areas. The determination that we receive will be used to inform future land use planning and design.

Brad Holmes, ECR: Any boxes pertaining to work should not be checked. I would be concerned with Matt's recommendations because it could pull other wetland flags outside of the area into the conversation.

Matt: I need to look at those wetland flags to ensure it is outside jurisdiction.

Brad: We are still beyond jurisdictional area.

Jim: The applicant has failed to represent Kingston regulations. According to the regulations, we can go beyond the 100ft. The applicant has gone to other public meetings and defined his work intent as sand mining. We do not have an application for this work. This filing seems like it is asking for permission for this work without referencing the work.

Brad: We are just talking about the outlined area. I ask the Commission to not look at wetlands outside of the property or reference these wetlands on the permit.

Matt: The 2A and 2B will be used to specify what we actually reviewed. We did not review certain wetland flags outside of the specified area but are on the property, which should be reflected in the permit. We do the same for vernal pools.

Bill: The report says there are no wetland resource areas.

Megan: Can you confirm or deny if the area is part of a future cranberry operation?

Bill: The applicant did have these conversations.

Dot: Who placed the wetlands flags?

Bill: Our wetlands scientist and surveyors.

Dot: Since it is still on your land, I do not see a problem.

Matt: I recommend issuing a Positive 2A and 2B and a Negative 1 determination with the following limitation: "this negative determination is based solely on the work shown, which does not provide any details for the presumed excavation. Accordingly, this negative determination cannot be construed as permitting for any such excavation. Activities not shown on the plan that are likely to impact wetland resource areas should be presented to the Commission in a separate filing so the work can be conditioned to minimize impact to wetland resource areas."

Brad: Would you consider Negative 6? We would like reference to the by-law.

Matt: 6 speaks directly to the by-law. We could also do a 6 with the same limitation.

Jim: I would like to see a written statement describing work before issuing a Negative 6.

Matt: We are saying that we understand intentions of the applicant.

Bill: The hypotheticals do not apply here.

Jim: The intentions are clear as he stated them at Town Meeting.

Matt: I have no issue with issuing the Negative 1 and Negative 6 with the same limitation. I can check with Town Counsel about this, and we can close the meeting tonight and issue depending on his feedback. I recommend issuing a Positive 2A and 2B and a Negative 1 and Negative 6 determination with limitations as previously stated, with the Negative 6 determination pending Town Counsel approval.

VOTE: Dot makes the motion, Jim seconds; PASSES 5-0-0

VI. Enforcement

a) 46 Shore Dr

Matt: Last week I received reports of a large excavator on the beach by The Nook. It was a landscape company repairing a seawall. The homeowner was not home. I told them to cease work and file an RDA with the Commission. We just need to ensure we know the current extent of the seawall to ensure no expansion happens. We received an RDA today that we have not reviewed.

b) Cobb Ave

Matt: We discussed this last meeting. We have questions for Town Counsel. We are not sure if the tree was on town property. I am waiting on his response. He said we could issue fines to the person who contracted the work and the tree service, but enforcement orders would have to be issued to a homeowner.

c) 47 Main St

Matt: Brad Holmes called me and let me know he has been contracted by the property owner.

Fausto Goncalves, 47 Main St: Brad Holmes is working to provide a restoration plan.

Matt: I think we should continue for a few weeks to allow for this.

Matt: This would be August 24th.

VII. Minutes

VIII. Updates

a) Senior Tax Work-Off Program

Matt: I applied to have senior work off positions for trail maintenance and clerical work.

b) Grants

Matt: I applied to and received a grant for BMP management, so we can hopefully offset the money secured during Town Meeting. We also could contract a company to identify and prioritize habitat restoration along the Jones River. I also received notice that we received the grant money for Blackwater Memorial Forest wetland restoration.

CLOSING REMARKS

Kalina: The next meeting will be held on August 24th, 2022 at 6:30PM. The time is 9:50PM. Will a commissioner make a motion to adjourn the meeting?

VOTE: Megan makes the motion to adjourn, Dot seconds; PASSES 5-0-0.

Prepared by: Michael Perrin, Assistant Conservation Agent, Conservation Department

Approved by Conservation Commission: 10/12/2022

Materials Presented at Meeting:

- Agenda
- Agent/Staff Notes
- Applications, plans, and relevant documents associated with the public hearings and discussions
- Meeting Minutes subject to review and approval



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD:	Conservation Commission
DATE & TIME:	Wednesday, August 10, 2022 @ 6:30 PM
MEETING LOCATION:	Town House-26 Evergreen St. Room 200 & VIA ZOOM
AUTHORIZED SIGNATURE:	Matt Penella, Conservation Agent

This meeting notice is being posted on the Official Town House Bulletin Board, pursuant to General Law Chapter 30A, Section 20. Said notice and agenda must be filed in the Office of the Town Clerk at least **48 HOURS** prior to such meeting. Such filing and posting shall be the responsibility of the officer calling such meeting.

For those who want to watch this meeting, it is being broadcast by PACTV on Comcast 15 or Verizon 42 and streamed on YouTube at www.pactv.org/stream.

For anyone wishing to speak during the meeting, you are welcome to join us in person in room 200 or to join the Zoom call.

This meeting is being recorded by PACTV. Anyone intending to make an audio or video recording of this meeting should notify the Chair.

AGENDA

6:30 PM – CALL TO ORDER – ROOM 200

1. MPerrin July Mileage

SIGNING DOCUMENTS:

1. MPenella Reimbursement
2. MPerrin Reimbursement
3. Forestry Suppliers Trail Markers 1
4. Forestry Suppliers Trail Markers 2
5. Forestry Suppliers Trail Markers 3
6. WB Mason Name Tags
7. MassCor Signs
8. MACC Membership
9. MSMCP Membership
10. Off Baker OOC
11. Off Baker DOAs

ACTION ITEMS:

1. Winthrop St Gesture of Appreciation

2. 41 Winter St RDA
3. Off Rt 44 RDA

ENFORCEMENT:

1. 46 Shore Dr
2. Cobb Ave
3. 47 Main St

MEETING MINUTES:

UPDATES:

PUBLIC HEARINGS:

1. **Section A – 33 Cushman Drive & Thomas Street (Multiple parcels)**

****THIS HEARING WILL BE CONTINUED UNTIL AUGUST 24, 2022****

2. **Section B – 64-70 Summer St (Map 36 Lot 9, 10-2)**

**** THIS HEARING WILL BE CONTINUED UNTIL AAUGUST 24, 2022 ****

3. **Section C – 15 Kingston St (Map 68 Lot 92-3)**
4. **Section D – 79 Elm St (Map 55 Lot 7)**

ADJOURN:

NEXT REGULAR MEETING: AUGUST 24, 2022 @ 6:30PM

Join Zoom Meeting

<https://pactv.zoom.us/j/96816332793?pwd=WmZRUWhTc0dsWUxrNGhSSiBNdDFldz09>

Meeting ID: 968 1633 2793

Passcode: 756156

Or, dial by your location

+1 929 205 6099 US (New York)

This meeting of the Conservation Commission will be held in-person at the location provided on this notice. Members of the public are welcome to attend this in-person meeting. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda should make plans for in-person vs. virtual attendance accordingly.

The Town of Kingston advises its employees and the public that it does not discriminate based on a person's disability in employment or in access to its programs, services, and activities. This meeting location is accessible to people with disabilities. The Town of Kingston has designated Paul Armstrong to coordinate efforts to comply with the requirements of Executive Order 526, the Americans with Disabilities Act, the federal Rehabilitation Act and various other federal and state laws protecting the rights of people with disabilities.

If you have a disability and require a reasonable accommodation to fully participate in this event, please contact the ADA Coordinator no later than forty-eight (48) hours prior to the event by phone at 781-585-0505 or email parmstrong@kingstonma.gov to discuss your accessibility needs. Requests for accommodations or modifications made within the forty-eight (48) hour window will be honored to the maximum extent feasible, but it may not be possible to fulfill them.



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 8/10/22

NAME	INTEREST	ADDRESS
Donald A. Hill	neighbor	60 Elm St.
Deborah C. Hill	"	" "
Eric Schumaker	Engineer	McKenzie Eng
Yehya Bust	owner	59 high st
TOM NUGENT	OWNER	41 WINTER ST.
Brad Holmes	off Rt 44	
Bill Madden	off Rt 44	
IAN WORMI-	off 10-6-44	
David O'Connell	WET LANDS	7 CENTER St.
Angel L. Mateo	79 Elm St.	88 ELM ST
Jordan D'Argenio	79 Elm St	88 Elm st
Michael O'Connell	79 Elm st	67 Elm st
Pine duBois	79 Elm	93 Elm

