



Conservation Commission Meeting Minutes

Wednesday, August 09, 2023

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

Present: Kalina Vendetti (Chairperson), Dorothy MacFarlane, Megan Hickey, Glen Duffy, Natalie Wiegman, Jim Franklin (Vice-Chair)

Virtual: Vittorio "Buz" Artiano

Absent: N/A

Staff: Matt Penella, Conservation Agent

Julianna Denum, Assistant Conservation Agent

Location: Town Hall Offices, Room 200

Commission Meeting Opened: 6:30 p.m.

BUSINESS:

I. Signing Documents

The Commission signed the Orders of Conditions for the Bay Farm Association Trust and signed a bill from Beals & Thomas for the Sampson's Brook Headwaters Restoration project.

II. Action Items

No Action Items were discussed.

III. Enforcement

a) Curtis Avenue / 8 Cedar Lane

The agent reported that during the Commission's last discussion regarding enforcement issues at 8 Cedar Lane/Curtis Avenue, an Enforcement Order was issued. This order mandated that Gary Stas had until August 12th to hire a professional to delineate his property. The agent confirmed that Gary engaged a wetland scientist and intended to update the Commission.

Gary Stas of 8 Cedar Lane/Curtis Avenue informed the Commission that he retained a wetland scientist for a \$700 fee to assess the property. He added that delineating the wetlands with flags would cost an additional \$1,500, and recording the delineation on paper would cost another \$2,000. After taking core samples around Gary's property, the wetland scientist determined that the entire area in question is wetlands. They advised Gary that doing further delineation may not be necessary.

The agent noted his concerns. First, there's the issue on the Curtis Avenue side of the property where vegetation clearing took place. Second, there's the driveway, which appears to have been expanded without a permit. Additionally, the Certificate of Compliance (COC) issued during the house's construction states that shrubs were to be maintained to mark the wetland border. Furthermore, a 25-foot "no touch" zone was established during prior permitting, and it's uncertain if the driveway extension infringes upon this zone.

Gary responded by saying he's been using that area for parking since the house was built, and it was originally just grass. He emphasized that he didn't excavate the land. Instead, he laid down a weed barrier and spread seashells over an area measuring approximately 9 feet in width and 40 feet in length. While he assumed this area was upland, he expressed a willingness to modify it if it was encroaching on the wetland.

The agent proposed using the As-built plan from the house's construction, which shows the locations of the wetland flags, to identify the 25-foot "no touch" boundary. The agent noted that the cut-up wood on the Curtis Avenue side of the property should be removed to prevent wetland disturbance and allow for natural revegetation. Additionally, the extended area of the driveway needs an assessment to ensure the "no touch" rule is still upheld.

Gary estimated that the driveway's end is roughly 12-13 feet from the identified wetland soils. The agent presented two solutions: (1) Gary could consider hiring a surveyor to locate the original wetland flags from the earlier plan and determine the 25-foot boundary, or (2) revert the driveway to its state when initially permitted.

Gary stated that he was open to adjusting the driveway by 25 feet if necessary. Jim suggested using the previous engineering plans, which are to scale, to determine where the 25-foot no touch boundary is located. Jim added that they could pinpoint the wetland flags' positions using two corners of the house's foundation. Jim also offered to help mark the wetland boundaries on-site. Gary stated that he had noticed a recession in wetlands over time, feeling they were drier now than when he built the house. In response, Jim clarified that wetlands could remain dry for long periods, underscoring the importance of soil samples. Kalina requested that Gary coordinate with both the agent and Commissioner Franklin to address the logistics related to pinpointing the positions of the previous wetland flags.

b) Subdivisions follow up Enforcement Orders

The agent reported that the process of communicating with the party responsible for the Tree Farm Landing subdivision project began with the COC request for 30 Christmas Tree Lane. He mentioned the need to follow up with this party to determine if they are willing to file for a COC. If they are not, he will initiate the enforcement process to mandate compliance.

Regarding the Tall Timbers project, which is one of the larger subdivisions, the agent noted challenges with homeowners requesting last-minute COCs for matters they weren't previously involved with. In some cases, this has been because builders did not close out the permits for those properties.

The agent added that he found correspondence from 2020 with the lawyer representing the developer. He has since sent them an email emphasizing the need to close out those permits and mentioned that the Commission has authorized enforcement action if required.

c) 2R/6 Main Street

The agent reported that during the last meeting, the commission voted to issue a letter to property owner Jay Desmarais. The letter stipulated that Mr. Desmarais had until August 8th to provide evidence of resolving the on-site stormwater issues; otherwise, daily fines of \$300 would be imposed. The agent confirmed he dispatched the letter accordingly.

Agent Penella informed Jay that the Commission has yet to receive any evidence indicating the work was completed. In response, Jay mentioned that his sons would provide pictures showing the work that was done. He further informed the agent that a month prior, he had disconnected the black pipe from the rain garden and capped the green pipe that connected to a nearby catch basin.

During a recent site visit, coinciding with a rain event, minor water flow from one of the pipes was observed. He noted this could be attributed to ground contact with the corrugated pipe. However, these observations differed from previous ones where the flow rate was significantly higher. It remains uncertain if any rectifications were made on-site.

Jim inquired about the type of pipes in question. Agent Penella clarified that there are two illicit discharge pipes: a corrugated black plastic pipe emerging from a rain garden and a thick green plastic pipe adjacent to the black one connecting to a catch basin. Jim recommended retracting the pipes to the edge of the pavement along the driveway and capping each one with concrete to ensure the work is completed properly and prevent any accidental discharge in the future.

VOTE: Jim made a motion to send a letter giving a 30-day period to remove the pipes to the pavement line, cap them with concrete, and restore the area to its pre-construction state. If the conditions are not met within this period, daily fines of \$300 will be issued until the Commission receives evidence that the problem is resolved. The motion was seconded by Glen. The motion PASSED unanimously with a vote of 7-0-0.

d) 15 Bagnell Street

The agent stated that he conducted a site visit at the property regarding unpermitted work within jurisdiction. The agent noted that there were several ash trees on site that were dead or dying, from insect infestations. The trees were removed and chipped and the wood chips were spread around the area. Additionally, a vegetable garden and a play area were installed. The agent informed the property owner, Kevin Pooler, that the vegetation indicated that the area in question is within a wetland and not the buffer zone. The agent added that it is unclear

exactly where the wetland line is.

Kevin Pooler from 15 Bagnell stated that the “whole lot is wet”. Kevin noted that he has been cleaning the area for 15 years and removing large debris such as old AC units. Kevin added that the cleared area had “morphed into what it is.” Kevin apologized for adding a vegetable garden in that area and stated that it was not his intention to do anything with that land, but he just wanted to clean it up and make it a safe place for his grandchildren.

Chairperson Vendetti asked the agent if he had any recommendations as to how to get the area back into compliance. Agent Penella stated that the easiest option is to remove everything from the area and let it revegetate naturally; he added that there were numerous red maple seedlings starting to sprout in the wood chips. The agent stated that in some cases conservation posts might be considered, but that approach would need to consider the location of the wetland line.

Jim asked Kevin what his goal was with the property and if he would be open to letting the area grow back naturally. Kevin Pooler replied affirmatively stating that he will do so. Connie Pooler from 15 Bagnell Street stated that they bought the property with no intention of building anything there; they just wanted to clean the area.

The agent recommended letting the area grow back naturally and to set a date one year from now to assess regrowth. If there has been a lot of trampling or work done in that area, then conservation posts can be considered at that time. The agent added that after one year if the area isn't filling in the way it should, then additional plantings can also be considered. The agent noted that they are likely to lose the rest of the ash trees on site. Kevin Pooler stated that if that happens, he will ask permission from the Commission before removing them.

Agent Penella stated that an Enforcement Order will be issued requiring that the area revegetate naturally and stating that a site visit will be conducted in one year to assess whether further restoration is needed. Connie Pooler asked the Commission if the garden will need to be removed. Dot suggested waiting to remove the garden until after the season's harvest is complete.

VOTE: Jim made a motion to issue an Enforcement Order to allow the disturbed area to revegetate naturally, and after one year, if the site visit shows that the area hasn't established correctly, then further restoration can be assessed. Additionally, the garden can stay intact until this year's harvest is complete, seconded by Dot. The motion PASSED unanimously with a vote 6-0-0.

Commissioner Buz Artiano was absent for the vote and subsequently left the Zoom meeting, not returning for the remainder of the session.

e) 71 Elm Street

The agent reported that he had recently conducted a site visit, during which he confirmed that the disturbed area was located within a wetland. He noted that the damage was confined to the space between the rock wall and the crushed stone driveway, and in a few locations on the opposite side of the rock wall. This was where machinery had accidentally dropped root balls and soil during excavation. He advised the property owner to fill the low-lying areas with soil that was already disturbed on the site to prevent the breeding of mosquitoes. Additionally, the agent mentioned that he had informed the property owner of his intention to consult the Commission about introducing wood chips. He suggested a light layer to cover the area between the rock wall and the driveway. This would allow the area to naturally revegetate, which seems likely given the emerging vegetation already observed there.

VOTE: Jim made a motion to issue an Enforcement Order. This order would require the disturbed area to be graded to eliminate any depressions, removal of any dirt/roots that were dumped beyond the rock wall, and for the exposed soil to be covered with a thin layer of wood chips. One year from now, a site visit will be conducted to assess the regrowth. Dot seconded the motion. The motion PASSED unanimously with a vote of 6-0-0.

IV: Meeting Minutes

Minutes for July 12, 2023, were submitted to the Commission for review.

VOTE: Glen made a motion to approve the minutes, seconded by Jim. The motion PASSED unanimously with a vote 6-0-0.

V. Updates

Eversource 5 Year Plan

Agent Penella provided an update, stating that Eversource just recently submitted their standard 5-year vegetative management plan. It details the best practices that they follow on their power line rights of way and specifies their work locations during that timeframe. The agent added that if anyone from the public would like to review it, they can reach out to the conservation office.

VI. Public Hearings

No public hearings were discussed.

CLOSING REMARKS

Vice-chair Jim Franklin made closing remarks at 7:13 p.m. The next meeting will be held on August 23rd, 2023, starting at 6:30 p.m. in Room 200.

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

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

Approved by: Conservation Commission



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 8/9/23

NAME	INTEREST	ADDRESS
Connie Pooker		15 Bagnell St.
Kevin Pooker		15 Bagnell St.
GARY STAS		8 cedar Ln



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD:	Conservation Commission
DATE & TIME:	Wednesday, August 9, 2023 @ 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. Order of Conditions - Bay Farm Association Trust
2. \$4,556.91 Beals & Thomas - Sampson's Brook Headwaters Restoration

ACTION ITEMS:

ENFORCEMENT:

1. Curtis Avenue / 8 Cedar Lane
2. Subdivisions follow up Enforcement Orders
3. 2R/6 Main Street
4. 15 Bagnell Street
5. 71 Elm Street

MEETING MINUTES:

1. July 12, 2023

UPDATES:

1. Eversource 5 year plan

PUBLIC HEARINGS:

ADJOURN:

NEXT REGULAR MEETING:

1. August 23, 2023

Join Zoom Meeting

<https://pactv.zoom.us/j/96816332793?pwd=WmZRUWhTc0dsWUxrNGhSSjBNdDFldz09>

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 or remotely. All Town Board and Commission meetings are required to provide remote participation. If there is a technical problem and remote participation cannot be provided, the meeting will end and be rescheduled.

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.