



Conservation Commission Meeting Minutes Wednesday, September 14, 2022

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

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

Virtual:

Absent: Matt Penella, Conservation Agent

Staff: Mike Perrin, Assistant Conservation Agent

Location: Town Hall Offices Room 203

Commission Meeting Opened: 6:30 p.m.

Chair Vendetti: The date is September 14th, 2022. The time is 6:31pm.

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

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

Mike: We have enforcement orders for 29 Ring Road. We have a bill for Beals and Thomas Tall Timbers peer review. We have a bill for LEC for Cushman ANRAD peer review. We have a bill for Beacon Marine Construction for the Mulliken's Landing project.

II. Action Items

a) 19 Ring Road RDA

Kalina: We will now open a public meeting regarding the RDA submitted for backyard restoration work at 19 Ring Rd. Will the agent please brief the commission on the application?

Mike: We received an RDA from the homeowners at 19 Ring Road for the remaining restoration activities. The RDA also encompasses work to make the yard a usable space again. It all looks good to me, and all the proposed work has been previously discussed with the Commission. The only question I have is the expansion of the fence.

Chris Luongo, 19 Ring Road: The fence expansion is the fence along Ring Road. The extension will be to ensure the construction road cannot be used and protect the wetland from pollution. It is cedar fence.

Jim: Are you replacing the bollards?

Chris: Yes.

Buz: Just make note in the Determination of Applicability that the fence for expansion is along Ring Rd. I make a motion to approve the RDA and issue DOAs.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

b) 25 Bavarian AOOC

Kalina: We will now open a public meeting regarding the Request for Amendment to OOCs at 25 Bavarian Way. Will the agent please brief the commission on the application?

Mike: We received an Request for Amendment to Orders of Conditions for the change of location of stairs, which are further from the wetlands, the addition of a small concrete pad, which the coverage has been offset by proposed native plantings, and the removal of the retaining wall from the OOC plan of record. The retaining wall will be part of the RDA submitted but seemed like a bigger scope than just the amendment. There will be no additional impact to wetlands, so I recommend issuing amended OOCs.

Buz: I make a motion to approve the request for amendment.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

c) 46 Shore Dr RDA

Kalina: We will now open a continued public meeting regarding the RDA submitted for seawall repair at. Will the agent please brief the commission on the application?

Mike: The landscaping company has filed an RDA. We need revisions from them to explain the work and area. They need to provide benchmarks for the seawall to ensure the Commission can determine if they expand the wall in the process, which they should not.

Buz: I make a motion to continue the meeting until October 12th.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

III. Enforcement

a) 47 Main St

Mike: We are recommending the Commission request some revisions to the restoration plan submitted by Brad Holmes. They are proposing removal of sediment, unblocking the stream, and restoring the backyard to a wetland meadow area. There are no more animals on the property, which was our main concern. Revisions should include relocation of the shed outside of the wetland meadow area, more information on pond restoration since the water level will go down, more information on mowing regime to ensure rotational mowing, and installation of conservation posts.

Glen: The pond is referenced in the plan as good habitat for amphibians.

Buz: I think the pond will revegetate by itself.

Mike: Cool. What about bringing in the loam?

Buz: I do not think they will need to do that.

Mike: I will talk to Brad about these revisions and we can revisit this Oct 12.

IV. Public Hearings

Section A – 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 a continuance until October 12.

Mike: I spoke with Darren today about the application. They are still waiting on a response from DEP and issuance of a DEP file number, if approved, to make any further moves. Darren said he has not been able to get in touch with Sean. I will reach out to Sean. I recommend the Commission start issuing fines if no progress is made between now and September 26.

Buz: I do not agree with the fines. You should just reach out.

Mike: My concern is timeline. We have been dealing with this filing for many months.

Jim: If he is unresponsive, then we should throw the application out.

Glen: Where does DEP come into play?

Mike: DEP looked at the filing and had some comments about the application. Grady has since responded, but we need a response to Grady's response. We also need a file number from them.

Buz: I make a motion to continue the meeting until October 12 Section C.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

Section B – 45 River St (Map 38 lot 34)

Kalina: The time is 7:07PM. I open a hearing for 45 River St for a Notice of Intent received for the replacement of the town boat ramp. The Applicant is the Harbormaster of the Town of Kingston and the representative is Jed Hannon of Atlantic Coast Engineering and Surveying LLC.

Mike: Matt and I have been working with Jed to get some additional information and documents. The boat ramp is failing and asphalt is flowing into Kingston Bay. The project will enhance the wetland protection and accessibility of Kingston Bay. There is no change in square footage of coverage. The proposed ramp is less coverage than the existing ramp. There is erosion control proposed in the form of silt curtain. Department of Marine Fisheries sent some comments requesting conditions to protect intertidal habitat and marine fisheries. Special conditions can be added to address DMF's concerns, and also ensuring all other necessary permits are granted before construction can begin. We also need a construction plan, which would likely come later when a contractor is chosen, but it would be wise for the Commission to see all details of the plan before issuing Orders of Conditions.

Jed Hannon, Atlantic Coast Engineering: We have been issued a DEP file number. The proposed boat ramp reduces the length of the ramp into the river. The proposed ramp would be constructed of pre-cast concrete panels. Our contract was for design and permitting only, and we cannot dictate how the chosen contractor would like to conduct the work. The parking lot would probably be the parking lot, which we could add erosion control round.

Buz: There are going to be changes when the contractor is chosen, so I think the Commission should approve and issue OOCs tonight and handle the expected changes as an Amendment to the OOCs.

Mike: That would make sense. I can put that in as a special condition in the OOCs.

Dot: My only concern is the mean high water line. The water is much higher than what is shown.

Jed: I have heard that. The design of the proposed ramp should minimize big flooding events due to the new grade.

Mike: So, for the amendment, the Commission would need more construction details, construction sequence, protection of intertidal zones, and containment of silt.

Buz: I make a motion to close the hearing.

Glen: Has the construction been funded yet?

Jim: I do not believe so.

Buz: I make a motion to close the hearing.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

Buz: I make a motion to approve the NOI subject to the language that any major deviations in the plan should come through the Commission.

VOTE: Buz makes the motion, Jim seconds; PASSES 6-0-0

V. Enforcement continued

b) Cobb Ave

Mike: We discussed the situation with Town Counsel and Jason Silva. The Commission had a concern that the tree may have been on Cobb Ave, which brought into question if Cobb Ave is a town road or a private way. Jason has Cobb Ave in his book of town streets, so it is a town road.

Buz: If the tree is on town land, then the actions would be a crime.

Mike: We are recommending that Mary Ann Neil, who contracted the tree work, and Brian Gillis, 24 Holmes Ave, would have responsibility to prove the tree is or is not on town property. We are recommending issuance of fines to Ms. Neil and the tree service because both parties knew they needed permits that they did not have. I recommend \$300 each for the event. Also, issuance of enforcement orders to 24 Holmes Ave. EOs must be issued to the specific property and would be for re-stabilization of the bank. Responsibility would be decided by the parties and not us.

Jim: I think we need to include habitat restoration over re-stabilization.

Buz: I agree. The stump should stabilize the bank for a while. Replanting should stabilize the bank. Town counsel should write the enforcement orders because it is complicated. You can handle the fines.

Mike: I floated this by Jay and he agreed with the recommendations.

Jim: I agree with Buz.

Buz: It should be part of the enforcement order that the homeowner at 24 Holmes Ave must prove the tree was not on town land.

Mike: I am not sure we can request surveys through EOs.

Buz: I think we can.

Mike: Would the Commission feel comfortable with me drafting the EOs and sending them to Town Counsel for approval?

Buz: Yes.

Mike: If the Commission issued EOs requiring the restoration work and the involved parties agree and do not question the location of the tree, do we need to concern ourselves with the location of the tree?

Buz: No.

Mike: For your reference, the homeowner was informed by neighbors that the work would require Commission approval. She received written permission from 24 Holmes Ave to take the tree down, and he requested all proper channels be followed before work starts.

Kalina: I think we should issue EOs requiring restoration. If they want to prove the tree was on town property, then it will become a crime.

Jim: It would be more impactful to the tree company to go after their liability insurance, and they will be more incentivized to not make the same mistake. I would like their insurance certificate as well.

Buz: If it is on town owned property, how are we going to get money to replant the area? Maybe the fines should extend from the day of removal to now. I do not want to vote or issue anything tonight before we get more info from Town Counsel. We are on uncertain grounds, and I would like Town Counsel to review fines and EOs before issuance. We could also get the homeowner's insurance policy.

Jim: I would like to see the document that Brian Gillis signed allowing Ms. Neil to contract the removal of the tree. The fined parties should be informed that EOs are going to follow fines.

Buz: I think fines should go retro from the date of tree removal to the date of issuance.

Kalina: I think that would be unfair. I would ask Town Counsel to help with fine amount.

Jim: The fines must be able to cover the restoration work if it falls on us.

Dot: I do not think that is reasonable as well.

Matt Penella: The process has been held up by our conversations with Town Counsel. EOs for restoration should be issued to 24 Holmes Ave, and if the homeowner wants to go after Ms. Neil in court, that does not involve us.

Jim: If he proves the tree is not on his property, he could sue and get his money back. Then who does the restoration?

Kalina: The delay is partially due to us, so it is not fair to fine from the date of tree removal.

Matt: Right.

Jim: We should issue \$300 fine now and figure out the rest. I am still concerned with the location of the tree and compelling the homeowners to perform the restoration. We need to go back to counsel.

Matt: You are welcome to try for the greater fines, but it will end up in court. We can do title research to determine if the tree is on town property.

Dot: I make a motion to issue fines to Neil and the tree company separately for \$300.

VOTE: Dot makes the motion, no second; FAILS

Jim: We need more information. I make a motion to continue the situation until the next meeting.

VOTE: Jim makes the motion, Dot seconds; PASSES 6-0-0

c) 29-31 Main St

Mike: No update.

d) 164 Pembroke St

Mike: A wetlands report was provided by a not-so-credible source. Webby is conducting a survey and creating a plan. Webby has not had the time to put the wetland delineation on the plan.

Jim: The report was almost unreadable.

Mike: Once we receive this, Matt or a consultant can ground truth the wetlands flags.

Megan: Did they meet our previous requests?

Mike: Yes. We are waiting on the plan.

Buz: I just want the plan provided that shows current conditions so we can reference it during any potential future violations.

Jim: There was a document provided to us that stated that the wetland scientist that prepared the reports is not allowed to submit documents to Natural Heritage because they provided knowingly false information.

Mike: We are making progress and I like the direction, being receiving the plan and going from there.

Buz: Can we deny the report?

Mike: You could. Alternatively, Matt, who is trained, or a consultant can truth the flags.

Kalina: I think it would be good to keep the Department at arms length, so I would like a consultant to go.

Dot: We did not ask for a report, so I am confused as to why it was submitted.

Mike: Me too. I do not think we should toss the report, but I do think we need ground truthing of flags.

Buz: I would like to start fining if we do not receive the plan by the next meeting.

VI. Minutes

Kalina: We do not have any minutes.

VII. Updates

a) Blackwater Memorial Forest

Mike: We conducted a site visit with the Wildlands Trust to inform their baseline documentation report. The report needs to be complete before Wildlands can hold the conservation restriction, and the restriction is needed for our reimbursement. Matt has also been talking with the In-Lieu Fee Program about the recently funded wetland restoration work.

b) Mulliken's Landing

Mike: The dock project is underway. Beacon is doing the work. It looks great so far. This work was funded through the MassTrails Program. The trail will be ADA Accessible.

CLOSING REMARKS

Kalina: The next meeting will be held on October 12th, 2022 at 6:30PM. The time is 8:55PM. Will a commissioner make a motion to adjourn the meeting?

VOTE: Buz makes the motion to adjourn, Megan seconds; PASSES 6-0-0

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, September 14, 2022 @ 6:30 PM
MEETING LOCATION: Town House-26 Evergreen St. Room 203 & 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 203 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 203

SIGNING DOCUMENTS:

1. Beals and Thomas Peer Review Bill
2. Beacon Marine Mullikens Bill
3. LEC Peer Review Bill

ACTION ITEMS:

1. 19 Ring Rd RDA
2. 25 Bavarian AOOC

ENFORCEMENT:

1. 47 Main St
2. Cobb Ave
3. 29-31 Main St
4. 164 Pembroke St

MEETING MINUTES:

UPDATES:

1. Blackwater Memorial Forest

2. Mullikens Landing

PUBLIC HEARINGS:

1. **Section A – 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.

2. **Section B – 45 River St (Map 38 Lot 34)**

Applicant: Town of Kingston; Representative: Joseph Hannon, Atlantic Coast Engineering LLC. Notice of Intent for replacement of an existing boat ramp within 100' of a wetland resource area.

ADJOURN:

NEXT REGULAR MEETING: OCTOBER 12, 2022 (NO MEETING SEPT 28 2022)

Join Zoom Meeting

<https://us02web.zoom.us/j/88242845869?pwd=TVI1NGpDR0dBZWlwWUxEUFJzMURBZz09>

Meeting ID: 882 4284 5869

Passcode: 580660

+1 646 558 8656 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: 9/14/22

NAME	INTEREST	ADDRESS
Deanne Pettinelli	25 Bavarian Way project Amend.	25 Bavarian Way
Chris Long	19 Ring Road Kingston	19 Ring Road
Priscilla	Various	93 Elm
Jed Hammon	Town Boat Ramp	A.C.E

