



Conservation Commission Meeting Minutes

Wednesday, June 14, 2023

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

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

Virtual: N/A

Absent: Natalie Wiegman

Staff: Matt Penella, Conservation Agent

Julianna Denum, Assistant Conservation Agent

Location: Town Hall Offices, Room 200

Commission Meeting Opened: 6:36 p.m.

BUSINESS:

I. Signing Documents

The Commission signed five bills: two from Beals & Thomas, two from Environmental Partners Group, and one from Strong Tree Engineering. Additionally, a letter of support was signed for the Coastal Habitat and Water Quality grant application.

II. Action Items

a) 27A Rocky Nook Avenue RDA

Chairperson Vendetti opened a public meeting to discuss a Request for Determination of Applicability (RDA) for 27A Rocky Nook Avenue. Agent Penella mentioned that an Order of Conditions had previously been issued for the construction of a single-family house. While the construction was completed, parts of the landscaping did not match the plan of record. Therefore, when they applied for a Certificate of Compliance (COC), it was not able to be

approved by the commission due to these discrepancies. As a result, they filed an RDA for the portions that did not match the issued Orders of Conditions. Agent Penella, having conducted a site visit and taken photographs, noted discrepancies between the original plan and the completed work. The agent stated that everything that didn't match is still permissible and doesn't add any impervious surface.

VOTE: Buz made a motion to issue a Negative 3 DOA, seconded by Jim. The motion PASSED with a vote 6-0-0.

b) 27A Rocky Nook Avenue COC

Chairperson Vendetti opened a public meeting to discuss the Certificate of Compliance (COC) for 27A Rocky Nook Avenue. Julianne Walsh, the homeowner of 27A Rocky Nook Avenue, stated that significant effort had been put into building their home over the past few years, with a focus on energy efficiency and compliance. Agent Penella mentioned that in the Request for Determination of Applicability (RDA) process, modifications were made for specific reasons, including runoff to the bay and personal safety. In conclusion, the agent declared that with the successful issuance of the Determination of Applicability (DOA), all requirements have now been satisfied for the issuance of the COC.

VOTE: Buz made a motion to issue a Certificate of Compliance, seconded by Jim. The motion PASSED with a vote 6-0-0.

c) Bay Farm Conservation Area RDA

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for the Bay Farm Conservation Area. Agent Penella noted that a local resident living near Bay Farm has expressed a strong interest and agreed to do volunteer maintenance work at the site. The agent met with the resident onsite to discuss the planned maintenance activities. Certain aspects of the proposed maintenance work required a filing. A key part of the plan involves enhancing the viewshed from existing benches, which is currently obstructed in some areas by native plants. Instead of cutting these native species, the agent proposed relocating some of the benches to areas densely populated with invasive plants. By removing the invasives, this strategy would allow for both the preservation of native vegetation and an improved view of the bay. The removal of invasive plants will primarily be a mechanical process, with cut stem herbicides used if necessary.

VOTE: Buz made a motion to issue a Negative 3 DOA, seconded by Jim. The motion PASSED with a vote 6-0-0.

d) 58 Off Boundary Street RDA

Chairperson Vendetti re-opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 58 Off Boundary Street for the replacement of an existing deck and steps within the existing footprint. Agent Penella stated that the applicant provided a survey grade plan, and after conducting a site visit, the proposed work area matches the plan of record.

VOTE: Buz made a motion to issue a Negative 3 DOA, seconded by Jim. The motion PASSED with a vote 6-0-0.

e) 9 Pebble Lane Request for Amendment

Chairperson Vendetti opened a public meeting to discuss the amendment request for 9 Pebble Lane. Agent Penella informed the Commission that the Orders of Conditions, which were issued in 2019 for a raise rebuild of a single-family house in a coastal environment, would be extended by 450 days due to COVID-19. However, as of December 2019, the property was under new ownership, around six months after the permit was issued. The new owners have requested some changes to the initial plan. The proposed changes, while maintaining the same setback from the pilings to the resource areas, include an increased distance from the garage to the resource area, and a reduction of the impervious surface in jurisdiction by around 1.3%. The revised plan features a slightly smaller house with a reduction in the number of bedrooms from 6 to 3. Agent Penella noted that as the project is under state jurisdiction, and not just local, minor amendments of this nature cannot be approved without a formal hearing process.

Rick Grady from Grady Consulting presented the revised plans to the Commission. He stated that the new owners preferred a 3-bedroom dwelling over the initially approved 6-bedroom structure. The construction would occur within the previously approved footprint, with unchanged elevations for flood plain considerations. Grady confirmed that the house would be no closer to the resource area than in the previously approved plan. He also mentioned a small portion of the cantilevered deck, which had been approved previously. Grady concluded by stating that the homeowners essentially sought to build a different architectural house on the same site plan that had received prior approval. Commissioner Buz questioned why an amendment hearing would be necessary if the construction was to remain within the same footprint. Agent Penella clarified that the new design did not exactly match the original footprint and was slightly skewed. Grady also confirmed this by noting a couple of spots that didn't align precisely with the original footprint.

VOTE: Buz made a motion to recommend that the applicant file an amendment hearing, seconded by Jim. The motion PASSED with a vote 6-0-0.

f) 38 Crescent St. ORAD Extension Request

Chairperson Vendetti opened a public meeting to discuss the ORAD (Order of Resource Area Delineation) Extension Request for 38 Crescent Street. Agent Penella explained that an ORAD issued in June 2020 was not subject to the COVID tolling extension. The agent confirmed that he had conducted a site visit and reviewed the flags, stating that everything appeared to be correctly placed. The 2020 ORAD affirms the wetland markers of the BVW (Bordering Vegetated Wetland) and identifies an intermittent stream with accurately flagged banks. These details were confirmed as accurate in the ORAD. However, several items listed as inaccurate in the ORAD were identified, including the 100-foot buffer to an offsite BVW and a potential vernal pool (PVP) that may be located in the vicinity of the on-site 'B series' wetland. The representative, Brad Holmes, expressed that their request does not diverge from what the previous ORAD confirmed. He also added that the boundary markers have been refreshed. Buz asked Brad about the duration of the extension they were seeking. Brad responded that their ideal scenario would be a three-year extension. Buz, however, indicated he would be comfortable with extending it for two years.

VOTE: Buz made a motion to extend the ORAD for two years, seconded by Glen. The motion PASSED with a vote 4-2-0.

III. Enforcement

a) 2R/6 Main Street

Agent Penella stated that there have been no new developments and he would provide an update during the next meeting on June 28th.

b) 1 Royson Drive

Agent Penella stated that there have been no new developments and he would provide an update during the next meeting on June 28th.

c) Curtis Avenue

Agent Penella stated that there have been no new developments and he would provide an update during the next meeting on June 28th.

d) Subdivision follow-up EOs

Agent Penella noted that numerous subdivisions and developments built in past decades were not adequately "closed out". Developers had not been required by the Commission to apply for or complete a full Certificate of Compliance (COC). In one instance, Beals & Thomas was contracted to conduct a peer review on the entire filing. This review determined which lots were subject to the filing, which ones had open Orders of Conditions (OOCs), and which aspects related to road layout and stormwater features were left uncompleted by the developer. The agent explained that this data can now be utilized to ensure that developers complete their requirements by securing a COC for the whole development or by imposing an enforcement

order. The agent highlighted that homeowners in these developments often unknowingly have an open Order of Conditions when they attempt to sell their homes.

IV: Meeting Minutes

Minutes for April 12, 2023, and April 26, 2023, were submitted to the Commission to review and approve.

VOTE: Buz made a motion to approve both sets of minutes, seconded by Jim. The motion PASSED with a vote 6-0-0.

V. Updates

a) Eversource

Agent Penella stated that documents were received outlining the annual operating plan for vegetative maintenance on the power line rights-of-way in Kingston. These documents detail the locations where vegetative work, including herbicide treatments, is planned.

b) CHWQ Grant

Agent Penella stated that the Conservation Department is applying for the 2024 Coastal Habitat and Water Quality grant. In collaboration with the Wildlands Trust, the application seeks funding specifically for GIS analysis and prioritization of parcels that would assist in marsh migration. Should the grant be approved, it will finance the preparatory work required for securing permanent protection for these parcels.

VI. Public Hearings

a) Lake Street Culvert Replacement & Stormwater Improvements NOI

Chairperson Vendetti opened a public meeting to discuss the proposed replacement of an undersized culvert at Lake Street on the Jones River, along with the installation of an associated stormwater management system. Representative Kristopher Houle from Strong Tree Engineering presented plans to replace the existing 48-inch diameter reinforced concrete pipe culvert at Lake Street with a new 18' 7" wide, 5' 4" tall, open-bottomed aluminum box culvert.

The project includes the installation of a gravel up-flow filtering wetland system designed to capture and treat runoff that is currently flowing, untreated, from Lake Street into the Jones River. The project will enhance fish passage, alleviate localized flooding, and improve water quality. It complements past and ongoing work to improve diadromous fish passage and community resilience in the Jones River watershed. The project's design phase was funded through the Massachusetts Department of Fish and Game Division of Ecological Restoration Culvert Replacement Municipal Assistance Grant Program.

Kristopher explained that all impacts will be temporary in nature except for the expansion of land under water. Essentially, there will be an increase in the resource area owing to the culvert's expansion from 4-feet wide to over 18-feet wide. Additionally, any material extracted from the stream for the installation will be stored on the side and later returned to the stream, following specifications designed to mimic the natural stream substrate. Kristopher mentioned that they had performed sediment samples and pebble counts to match the gradation with the specification. He further noted that rock boulder clusters had been included in the culvert to create velocity refugia for fish during their migratory season.

Justin Lamoureux, also from Strong Tree Engineering, outlined the proposed sequence of events for the culvert's construction and the associated stormwater management system's plans. Justin confirmed that all proposed plantings would be native. Agent Penella mentioned receiving feedback from the DMF (Division of Marine Fisheries) on the project's timeline restrictions and its compliance with Massachusetts stormwater standards, which it has been designed to meet. Regarding the timeline, the project is scheduled for July and August to minimize the impact on Silver Lake School and to coincide with the river's lowest flow.

Jim and Buz both raised questions about the aluminum material chosen for the culvert, questioning its compatibility with concrete, and requesting information from the manufacturer regarding the structure's history and suitability. Justin assured them that they could provide examples of other similar structures built in Massachusetts, while Kristopher stated that he would provide information from the manufacturer about the structure's lifespan.

Pine Dubois from the Jones River Watershed Association requested a copy of the plans for review and comment. Agent Penella agreed to provide these. Pine emphasized the importance of designing the project with restored conditions in mind, rather than current ones, aiming for year-round flow rather than a river that runs dry in the summer. Agent Penella suggested continuing the hearing to gather more information from the manufacturer, give Pine time to review the plans, and await feedback from Natural Heritage.

VOTE: Buz made a motion to continue to the next hearing on June 28th, seconded by Jim. The motion PASSED with a vote 6-0-0.

b) Cushman Farms LLC

Chairperson Vendetti reopened the hearing to discuss the Notice of Intent (NOI) for the exploratory test pits and borings at the properties located at the Cushman Drive right of way, the Thomas Street right of way, and the following lots along Thomas Street: on map 66, lots 29, 32, 33, 35, 37, 38, 40, 41, 42, 47; and on map 75, lots 5 and 7. The applicant was Rick Lincoln of Cushman Farms LLC. And the representative was Lori Macdonald of Coneco Engineers and Scientists. The applicant has requested a withdrawal of the filing without prejudice.

Jim asked Agent Penella about the distinction between a withdrawal and a withdrawal without prejudice. In response, Agent Penella clarified that a withdrawal without prejudice allows the applicant to refile the same project within a shorter time frame. If the project was outright denied, however, the applicant would need to wait a couple of years before they could refile. Buz then shared his opinion, stating that there would need to be substantial reasons to prevent them from withdrawing without prejudice.

Paul Tanis, a member of the public residing at 6 Copper Beach, asked the Commission if the applicant would be required to restore the work area near Marion Drive since they had withdrawn from the project. Agent Penella clarified that, as this area falls outside the Conservation Commission's jurisdiction, they couldn't enforce such an action. Jim added that this would be an issue to discuss with the building department.

VOTE: Buz made a motion to accept the applicant's withdrawal without prejudice, Dot seconded; PASSED 6-0-0.

VOTE: Buz made a motion to close the hearing, Jim seconded; PASSED 6-0-0.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 8:02 p.m. The next meeting will be held on June 28, 2023 starting at 6:30 p.m. in Room 200.

VOTE: Jim made the motion to adjourn, seconded by Megan; PASSED 6-0-0

Prepared by: Julianna Denum, Assistant Conservation Agent, Conservation Department

Approved by: Conservation Commission