



Conservation Commission Meeting Minutes Wednesday July 27, 2022

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

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

Virtual: NA

Members Absent: NA

Staff Present: Matt Penella, Conservation Agent
Mike Perrin, Assistant Conservation Agent

Location: Town Hall Offices Room 200

Commission Meeting Opened: 6:30PM

Chairperson Kalina Vendetti: The date is July 27, 2022. The time is 6:35pm. We will now vote to open the meeting.

VOTE TO OPEN: PASSES 6-0-0

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

- a. Bill for Gannett Media for Winthrop St. RDA
- b. Bill for Environmental Partners Group (EPG)
- c. Mullins Rule document for K. Vendetti

II. Action Items

- a. Gesture of Appreciation – Winthrop St. Easement

A member of the Ruffini family, donors of the Winthrop Street access easement, recently passed away. Robert Benassi, a friend of the family, is suggesting that a gesture of appreciation be erected in the parking lot, and a bench to be made be dedicated in memory of Mrs. Gangi. His company makes these benches, and he has offered to obtain one and coordinate the design with the family and the commission. Condolences were offered to the family.

b. Off Baker Avenue RDA

Garrett Tunison from Tunison Environmental Consultants on behalf of Hawk Investments presented a plan for a proposed retaining wall north of the proposed house and along the steep slope. The combination of the wall and ecological restoration plantings are the focus of the RDA. The design is of a step wall from the top of the slope, with 5 sections, ending at the toe of the slope. The plantings, native shrubs and herbs, will be between each portion of the wall.

Agent Penella reviewed this RDA filing in addition to the NOI filing which includes a conservation restriction (CR) and invasive plant management plan thus showing a derived benefit.

Discussion: erosion controls-coconut matting

Negative Determination of Applicability with special conditions including completion of a conservation restriction as specified in the NOI and invasive plants treatment as specified in the NOI.

VOTE: Buz motioned to close the hearing, seconded by Jim; PASSES 6-0-0.

VOTE: Jim makes a motion to issue a Negative 3 Determination of Applicability with special conditions as described by the Agent seconded by Buz Artiano; PASSES 6-0-0.

c. Off Route 44 RDA

Update by Agent Penella. He feels the wetland study was sufficient.

Site walk July 14, 2022. He reviewed only wetland flags on the limit of work side of the property-Series F,D,B,A. The F Series had vernal pool habitat characteristics. Considered a vernal pool unless proven otherwise. Flags F11,12,13 could be moved 5ft landward, not affecting limit of work which appears to be 140ft from F11.

Flag A61 may need to be closer to the berm at edge of access road. A Series is the BVW attached to Indian Pond. Clerical change on the plan placing A61 at 170ft from limit of work.

During site walk including nearly all proposed limit of work area, with special attention given to low-lying areas, no evidence was found of other vernal pool or other resource areas.

Since some flags were not reviewed, Agent recommends a Positive 2B Determination of Applicability (DOA), listing of all flags not reviewed, and waiting for an updated plan with revisions discussed before officially issuing the DOA by hand.

Additional comments submitted by Community Land and Water Coalition received July 25, 2022 re: RDA status if an earth removal project at site. *"Under Mass. wetland laws, changes in*

topography that result in alterations of wetlands beyond the 100ft buffer zone are subject to jurisdiction of the Conservation Commission....”

Agent Penella believes that excessive earth removal at the site, as discussed in other public meetings, has the potential to harm resource areas due to wetland alterations. No work was proposed in the RDA. This triggers commission jurisdiction but too late for enforcement and subsequent rehabilitation of these areas.

Agent therefore recommends, although not yet vetted by Town Counsel for language, in addition to a Positive 2B DOA, a Negative 4 DOA with a special condition:

Any activity on the site which is likely to impair the quality of onsite wetland resource areas, whether thru alteration of drainage and recharge patterns or input of contaminants including airborne sediment, shall be presented to the Conservation Commission through an RDA or NOI filing so the commission may ensure such activity is conditioned in a way so as not to have detrimental effects on the resource area.

Further discussion by commission.

Bill Madden – GAF Engineering on behalf of applicant PK Realty Trust

Disclosure by Buz Artiano of previous working relationship with Brad Holmes of ECR and Bill Madden –GAF Engineering on behalf of Applicant, PK Realty Trust. None at the present time.

More discussion by commission, Agent Penella, Mr. Madden and Mr. Holmes regarding language, applicability, possible determination.

VOTE: Jim makes a motion to continue the meeting to August 10, 2022, to allow Town Counsel to refine language, second by Buz; PASSES 6-0-0.

Pine Dubois- via ZOOM –comments regarding history of the property with SYSCO, MEPA review and additional information she has to share with the commission for inclusion in decision-making process.

Section A 79 Elm Street (Map 55 Lot 7)

The hearing was opened at 7:25PM. The applicant is Yeshayah Bust, Masse Builders, LLC and the representative is Erik Schoumaker of McKenzie Engineering Group, Inc. A Notice of Intent (NOI) was submitted 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. Applicant requested a continuance to August 10,2022.

VOTE: Jim makes a motion to continue, second by Buz; PASSES 6-0-0

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

The hearing was opened at 7:26PM. The applicant is Joseph Mahoney, J&M Hawk Investments, LLC, and the representative is Garret Tunison, Tunison Environmental Consultants, LLC. A Notice of Intent (NOI) was submitted to construct a single-family dwelling with driveway, utilities, stormwater management system, lawn, and landscaping within 200' of an intermittent stream.

Garret Tunison reviewed the design with roof drainage going to a dry well which holds the 100 year storm, and a second area with re-engineered storage capacity of a catchment/infiltration system to hold the 50 year storm.

Agent Penella: This is a robust restoration and mitigation design plus the CR. It's what a project needs to be when building in the vicinity of a resource area.

Buz asks if town sewer and water serve the building. It does.

Mike Perrin asks about stormwater and terracing on the slope. The step terrace will hold more water. Loamy sand will be placed on top 8" deep to grow plants.

VOTE: Buz makes a motion to close the hearing, seconded by Jim; PASSES 6-0-0.

VOTE: Buz Artiano makes a motion to approve the project and issue an OOC under KWPR according to the plan of record, seconded by Jim; PASSES 6-0-0.

ENFORCEMENT :

7:30pm

a) 19 Ring Road

Owner Chris Luongo updated the plan with information from the site walk. He included a list of native plantings, their size and placement on site, and presented slides of the plan.

Discussion regarding need for a separate filing for a retention wall to control erosion where the stumps will be removed. Applicant willing to do what the commission felt necessary. Buz commented on the need for conservation posts and signage at the 30' line.

Agent and Assistant Agent to review the plan, including necessary swale design, and meet with applicant to finalize.

Agent Penella and commission felt this review and issuance of an Enforcement Order (EO) with conditions would lead to the desired result.

VOTE: Buz makes the motion to issue an Enforcement Order subject to the Agent and Assistant Agent working with the applicant to make the final plan, seconded by Jim; PASSES 6-0-0

b) 24 Riverside Drive

Owner Wes Allsopp presents on Zoom. Assistant Agent Mike Perrin presented a summary of his site walk. The site includes a saltmarsh adjacent to the violation, which is the storage of sand and gravel fill for leveling and filling in holes in the back yard. Some erosion controls were installed as well.

Discussion and clarification of commission jurisdiction, extent of saltmarsh, filing process, proper installation of erosion controls/silt fence to ensure proper protection of the resource area.

Discussion of fence placement due to presence of ledge, and reason for a gate to the area with the fill – to allow wheelbarrow movement of materials for filling in holes.

Assistant Agent Perrin is to examine the site when complete, and recommended the issuance of an Enforcement order (EO) that requires the homeowner to apply for an RDA for the fence

installation (after the fact), filling in of holes using existing fill, removal of existing fill, allowing the area to revegetate in perpetuity.

VOTE: Buz makes a motion to issue Enforcement Orders as recommended by the Agents, seconded by Jim; PASSES 6-0-0

c) 29 Ring Road
Owners Ricardo and Deborah Maduro present via Zoom.

Enforcement Order necessitating a restoration plan. Owners requested an extension, preferably to August 24th. As a result of the site walk with Assistant Agent Perrin, steps to be taken were identified including installation of silt sock between property and Kelleher bogs to stop erosion and scouring on the steep slope, replanting of native plants and trees, regrading slope to ensure adequate storm water management, and stabilization of the bank to ensure no further erosion to the bogs.

Owners have been in touch with Brad Holmes, ECR, and a contractor about restoration plan including a possible swale or trench with drainage pipe.

VOTE: Jim makes a motion to continue to August 24, 2022, seconded by Buz Artiano; PASSES 6-0-0

General commission discussion about on-going agent workload and amount of time spent with applicants on restoration plans. Going forward, applicants will use information in an enforcement order, with some guidance by the agent, to hire conservation and construction professionals to design restoration plans. The Conservation Department will continue to inform the public and raise awareness so property owners can call the office regarding wetland questions.

d) 32 West Street
Site visit July 26, 2022. The issue is a lack of understanding of property boundary location. Ideally, GPS and maps will be used to locate back boundary and get installation of conservation posts. Lawn and several outbuildings appear to be past the boundary and on town property. Agent Penella is satisfied with agreement for location of conservation posts, but commission can disagree and require a survey to establish the boundary. He feels a full restoration of the area is not necessary; it will re-establish itself. Property owners can be required to watch for invasives during regrowth. These comments are in reference to back property line where it abuts the Heinrich Conservation Area.

There is a concern with the adjacent lot, which is in tax title, over the line as well as with the location of secondary driveway and woodshed. It is possible this parcel will become town owned and a parking area constructed to access the Heinrich property. Abutting property owners have expressed interest in buying some or all of this parcel or possibly having an easement.

Since a site walk was just done the previous day, Agent Penella doesn't feel ready to vote on anything or issue anything, but progress has been made in that there is general agreement re: location of back corners of the lot. Agents will continue to work on how to bring it all into compliance.

Discussion of the term "tax title" and subsequent process to deal with it, as well as evaluating potential value of a property for conservation.

Discussion of staff and commission efforts to define boundaries instead of having owners get it surveyed. Issue is one of property boundaries and encroachment, not wetlands. Whose responsibility is it to do a survey- the town or property owner? The Agents will check with Town Counsel. The Agent will write a letter to property owner(s) acknowledging encroachment.

e) 47 Main Street
Owner Fausto Goncalves attended via ZOOM.

Goncalves has not received any responses from suggested environmental companies. Acceptable to hire a different contractor but it is necessary to hire a contractor with ecological restoration experience. The intent of the restoration is to minimize impact to the stream and resource area. It is necessary to provide a plan with information regarding features, grades, soil, and potential impact of a rain event on existing conditions.

VOTE: Buz makes a motion to continue until August 10, 2022, seconded by Jim; PASSES 6-0-0

f) 28 Cobb Ave
Issue- unpermitted removal of tree at top of coastal bank.

Assistant Agent responded to a call regarding the removal of a tree at the end of Cobb Ave. The tree was close to the coastal bank, and the contracted tree company refused to acknowledge the need for conservation commission approval.

Most of the tree was already removed. Workers were told to stop. Peter McMillan of Peter McMillan Pro Tree LLC denied need for approval and stated he was hired by Mary Ann Neal, owner of 22 Cobb Ave, to remove the tree to improve her view, and that she had permission of Mr. Brian Gillis, owner of 24 Holmes Ave, to do so. He also stated that Ms. Neal said she had the required approval. Mr. Gillis stated that he assumed Ms. Neal would follow required procedures to get the work done.

On site, Assistant Agent Perrin informed Ms. Neal of required procedures and the next commission meeting to discuss the situation where she should be present.

During tree removal, access to a beach right of way was blocked by downed limbs and vines. After a phone consult with Agent Penella, Mr. McMillan was allowed to remove it without a filing.

Other Cobb Ave residents described the tree's function as providing bird habitat. The roots were helping to stabilize the bank, providing some erosion control in a vulnerable area.

Recommendation by Assistant Agent Perrin - to issue an Enforcement Order to stabilize the area with the responsibility on the part of Ms. Neal due to her contracting of the tree company.

Discussion of enforcement order procedures and fines and need to consult with Town Counsel.

Resident comments. Stacy Krzyzewski, 24 Cobb Ave (in-person): She is the one who called the Conservation Department and provided photos because Ms. Neal and the tree service stated there was no need to contact the Department before proceeding with the tree removal. Ms. Krzyzewski warned of future erosion issues.

Residents hoped the tree would not be removed because of area erosion issues where stairs had already been repaired.

Tree service went ahead with cutting the tree despite neighbor protests and being informed the Conservation Department staff member was on his way to examine the site.

Further discussion regarding need for direction from Town Counsel as to how to proceed with enforcement and/or fines.

Discussion as to when to request on site police involvement. When interactions become belligerent, police should be called, as they can also provide a report of such incidents.

MEETING MINUTES:

May 25, 2022

VOTE: Buz makes a motion to approve the minutes, seconded by Jim; PASSES 6-0-0

ADJOURN: 8:58pm

VOTE: Jim makes a motion to adjourn, seconded by Megan Hickey; PASSES 6-0-0

NEXT MEETING: August 10, 2022.

Prepared by: Marilyn Kozodoy, volunteer

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: Conservation Commission
DATE & TIME: Wednesday, July 27, 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

SIGNING DOCUMENTS:

1. Bill for Gannett Media for Winthrop St RDA
2. Bill for Environmental Partners Group

ACTION ITEMS:

1. Winthrop St Easement Gesture of Appreciation
2. Off Baker RDA
3. Off Route 44 RDA

ENFORCEMENT:

1. 19 Ring Road
2. 24 Riverside Drive
3. 29 Ring Road
4. 32 West Street
5. 47 Main Street

MEETING MINUTES:

1. 5/25/22

2. 6/22/22

UPDATES:

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.

THIS HEARING WILL BE CONTINUED TO AUGUST 10, 2022

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.

ADJOURN:

NEXT REGULAR MEETING: AUGUST 10, 2022 @ 6:30PM

Join Zoom Meeting

<https://pactv.zoom.us/j/96816332793?pwd=WmZRUWhTc0dsWU5rNGhSSjBNdDFldz09>

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: 7/27/22

NAME	INTEREST	ADDRESS
Robert Beussel	Park on Winthrop St	62 North St
Joseph Makong	Baker Ave	Baker Ave
Chris Wong	Enforcement order	19 Ring Road
Brad Holmes	off Rt 44	EER
Bill Madden	off Rt 44	GAF
IAN Natic	off Rt 44	GAF
Cheryl Davenport	32 West St	
STACY KRZYZEWSKI	24 COBB/Holmes	24 COBB
Margellen Krzyzewski	COBB/Holmes	24 COBB

