



Conservation Commission Meeting Minutes

Wednesday, February 28, 2024

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

Present: Kalina Vendetti (Chairperson), Megan Hickey, Dorothy Macfarlane, Vittorio "Buz" Artiano

Virtual: Jim Franklin (Vice-Chairperson)

Absent:

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 an \$8,955.00 invoice from Coastal Excavation Corp for the Delano Avenue BMPs and a \$2,211.00 invoice from Environmental Partners Group, LLC for MS4 support for the month of December. The agent stated he signed a \$1,474.00 invoice from Environmental Partners Group, LLC for MS4 support for the month of January and an \$80.78 invoice from Amazon Business for a temperature data logger. Additionally, Agent Penella stated that the Commission had previously signed an \$8,456.68 invoice from Beals & Thomas for the Sampsons Brook Headwaters Restoration Project.

II. Action Items

a) 45 River Street: Request for Determination of Applicability (RDA) for resurfacing the parking area and adding stormwater improvements (drainage) within the 200-foot riverfront area to the Jones River.

Chairperson Vendetti reopened a public meeting to discuss the RDA for 45 River Street, to resurface the parking area and add stormwater improvements (drainage) within the 200-foot riverfront area to the Jones River. Freeman Boynton III (Bo), from Duxbury Construction, LLC, stated that he is representing the Town of Kingston for the project. Bo mentioned that there was a member of the public concerned with using bituminous asphalt for the project. He noted that they have identified an alternative, roller compacted concrete. Bo stated that the existing parking lot slopes toward the Jones River and they would like to resurface it to a minimal grade sloping back towards the mainland. Bo added that they are also proposing a bio-retention swale.

Commissioner MacFarlane inquired about addressing a hole in the sand near the picnic area. Bo indicated that the picnic area was not currently within their project scope, but he was open to examining it. Commissioner Artiano inquired about the current state of the parking lot. Bo responded that it is currently a degraded asphalt surface that was paved a long time ago. Bo noted that it has not been maintained and is crumbling and degraded. Artiano asked if the parking lot needs to be an impervious surface instead of something like crushed stone. Bo stated that he believes it is in the best interest to use an impervious surface to properly direct the water into the bio-retention swale and to provide greater stability in the area.

Agent Penella noted that the proposed roller compacted concrete does not contain petroleum products. The agent stated that he did reach out to CZM, and they stated that they would like to see the parking area pitched toward the retention area so that untreated sheet flow does not run directly into the river. CZM also inquired about borings. Bo stated that borings have been done and have been included with the stormwater report. CZM also left comments regarding the use of salt tolerant plants. The agent stated that any approval should require that they coordinate with the agent on the planting list and that an Operations and Maintenance plan be provided for the stormwater feature. The agent recommended the issuance of a Negative 3 Determination of Applicability (DOA).

VOTE: Commissioner Artiano made a motion to issue a Negative 3 DOA with the special condition that the planting list is coordinated with the Conservation Agent, seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

b) Off Smelt Pond Road: Request for Determination of Applicability (RDA) to raze a barn that has fallen into disrepair and creating a safety hazard.

Chairperson Vendetti opened a public meeting to discuss the RDA for Off Smelt Pond Road to raze a barn that has fallen into disrepair and creating a safety hazard. Rob D'Ambruoso, from D'Ambruoso law, stated that he is representing Kingston Bay Property Holdings, LLC. Rob stated that there is a wooden barn with a cement floor that has fallen into disrepair and is a safety hazard. Rob noted that the project should be brief, taking less than a week to complete. He mentioned that they will attempt to reclaim some of the material from the barn, and whatever can't be reclaimed will be disposed of in a dumpster, which will be situated away from the bog. Rob added that the dumpster will be covered while it is not in use and that there will be a spill kit on site. He also stated that there will be minimal construction equipment used for the project.

Agent Penella stated that the structure is within 50 feet of the old cranberry bogs. The agent noted that the structure is hazardous and recommended the issuance of a Negative 3 DOA with downslope silt fencing as a condition. Commissioner Artiano asked if the concrete foundation would be removed, to which Rob confirmed that it would be.

VOTE: Commissioner Artiano made motion to issue a Negative 3 DOA with the special condition that a silt fence must be installed 30 feet off the structure, extending 50 feet on either side of the work area, seconded by Commissioner MacFarlane. The motion PASSED with a vote 5-0-0.

c) Change hearing times

Chairperson Vendetti opened a discussion in regard to changing the public hearing time. Agent Penella suggested starting public hearings at 6:45 PM.

VOTE: Commissioner Artiano made motion to start public hearings at 6:45 PM, proceeding in descending alphabetical order (A, B, C, D, etc..), seconded by Commissioner Franklin. The motion PASSED with a vote 5-0-0.

d) Vote on new members

Chairperson Vendetti opened a discussion on filling the vacant Conservation Commission seats. The agent noted that in the past the process has been ranking the applications based on qualifications and make recommendations to the Commission. The Commission will then vote and the vote will go to the Board of Selectmen to appoint. The agent noted that two applications have been received from two highly qualified applicants, Marilyn Kozodoy and Deanne Pettinelli.

VOTE: Commissioner Artiano made motion to appoint Marilyn Kozodoy and Deanne Pettinelli to the Conservation Commission, seconded by Commissioner MacFarlane. The motion PASSED with a vote 5-0-0.

III. Enforcement

No enforcement matters were discussed by the Commission.

IV: Meeting Minutes

Minutes for November 08, 2023, December 27, 2023, and January 10, 2024, were submitted to the Commission for review and approval.

VOTE: Commissioner Artiano made a motion to approve the minutes for November 08, 2023, December 27, 2023, and January 10, 2024, seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

V. Updates

a) 29 Jones River Drive Administrative Review

Agent Penella stated he received a phone call from the homeowner about a downed tree that had fallen into the marsh. After further review, the tree was identified as a cedar growing on a low hummock in the salt marsh that had tipped over. The agent informed the homeowner that he wasn't certain he could approve the tree removal through an administrative review and would look into it further. He noted that the tree is still alive, providing habitat value, and not shading more area of the salt marsh than before. The agent mentioned that he is bringing this matter to the Commission because it does not fit the administrative review policy. He presented a photo of the tree to the Commission. Commissioner Artiano expressed his opinion that the tree should be left in place. The agent stated he would communicate to the homeowner that the removal can't be approved through administrative review and would likely not be approved through a formal filing.

b) 16 Marsh Road Administrative Review

Agent Penella reported that he approved an administrative review for a request to prune trees. The homeowner had expressed concerns that the limbs overhanging the property line posed a hazard. The agent noted that the branches were within striking distance of the house and posed a potential risk of damage.

c) 69 Indian Pond Road Administrative Review

Agent Penella stated that the homeowner reached out about a hazardous tree in close proximity to Russel Pond and would like to have it removed. The agent presented a photo of the hazardous tree to the Commission. Commissioner Artiano noted that the split in the middle of the tree is dangerous. The agent stated that he did approve the tree removal with the stipulation that the tree be removed with a crane and that the new growth tree suckers near the base be allowed to grow to replace the other tree. The agent added that the tree company confirmed that they would use a crane to remove the tree.

VI. Public Hearings

a) Off Anderson Avenue (0 Sawmill Drive): Notice of Intent (NOI) for the proposed construction of a 3.2 mW (DC) ground mount solar energy system within a cranberry bog, and within the buffer zone of a wetland resource area.

Chairperson Vendetti reopened the hearing for the Notice of Intent at Off Anderson Avenue (0 Sawmill Drive) regarding the proposed construction of a 3.2 MW (DC) ground-mounted solar energy system within a cranberry bog and the buffer zone of a wetland resource area. Agent Penella reported that the stormwater report seems complete and highlighted that the structures are planned outside the 50-foot buffer zone, with no work proposed on the bog road between the upland bog and the wetlands. He verified that all abutters had been correctly notified and mentioned that a formal waiver for fencing within the 30-foot no landscaping setback was received. Additionally, a plan detailing the impervious coverage from the ballasts, which falls under the 15% limit set by the Kingston Wetland Protection Regulations (KWPR), was submitted. Agent Penella suggesting a special condition requiring coordination with the Conservation Agent to ensure the fencing allows for wildlife passage.

Commissioner Artiano asked the applicant if they had communicated with the direct abutter. Rob D'Ambruoso, from D'Ambruoso Law, stated that she was in the audience but left the room. Rob mentioned that she was provided with contact information to address any questions or concerns. Jared Connel from New Leaf Energy stated that he gave her his business card but has not heard from anyone yet. Jared acknowledged a condition requiring them to work with abutters on plantings and confirmed that they would do so prior to construction.

VOTE: Commissioner Artiano made a motion to close the hearing, seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

VOTE: Commissioner Artiano made a motion to issue an Order of Conditions with a special condition that the applicant coordinate with the Conservation Agent to ensure the fencing

facilitates wildlife passage, seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

b) 41 East Avenue: Notice of Intent (NOI) to construct a single-family dwelling on the property, paved driveway access, associated site grading, utility connections and landscaping within and near coastal wetland resource areas.

Chairperson Vendetti opened the hearing for the Notice of Intent for the proposed construction of a single-family dwelling, paved driveway access, associated site grading, utility connections, and landscaping within and near coastal wetland resource areas. Josh Bows from Merrill Engineers and Land Surveyors stated that he is representing the applicant at 41 East Avenue. Josh stated that the project site was part of a “two project NOI”. This consisted of repairing the revetment wall at both 37 and 41 East Avenue and replacing a decrepit house at 41 East Avenue. Both NOIs were approved, and Orders of Conditions were issued in 2020. Since then, the decrepit house has been demolished at 41 East Avenue. Josh stated that the site at 41 East Avenue has been stabilized and mitigation plantings were planted on both properties. Josh noted that the Order of Conditions for 41 East Avenue has expired, which is the reason for the new Notice of Intent. Josh mentioned that the design and features are the same as what was previously approved.

Josh noted that there were two things that have changed since the project was previously approved and what is being proposed for this filing. One is the stockpile location. Initially, stockpiles were proposed in the northeast corner of the property. The project now proposes there to be no stockpiling on the property. Additionally, erosion control will wrap the entire property. Agent Penella stated that the original permit was issued for the raze and rebuild of the existing non-conforming structure and replacement of the concrete seawall with a stone revetment and mitigation area. The agent added that the project proposes to modify about 1300 square feet of Land Subject to Coastal Storm Flowage in the velocity zone. He noted the other resource areas on site which include Top of Coastal Bank, Coastal Bank, Coastal Beach, Salt Marsh, and Land Under the Ocean. The agent noted that a lot of what is being proposed does not meet the Kingston Wetland Protection Regulations (KWPR) and if the Commission does approve the project, several waivers will be required. The agent added that the gravel driveway and the structure are both within a resource area, Land Subject to Coastal Storm Flowage, however, the site is heavily modified and has been modified for a long time.

The agent noted that Town Counsel stated that there is no grandfathering applicable to this property and that the Commission has the right to fully review every structure rebuild against the regulations. The agent highlighted that the project proposes a gravel driveway instead of a paved driveway which was previously approved. The agent recommended that the Commission

get more information and that the plan of record be updated to show Land Subject to Coastal Storm Flowage and all applicable setbacks. Commissioner Artiano asked if this was approved by ZBA. The agent responded that, to the best of his knowledge, it is still valid from ZBA. Artiano asked if it was subject to COVID tolling. The agent responded that it is not and expired in August. Artiano inquired why the permit was allowed to lapse. Josh Bows responded that the applicant thought they were subject to the COVID tolling. The agent added that during the previous filing, there were delays on the project while waiting on comment from CZM. Artiano also inquired about how the roof runoff will be dealt with. Josh Bows stated that he can add it to the plan. Artiano also asked about the mitigation area and if it was already built. Josh Bows responded that there was a planting plan that was approved under the original Order and those plantings were installed and inspected recently by a wetland scientist. Commissioner Franklin asked if any variances have been received yet for the project. Agent Penella responded that they have not received the waivers yet. Commissioner Franklin suggested getting the variances first before the NOI is approved.

Agent Penella asked Josh Bows if special condition #8 from the original Order of Conditions, which states “toe stones of revetment shall be certified as being horizontally above the mean high-water line prior to construction”, has been done. Josh Bows stated that the as-built plan shows the toe stones well outside of the mean annual high-water line. Josh Bows presented this to the Commission on the projector screen. Agent Penella noted that the current mitigation plantings are not substantial. The agent stated that in its current condition, it could be maintained as a mulch bed. Commissioner Artiano asked if the mitigation area could be moved. Josh stated that it can be moved and suggested a short post and rail fence to ensure the area is continuously delineated. Josh stated that he will submit the formal variance request and update the plan to show a bio swale rain garden drainage feature where the current mitigation area is and move the mitigation area to the northeast.

VOTE: Commissioner Artiano made a motion to continue the hearing until March 13, 2024, seconded by Commissioner Franklin. The motion PASSED with a vote 5-0-0.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 8:15 p.m. The next meeting will be held on February 14th, 2024, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Artiano made the motion to adjourn, seconded by Commissioner MacFarlane; PASSED 5-0-0

Note on Voting Format: In the vote tallies mentioned in these minutes, the format used is "Yes-No-Abstain".

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

Approved by: Kingston Conservation Commission

Documents used at the meeting:

- 02/28/2024 agenda
- 11/08/2023 meeting minutes
- 12/27/2023 meeting minutes
- 01/10/2024 meeting minutes
- RDA documents for 45 River Street
- RDA documents for Off Smelt Pond Road
- Administrative Review documents for 29 Jones River Drive
- Administrative Review documents for 16 Marsh Road
- Administrative Review documents for 69 Indian Pond Road
- NOI documents for Off Anderson Avenue (0 Sawmill Drive)
- NOI documents for 41 East Avenue



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD:	<u>Conservation Commission</u>
DATE & TIME:	<u>Wednesday, February 28, 2024 @ 6:30 PM</u>
MEETING LOCATION:	<u>Town House-26 Evergreen St. Room 200 & VIA ZOOM</u>
AUTHORIZED SIGNATURE:	<u>Matt Penella, Conservation Agent</u>

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 the Local Seen on Comcast 9 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 the Local Seen. 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. \$8,955.00 invoice from Coastal Excavation Corp for Delano BMP's
2. \$2,211.00 invoice from Environmental Partners Group, LLC for MS4 support for the month of December
3. \$8,456.68 invoice from Beals & Thomas for the Sampson's Brook Headwaters Restoration Project - previously signed by Conservation Commission
4. \$80.78 invoice from Amazon Business for temperature data logger - signed by Conservation Agent
5. \$1,474.00 invoice from Environmental Partners Group, LLC for MS4 support for January - signed by Conservation Agent

ACTION ITEMS:

1. 45 River Street: Request for Determination of Applicability (RDA) to resurface the deteriorating parking area, and add stormwater improvements (drainage).
2. Off Smelt Pond Road: Request for Determination of Applicability (RDA) to raze a barn that has fallen into disrepair and creating a safety hazard.
3. Change hearing times
4. Vote on new members

ENFORCEMENT:

MEETING MINUTES:

1. 11/08/2023 - revote
2. 12/27/2023

3. 01/10/2024

UPDATES:

1. 29 Jones River Drive Administrative Review
2. 16 Marsh Road Administrative Review
3. 69 Indian Pond Road Administrative Review

PUBLIC HEARINGS:

1. Off Anderson Avenue (0 Sawmill Drive): Notice of Intent (NOI) for the proposed construction of a 3.2 mW (DC) ground mount solar energy system within a cranberry bog, and within the buffer zone of a wetland resource area.
2. 41 East Avenue: Notice of Intent (NOI) to construct a single family dwelling on the property, paved driveway access, associated site grading, utility connections and landscaping.

ADJOURN:

NEXT REGULAR MEETING:

1. 03/13/2024

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.



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 02/28/24

NAME	INTEREST	ADDRESS
David Gilmore	smelt Rd	5 Tupper Ave Plymouth
DEAN SMITH	NEW LEAF ENERGY	55 TECH DR, SUITE 102 LOWELL MA 01851
Andrew Moeb	MOEBY CUSTOM	5 KESTREL WAY CARVER MA 02330
Marilyn Kozolay	applicant for commission	160 Pembroke St
Tom Bambarides	Boat Ramp	39 Round Hill
Bo Bayle	Boat Ramp	45 River St Kingston
Tom Taylor Herbert M.	Boat Ramp	
Jared Connell	NLE	55 Tech Dr. Lowell, MA
Robb D'Ambrosio	NLE	15 Corwell Ln Plymouth
Joshua Bows	Merrill	427 Columbia Rd Hanover
Diane C. Obrien	m	29 Seawall