

APPROVED 10/26/2022



Conservation Commission Meeting Minutes Wednesday, July 13, 2022

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

Present: Jim Franklin (Vice-Chair), Megan Hickey, Glen Duffy, Dorothy MacFarlane, Vittorio 'Buz' Artiano

Virtual:

Absent: Kalina Vendetti (Chairperson)

Staff: Matt Penella, Conservation Agent (attended virtually)
Mike Perrin, Assistant Conservation Agent

Location: Town Hall Offices Room 200

Commission Meeting Opened: 6:30 p.m.

Vice-Chairperson Jim Franklin: The date is July 13th, 2022. The time is 6:33pm.
Commissioner Vendetti is absent.

VOTE TO OPEN: PASSES 5-0-0

Jim: 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

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

Mike Perrin, Assistant Conservation Agent: We have the Orders of Conditions for 88 Ring Rd and a bill from Beals and Thomas for Tall Timbers Peer Review.

II. Action Items

- a) 15 Kingston St Request for Amendment

Matt Penella, Conservation Agent: The representative can present then the commission will decide if the scope of the amendment warrants a hearing or if we can handle the amendment administratively.

Buz: I am going to recuse myself because my daughter is a direct abutter.

Kevin Grady, Grady Consulting LLC: The project is a minor amendment to an approved plan for construction of a single-family dwelling within the 100' buffer zone. The approved plan was issued in September 2021. The project proposed 16.2% of impervious coverage in the lot. A new owner wanted to change the layout of the housing including bump-outs and a rear deck. The majority of the building is between two buffer zones. This owner would also like to construct a terrace in the front. The grades are basically the same, with the house sitting 2' lower. The stormwater is going to runoff in the same direction as before and includes the same grass swales to direct water from the abutting properties to the backyard wetland restoration area. We believe it is a minor modification.

Jim: I do not see the dimensions. Is the deck still outside of the 50' no structure setback?

Kevin: Yes. The closest distance from the deck is 75-80' from the resource area and is in the approved lawn area.

Matt: What are the impervious coverage calculations?

Kevin: It is a 0.8% increase in impervious coverage.

Mike: Are the deck and covered porch included in this calculation or are they going to be pervious?

Kevin: The covered porch is considered impervious and is part of the calculation. The deck is not considered impervious due to spacing.

Jim: Did the house move or grow? It looks more than the detailed 90sf of additional encroachment into the buffer zone.

Kevin: I am not sure

Matt: It appears this should be handled in a hearing. It adds more impact to the resource area and that should be made up for in the hearing process.

Kevin: We will do whatever the commission wants. I see it as a minor change because the limit of work stays the same.

Jim: The process needs to be gone through.

Mike: Please provide a revised plan to display the correct address, include dimensions for the deck and porch, and include closest distance to the resource area. I would encourage the commission to discuss any additional mitigation so the representative can include this in a revised plan.

Matt: The representative should include additional mitigation.

Kevin: Is the buffer zone a resource area? The area on the approved plan is lawn.

Matt: The impacts should be negligible.

Jim: Do I hear a motion to continue this amendment to a public hearing in Section C of the August 10 meeting?

VOTE: Megan makes the motion, Glen seconds; PASSES 4-0-1, Buz abstains

III. Enforcement

a) 32 West St

Mike: On satellite imagery, we noticed encroachment from 32 West St into the Henrich Property.

Cathy Davenport, 32 West St: We have lived here for over 40 years. In our time, we have witness bad storms on West St and many trees have come down. Trees fell from the conservation land onto our property and we cleared those. I am paranoid about ticks due to a

battle with Lyme Disease, so we clear the area. We did not mean to encroach onto the property. There is an old box container that was there when we moved in.

Jim: It appears there is a driveway and maybe a boat on the town-owned property to the south.

Cathy: Yes, those are ours.

Matt: We can either reach an agreement during a site visit while taking some measurements, or we can get the property surveyed.

Cathy: We are good stewards of the earth and take care of the land, including wildlife and a garden and box turtles.

Buz: We are not questioning your stewardship, but you are encroaching. Do you have a property map with boundaries?

Cathy: I can look at the mortgage.

Buz: I hope you have something in the records, and we can get as close as possible to the actual property line. What are the mounds in the back?

Matt: The smaller parcel to the south is not owned by Conservation but is a tax title and hopefully will be soon.

Cathy: The mounds are hills and rocks and the green is shrubs and my garden. The green area in the bounds is dried grass.

Matt: We should allow time to gather info and conduct a site visit.

Dot: Do you mow the area in the back?

Cathy: We weed whack it to keep the ticks away.

Mike: We will look and get in touch.

IV. Public Hearings

Section A – 79 Elm St (Map 55 Lot 7)

Jim: The time is 7:09PM. 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 Shoumaker of McKenzie Engineering Group. The applicant has requested the hearing be continued until the July 27th, 2022 meeting Section A.

VOTE: Buz makes the motion to continue, Dot seconds; PASSES 5-0-0.

Section B – Off Baker Ave (Map 58 Lot 94-2)

Jim: The time is 7:10PM. I open a continued hearing for Off Baker Ave for a Notice of Intent received for work associated with the construction of a single-family dwelling with utilities, stormwater management system, lawn, and landscaping within 200 feet of an intermittent. The Applicant is Joseph Mahoney and the representative is Garrett Tunison of Tunison Environmental Consultants. The applicant has requested the hearing be continued until the July 27th meeting Section B.

VOTE: Dot makes the motion to continue, Buz seconds; PASSES 5-0-0.

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

Jim: The time is 7:11PM. 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 10, 2022.

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

V. Enforcement Cont.

24 Riverside Dr

Jim: Will the agent update us on the situation at 24 Riverside Dr?

Matt: We received notice from an abutter that there were dump trucks delivering fill into the wetlands at 24 Riverside Dr. Jones River flew a drone over the property and provided a photo that shows fill in wetlands. We sent a Notice of Violation. We are staying out of a neighbor dispute.

Wes Allsopp, 24 River St: The fill is on existing lawn. I have been filling in sink holes in my yard with the fill.

Matt: I would like to do a site visit. Erosion control should be placed to prevent washout.

Wes: There are two small piles. I have stopped all work.

Matt: We can schedule a Department site visit. Let us know your schedule.

Wes: OK. Thank you.

b) 29-31 Main St

Mike: No new updates. I spoke with him and it seems like he wants to get the work done soon.

c) 164 Pembroke St

Matt: We received an email from Jay Creed, the attorney representing the Casna's, stating he located the Orders of Conditions from 2022 and was able to get them recorded. He provided proof of this. He also provided satellite photos. The Commission asked for and still does not have the plan to accompany SE 37-543 and a site plan showing the current conditions of the property. I recommend the Commission issue a formal enforcement order to obtain these documents by August 24th. If the documents are not received, I recommend issuing fines.

Jay Creed, Creed & Formica: I am an attorney representing the Casna's. My client was having difficulty finding the OOCs for recording. He found it and we recorded it online, and I do not believe we would have been able to record them in person. The OOC did not reference a plan. Mr. Casna provided a plan prepared by Webby showing the pool and house, but I am not sure if it is the plan because there is no reference in the OOCs. The OOCs require an as-built plan, which is what Webby is preparing right now, which will show the location of the pool and the swing set. We disagree that we need a new wetland delineation because the OOC and as-built should relate to the wetlands delineation done as part of that project, not wetlands now. The pool was complete and in use before the 3 years allowed in the OOCs. The pool location is further from the wetland than the proposed location in the plan.

Jim: Let's pause. We do not have what we required. You seem to be arguing with the process and getting ahead.

Matt: We do not have a 2002 delineation. We have a 1998 delineation. The Commission must determine if the work was done according to plan, so we should see a new wetland delineation.

Buz: I am looking for an as-built showing current conditions. I want it stamped. I do not want to go backwards. I want a snapshot so that we can use this plan for reference for any potential future violations.

Matt: I would like to see a new delineation as well as the old. The Commission conditioned the pool construction to leave certain areas in a natural state, and we need to know if that happened. The delineation for the pool construction was also out of date.

Buz: I see your concern for any potential future violations if we do not know where the wetlands area.

Jim: We need to see the delineation with the current conditions.

Buz: Wetlands line can change, especially in 20 years. How do we know where the line was in 2002 to assess the pool construction?

Matt: The OOC should have referenced a plan that would have a delineation, but it does not. The OOC says anything within 50ft of the pool should be left in a natural state or revegetated. The new delineation will also document the vernal pool on the property, which was not certified during the pool OOC, so with the new delineation, the vernal pool will have the protection.

Buz: He may have a violation today that he did not have in the past.

Matt: He will need to get a COC, so we will have to look at the OOC and current conditions. I do not want to be unreasonable, but we also need to follow what was written and approved in the OOC.

Buz: Since they recorded the OOCs today, does that give them three years from today?

Matt: No. The three years start when they are issued. DEP said to try to get them recorded and move to the COC process then.

Mike: I provided the OOCs to the Casna's twice this month.

Buz: So we need a wetland delineation and an as-built.

Matt: I recommend issuing enforcement orders to require these documents.

Jay: 30 days should be fine. Would it be acceptable to show proof on securing a contractor?

Buz: I am fine with that.

Dot: How did Mary know where to have the posts placed?

Matt: They used the existing fence. I recommend a formal enforcement order requiring submission of a current conditions plan and wetlands delineation by August 24th, or proof that the homeowner secured a wetlands scientist. If these are not provided, the Commission will take legal action.

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

VI. Minutes

Jim: We have the minutes from June 22, 2022. Any discussion?

Dot: There is a repeat on page 4 in the Cushman Dr section.

Mike: I will edit that.

Dot: I make a motion to approve the minutes as edited.

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

VII. Updates

a) Eversource Notification of Exempt Utility Maintenance

Matt: Not related to this, but the Carver to Kingston Reliability Project was approved and Eversource is preparing for the project start. We received a notification of exempt utility maintenance from Tighe and Bond. They will replace wooden poles with steel and sent plans showing locations and wetlands. This is outside our permitting authority.

b) Grays Beach Stormwater Improvements

Matt: The grant through CZM funded the stormwater improvements project. This is almost done. The system handled a recent storm well.

c) 114 Country Club Way Fines

Matt: The fines were not paid. This will go to a magistrate hearing.

d) DER Culverts

Matt: We received a grant for \$75k that will fund the replacement of the Lake St culvert. It has been a major impediment to fish passage. This grant will also fund application preparation. Jones River Watershed Association is also working with the state to install a new fish ladder at the Forge Pond dam.

CLOSING REMARKS

Jim: The next meeting will be held on July 27th, 2022 at 6:30PM. The time is 8:07PM. Will a commissioner make a motion to adjourn the meeting?

VOTE: Buz makes the motion to adjourn, Glen seconds; PASSES 5-0-0.

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

Approved by Conservation Commission:

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:	<u>Conservation Commission</u>
DATE & TIME:	<u>Wednesday, July 13, 2022 @ 6:30 PM</u>
MEETING LOCATION:	<u>Town House-26 Evergreen St. Room 200 & VIA ZOOM</u>
AUTHORIZED SIGNATURE:	<u>Matt Penella, Conservation Agent</u>

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

6:30PM – CALL TO ORDER – ROOM 200

SIGNING DOCUMENTS:

1. 88 Ring Road Order of Conditions

ACTION ITEMS:

1. 15 Kingston St Request for Amendment to Order of Conditions

ENFORCEMENT:

1. 32 West Street
2. 24 Riverside Drive
3. 29-31 Main Street
4. 164 Pembroke Street

MEETING MINUTES:

UPDATES:

1. Eversource Notification of Exempt Utility Maintenance
2. Grays Beach CPR Grant
3. 114 Country Club Way Fines

PUBLIC HEARINGS:

1. **Section A- 79 Elm St (Map 55 Lot 7)**
Applicant: Yeshayah Bust, Masse Builders, LLC; Representative: Erik Schoumaker, McKenzie Engineering Group, Inc.. Notice of Intent (NOI) to construct one single family dwelling and an addition to an existing single-family dwelling, with associated driveway and utilities, within 100' of a wetland resource area.
2. **Section B – Off Baker Ave (Map 58 Lot 94-2)**
Applicant: Joseph Mahoney, J & M Hawk Investments, LLC; Representative: Garrett Tunison, Tunison Environmental Consultants, LLC. Notice of Intent (NOI) to construct a single-family dwelling with driveway, utilities, stormwater management system, lawn, and landscaping within 200' of an intermittent stream.
3. **Section C – 64-70 Summer St (Map 36 Lot 9, 10-2)**
Applicant: Sean Dormady, 64 Summer St LLC & 70 Summer St LLC; Representative: Darren Grady, Grady Consulting LLC. Notice of Intent (NOI) for parking lot and stormwater improvements within 200' of a perennial stream and 100' of a wetlands resource area.

****THIS HEARING WILL BE CONTINUED UNTIL AUGUST 10, 2022****

ADJOURN:

NEXT REGULAR MEETING: JULY 27TH, 2022 @ 6:30PM

If you would like to speak at Open Forum, please join via ZOOM
Meeting ID: 935 4672 2040
Passcode: 403139

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: 7/13/22

NAME	INTEREST	ADDRESS
NOTAN DAVENPORT		32 west ST
CATHY DAVENPORT		32 West St
Jana F. Creech	164 Pembroke St FOR WCA	733B DAWSON MARSHFIELD
Laura Casner	164 Pembroke St	

