

Conservation Commission Meeting Minutes

Wednesday, January 11, 2023

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

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

Virtual: Matt Penella, Conservation Agent

Absent: Natalie Wiegman

Staff: Mike Perrin, Assistant Conservation Agent

Location: Town Hall Offices, Room 200

Commission Meeting Opened: 6:30 p.m.

Chairperson Kalina Vendetti opened the meeting. The date was January 11, 2023 and the time was 6:30 p.m.

VOTE TO OPEN: PASSED 6-0-0

BUSINESS:

I. Signing Documents

Prior to the start of the meeting, the Commission signed a bill for Voss Signs for trail signage, a bill for P.A. Landers for crushed stone at Mulliken's Landing, a bill for Beals & Thomas for bog restoration assessment, a bill for Beals & Thomas for Tall Timbers Research and a bill for Beals & Thomas Jones River Habitat Assessment. Previously approved Determinations of Applicability for 93 Main Street were signed.

II. Action Items

a) Annual Report

Chairperson Vendetti opened the public meeting for the Conservation Department Annual Report. Agent Penella stated that the Annual Report had been submitted to the Commission for review, outlining what the Conservation Commission/Department did for the year; and the report will be included in the Town Annual Report. Vittorio Artiano and Dorothy MacFarlane commended the amount work that had been done. Megan Hickey asked if \$400,000 for

Blackwater had been returned to CPC or not. Agent Penella stated that the Town had received it and it should go back to CPC; he would check if that had happened yet. Dorothy MacFarlane (also a member of the CPC Committee) indicated that the delay may be due to timing with the fiscal year. No comments or questions from the public.

VOTE: Buz Artiano made the motion to approve the annual report, Megan Hickey seconded, Annual Report was signed; PASSED 6-0-0

III. Enforcement

a) 164 Pembroke Street

Agent Penella requested a continuance to allow for more time to review the most recent plan until January 25, 2023.

Continuance motion passed 6-0-0

IV. Minutes

Minutes for 12/28/2022, 11/9/2022 and 12/14/2022 were submitted to the Commission to review and approve. Buz made the motion to approve the minutes of 12/28/22, seconded by Dot, Kalina abstained; PASSED 6-1-0

Buz made the motion to approve the minutes of 11/9/2022; seconded by Dot; PASSED 6-0-0

Buz made the motion to approve the minutes of 12/14/2022, seconded by Dot; PASSED 6-0-0

V. Updates

a) Express newspaper

Chairperson requested an update to the Commission on the replacement of Express Newspaper for public notifications/advertisements. Assistant Agent Perrin stated that since the Kingston Reporter is no longer in service, its recommended to use the Express Newspaper because it services Plympton, Halifax, and Kingston specifically, is readily available, and is advertised to Kingston. Buz made the motion to approve the Express newspaper, seconded by Dot; PASSED 6-0-0

b) Resignation of Assistant Conservation Agent, Mike Perrin

Chairperson requested an update; Mike stated that he will be moving onto another position elsewhere January 17, 2023.

Informal discussion while waiting for Public Hearings to commence.

VI. Public Hearings

a) 8 Smelt Pond Road (Map 89, Lot 18)

Chairperson opened the hearing for 8 Smelt Pond Road for a Notice of Intent (NOI) received for the construction of an addition to an existing dwelling, 100' from a wetland resource area. The applicant is Dan Pepe and the representative is Dylan Brady of Grady Consulting, LLC. The applicants requested a continuance to January 25, 2023 - Section A. Buz made the motion to continue the hearing to January 25, 2023 Section A, Dot seconded. PASSED 6-0-0

b) 23 Spruce Street

Chairperson continued a hearing for 23 Spruce Street for a Notice of Intent (NOI) received for the proposed razing of a single-family dwelling and construction of a new single-family dwelling within 100' of a wetland resource area. The applicant is Charlene Nazaretian and the representative is Joseph Webby of Webby Engineering, Inc. Agent Penella stated that a site visit was done and a revised plan was received from Joseph Webby on January 4, 2023. The revised plan shows 4-5 mature trees in the area that will likely be removed. Some things are missing from the report, such as 100' buffer of land subject to coastal stone flowage. More information regarding temporary and permanent impacts should be included in the report, including further detailed percentages for pervious surface, existing and proposed. Part of the lot cuts into the buffer zone of the salt marsh. Agent Penella would like more detailed percentages of the impact to the salt marsh before the Commission issues any permits. In addition, the ecological benefit of the mature Oak trees on site will be lost with their proposed removal. He recommended that the Commission require at a minimum a wide shrub border in front of the salt marsh to stop storm water and pollutants.

Chairperson asked for Mr. Webby to speak. Mr. Webby explained that roof drains and a stone swale will be installed to mitigate any storm waters going downhill. He asked if the owners would speak, Chairperson invited them to the podium. Co-owner, David Barry stated that the house is a cottage that was built in the 1930's. The reason for the proposed L-shaped design is to grant water views from multiple rooms in the home. Buz asked what the height differential would be with new house. Mr. Webby explained it would be about 4' higher, 2' higher than flood requirement. Buz would like to see planting of shrubs and trees along side of structure to compensate for loss of existing trees. He stated that overall, once changes to report are made as requested by Agent Penella, he thinks the proposed construction would be a massive improvement to the property, including paving the driveway. Jim agreed that new plantings to offset lost trees would be beneficial and also would like to see the owners work with the Agent to find an acceptable plan for the driveway. Megan approved of paving the driveway but has reservations regarding the extension into 50' no-touch zone. Jim made a motion that the Agent and Webby Engineering continue to finalize mitigations. Buz made motion to continue the hearing to January 25, 2023 Section B. Dot seconded. PASSED 6-0-0

c) Thomas Street/33 Cushman Drive

Chairperson opened a continued hearing for 33 Cushman Drive for an Abbreviated Notice of Resource Area Delineation (ANRAD). The applicant is Rick Lincoln of Cushman Farms, LLC and the Representative is Lori MacDonald of Coneco Engineers and Scientists. Agent Penella stated the issues were addressed to the proposed plan. Jim asked for the Commission to request further details on a possible vernal pool to be outlined in the plan before issuing an Order of Resource Area Delineation (ORAD). Dot agreed. Representative MacDonald stressed that the filing was in regard to the Massachusetts Wetland Protection Act only and the purpose was to have the Commission approve state buffer zones and state resource areas. Buz asked if the Representative or Kingston had access to the property to assess the potential vernal pool.

Agent Penella confirmed the Commission could access to the property for the purpose of assessing the vernal pool in the spring. He also stated that the responsibility to do the assessment lies with the Commission. Buz was in favor of waiting until the spring to do the assessment. Agent Penella stated that the language of Kingston Wetland Protection Regulations (KWPR) makes it clear that if an area has the features of a vernal pool then the Commission should treat it as a vernal pool unless proven otherwise. Matt recommended that until springtime, when it can be assessed, the area could be described as if it is a vernal pool in all correspondence. The Commission can issue an ORAD under the WPA with language that there may be a vernal pool in the center of the parcel of land and that that would have a 200' buffer to the high water line. Pine DuBois of the Jones River Watershed commented that the Commission can delineate the river and floodplain while making it clear that an assessment of a potential vernal pool will be done in March or April. Glen asked about the process of moving forward with State regulations and if the issue would come before the Commission again at a later date. Buz said it depended on the type of permit that is filed, if it goes to the ZBA, then input from the Commission may be requested. Megan indicated that the Commission would need to track the process and attend ZBA meetings. Jim reiterated that he would like to see the Commission hold off on issuing the ORAD when the process of vernal pool assessment is complete. Member of the public, Doug Dondero of 14 Copper Beech Drive, encouraged the Commission to do everything they can to protect the natural resources in the area. He said that the residents in the neighborhood, to his knowledge, do not know about the proposed 40B. He said that 2 weeks ago, he saw an excavator that had gone onto to a parcel of land that they had no access to at 18 Copper Beech Drive and was destroying trees right next to the area in question. The Building Inspector issued a Stop Work Order. Agent Penella said that at that point there had been no discussion between the developer and town staff as to what they were doing there. The developer described it as due diligence, test pits that need to be done before coming forward with plans. Matt felt that the work was quite destructive to the habitat there but it was not near the resource areas, rather it was 800-1000' away. He also said it is not good practice for the Commission to hold on a filing to delay a project. Jim objected, saying that the Commission should not accept partial ANRADs, rather they should ask for all details to be on the plan prior to approval of an ORAD.

Matt stated that if the Commission did not handle the procedure as if it's within the WPA only, it would likely lead to the Commission losing jurisdiction and the applicant instead going directly to the Department of Environmental Protection (DEP). DEP may then issue the ORAD without containing the notes regarding the potential vernal pool. Claire Hoozeboom (Town's peer review consultant from LEC) commented that if the Commission voted on the ORAD, she'd recommend they ask the applicant if they would be open to a special condition that would address the potential vernal pool, and in the spring the applicant shall conduct a vernal pool survey to determine if it meets the criteria to be certified or not. It would on record that the Commission made the request. Representative MacDonald stated that she would not recommend to her client to accept such a special condition as the potential vernal pool is outside his property is not the question. It is rather a question as to whether there are riverfront area or buffer zones associated with state regulated resource areas within his property boundaries. And that is the only vote they are asking the Commission to vote on.

Megan asked for clarification as to if the vernal pool was certified would it have to be on the plan or not. Matt said that if it were a certified vernal pool then it would need to show up on the plan with 100' buffer zone. Kalina asked Claire for specific language regarding the special condition in the ORAD. Claire offered future assistance with that request if needed. Buz withdrew his recommendation to close the hearing. Buz moved to continue the hearing until the next meeting, January 25th Section C, whereupon the language that Claire suggests can be implemented in the Commission's request to the applicant. Jim seconded the motion to continue. PASSED 6-0-0

CLOSING REMARKS

Chairperson Kalina Vendetti made closing remarks at 8:19 PM. The next meeting will be held on January 25, 2023 in Room 200.

VOTE:

Buz made the motion to adjourn, seconded by Jim; PASSED 6-0-0