



Conservation Commission Meeting Minutes

Wednesday, July 24, 2024

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

Present: Kalina Vendetti (Chairperson), Jim Franklin (Vice-Chairperson), Marilyn Kozodoy, Dorothy Macfarlane, Brian Payne

Virtual: Megan Hickey, Vittorio “Buz” Artiano

Absent:

Staff: Matt Penella, Conservation Agent

Location: Town Hall Offices, Room 200 & Via Zoom

Commission Meeting Opened: 6:30 p.m.

BUSINESS:

I. Signing Documents

The Commission signed an Order of Conditions for Tarkiln Road Lots 1 & 2 and a Determination of Applicability (DOA) for the Rocky Nook Brewster Park Association. The Commission also signed several invoices, including: a \$2,800 invoice from Pare Corporation for the Reed Millpond Dam inspection; a \$4,625 invoice from Environmental Partners Group, LLC for MS4 support in May; a \$744 invoice from the Massachusetts Association of Conservation Commissioners for annual membership fees; and a postage reimbursement to the Assistant Conservation Agent.

II. Action Items

a) 10 Baker Avenue: Informal discussion about change in project layout

Agent Penella stated that this property had previously been before the Commission and was referred to as “Off Baker Avenue.” He explained that it was initially permitted under local regulations for the construction of a single-family dwelling within the outer bounds of an intermittent stream. During the permitting process, it was noted that the house was proposed to be built on a steep slope, requiring stabilization. The applicants proposed a tiered retaining wall, which brought the project under state jurisdiction. The agent mentioned that the additional work was permitted under an RDA/DOA filing.

When the developer later applied for a Certificate of Compliance (COC), a site visit revealed that the project had been completed using the RDA/DOA plan, disregarding the original Notice of Intent (NOI) plan. Required restoration plantings were missing, and a Conservation Restriction (CR) on a portion of the property was also missing. The agent noted that the developer has since sold the property, and the new owner is now interested in understanding their options. The agent recommended that the property owner speak directly with the Commission.

Jeff Katzenstein, property owner of 10 Baker Avenue, stated that he and his family moved to the property in July 2023. Jeff provided informational packets to the Commission and noted that before closing on the sale, the seller had provided the buffer zone planting plan, which was included with the RDA submitted in July 2022. Jeff explained that the seller believed this was all that was required for restoration on the property. However, a few days before closing, Jeff learned that there was no Certificate of Compliance (COC), so the seller escrowed money to address compliance issues.

Jeff expressed his concerns with the NOI planting plan, which covers almost the entire front yard area. He noted that the yard currently consists of grass, and the area is over 100 feet from the intermittent stream. Jeff stated that while he is not looking to reduce the total volume of plantings, he would prefer to relocate them elsewhere on the property. He shared that he has been working with wetland scientist Garret Tunison to prepare a revised planting plan. Jeff reviewed the plan with the Commission, explaining that the remaining plantings would be relocated to the grassy area abutting Baker Avenue. He noted that there is a potential vernal pool in that area and believes the plantings would function better there, as it also experiences flooding issues.

Jeff expressed his desire to work with the Commission to find a solution that meets his needs by keeping the front yard available. He added that he is open to having some

plantings in the front yard, provided they don't occupy the entire space. Agent Penella stated that, given the original filing was very robust with mitigation, rearranging the plantings would be reasonable; however, the permitting process must still be followed in order to issue a Certificate of Compliance (COC) for the property. The agent asked the Commission for feedback on what filings would be appropriate for the homeowner.

Commissioner Franklin noted that, despite two permits being issued for the property, there was a clear permitting process that the developer was expected to follow for the property's development. Commissioner Kozodoy inquired about the Conservation Restriction that was supposed to be placed on a portion of the property. Agent Penella confirmed that the Conservation Restriction has not been implemented.

Jeff added that the left side of the lot remains forested and has not been altered. He also explained that the fencing installed does not align with the Conservation Restriction fencing outlined in the plan of record, although there are two rows of restoration plantings between the fencing and the house. He noted that the fencing distance would need to be adjusted if an as-built plan were to be prepared.

Commissioner Franklin emphasized that there is only one approved set of documents for the permit that was issued and that the Commission is obligated to adhere to the rules provided. Jeff acknowledged the previous approval and respectfully asked if he could retain the same volume of plantings but revise their location to preserve some yard space.

Commissioner Artiano stated that he would like to see a new Notice of Intent (NOI) filing that includes an as-built of the current conditions and outlines what the homeowner intends to do. If the homeowner wishes to move plantings, that decision would ultimately be up to the board upon reviewing the proposed plan. Commissioner Franklin added that his priority is seeing the property come into compliance and having a Certificate of Compliance (COC) issued.

Agent Penella noted that filing a new NOI could be a complex process, as it would trigger state jurisdiction and now require consideration of the 200-foot vernal pool buffer, which was only 100 feet when the property was originally permitted. Commissioner MacFarlane asked about the plantings already installed. Agent Penella explained that plantings have been completed in the tiered retaining wall area and between the house and the fence. The agent also pointed out areas that were supposed to be restored but have not been, along with their proposed revised planting area.

Marilyn mentioned that given the complexity of a new NOI, it might not be the best option. Agent Penella noted that compliance could be achieved relatively easily by addressing the driveway BMP and placing the untouched portion of the property under a Conservation Restriction (CR). The main challenge, he said, is reorganizing the square footage of the plantings. He also mentioned that procedurally, an amendment may not be feasible, which could leave the option of filing a new NOI.

Commissioner Franklin stated that it's up to the applicant whether they want to proceed with the previously approved plan or submit a new NOI. Commissioner Artiano suggested that the applicant could work towards coming into compliance with the current NOI and then file an amendment for any remaining revisions they would like to make. Agent Penella agreed, noting that in such a case, the amendment could include the addition of the previously approved RDA filing.

b) Discuss dock standards

Agent Penella stated that he had previously discussed with the Commission the need to standardize how they handle docks, not only seasonal docks but also in terms of enforcement. He noted that there are many unpermitted docks in town and expressed the desire to establish a consistent approach for managing these moving forward. He reached out to Lakeville and other Conservation Agents across the state to see how other towns handle this issue.

Agent Penella explained that the state's Chapter 91 Program requires a Chapter 91 license for any type of dock, regardless of whether it is permanent or temporary. A state representative mentioned that many towns allow temporary or seasonal docks to be permitted under Determinations of Applicability (DOA) filings, provided there is no disturbance to the resource area during installation or removal. Several towns confirmed this practice, though they usually require that docks be removed by a specific date each year.

He added that while some towns lack the ability to enforce dock regulations, others have implemented a policy where docks installed without a permit after a set date, typically 10 years ago, must be permitted. He also noted that it is reasonable to require a permit for docks that homeowners plan to rebuild or alter.

Agent Penella suggested that the Commission research and review how they would like to standardize this process going forward. He stated that he would put together a proposal for the Commission to review, provide comments on, and ultimately vote on.

c) Modify Kingston Wetland Protection Regulations (KWPR) Standard Conditions

Agent Penella stated that during a previous meeting, it was suggested that the Standard Conditions, often written into Orders of Conditions, should include language prohibiting the use of synthetic chemicals, fertilizers, or pesticides within Commission jurisdiction. He expressed that, at a minimum, it would be beneficial to include this in the Standard Conditions and welcomed any additional suggestions from the Commission. He also mentioned that he would verify whether a Public Meeting would be required to implement these changes. Commissioner Kozodoy added that it might be helpful to standardize the requirements for conservation posts.

III. Enforcement

a) 28 Raboth Road

Agent Penella stated that he conducted a site visit and provided guidance on where restoration would be most needed. He also advised that any landscaping work should be addressed under a separate filing. The agent mentioned that the representative recently submitted a revised planting plan, which has not yet been reviewed. He recommended continuing the discussion to the next meeting on August 14th, 2024, to allow time to review the revised plan.

b) 44 Raboth Road

Agent Penella stated that, through aerial imagery and a recent visit to the area, he noticed unpermitted work on the property and issued the property owners a Notice of Violation. He noted that the most significant unpermitted work included the installation of a retaining wall and a paved parking area. He added that not only was this work unpermitted, but it is also unlikely to be permissible under local regulations without a variance due to its proximity to the resource area and the height of the structure. He also mentioned unpermitted docks and tree clearing on the property and presented aerial imagery to the Commission showing the timeline of the unpermitted work. The agent explained that while restoration is not straightforward, it is still a viable option.

Tom Carroll, the property owner of 44 Raboth Road, acknowledged that he did not follow the proper permitting process before undertaking the work. He explained that there had been a constant issue with runoff flowing down the stairs into the pond, and that he installed the retaining wall and pitched the driveway away from the pond to resolve the issue, though he now realizes he handled it incorrectly.

Commissioners inquired if the agent had conducted a site visit and taken photographs of the unpermitted work. Agent Penella confirmed that he had been to the property but had not yet

conducted an official site visit. The Commission agreed that a site visit should take place before continuing further discussion on the issue. Agent Penella recommended continuing the discussion to the August 28th meeting in order to provide time for a site visit.

c) 375 Elm Street

Agent Penella stated that this enforcement issue was discussed at a recent meeting, where it was noted that the homeowner had not completed the required restoration work around a vernal pool by the established deadline. At that meeting, the Commission voted to issue a \$300 fine and mandated that the homeowner have a wetland scientist provide an update on the current condition of the site to determine what restoration would be needed. The homeowner had until July 15th to submit the update to the Commission but failed to do so. As a result, daily fines are now being issued until the update is received.

IV: Meeting Minutes

Minutes for May 8, 2024, were submitted to the Commission for review and approval.

VOTE: Commissioner Kozodoy made a motion to approve the minutes for May 8, 2024. The motion was seconded by Commissioner Hickey. The motion PASSED with a vote 4-0-3.

V. Updates

No updates were discussed by the Commission.

VI. Public Hearings

a) 1 Landing Road: Notice of Intent (NOI) for the proposed construction of an addition and deck to the existing single-family dwelling within the 200-foot riverfront area to the Jones River and buffer zones to wetland resource areas.

Vice-Chair Jim Franklin re-opened the hearing for 1 Landing Road and stated that the applicant has requested a continuance to August 14th, 2024.

VOTE: Commissioner Kozodoy made a motion to continue the hearing until August 14th, 2024, in section A. The motion was seconded by Commissioner MacFarlane. The motion PASSED with a vote 6-0-1.

CLOSING REMARKS

Vice-Chair Jim Franklin made closing remarks at 7:52 p.m. The next meeting will be held on August 14th, 2024, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Payne made the motion to adjourn, seconded by Commissioner Hickey; PASSED 6-0-1.

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:

- 07/24/2024 meeting agenda
- 05/08/2024 meeting minutes
- Previous filing documents for 10 Baker Avenue
- Enforcement documents for 28 Raboth Road
- Enforcement documents for 44 Raboth Road
- Enforcement documents for 375 Elm Street
- Notice of Intent documents for 1 Landing Road



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 07/24/2024

NAME	INTEREST	ADDRESS
Tom Carroll	correction action	44 Raboth Rd
Jenna Carroll	"	"
BRIAN TAYLOR	DIRICO	28 RABOTH RD
Jeff Katzenstein	revised planning plan	10 Baker Ave.

TELEPHONE: 781-585-0537



TOWN OF KINGSTON

NOTICE OF MEETING

BOARD: Conservation Commission

DATE & TIME: Wednesday, July 24, 2024 @ 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 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. Order of Conditions for Tarkiln Road Lots 1 & 2
2. Determination of Applicability (DOA) for Rocky Nook Brewster Park Community Association
3. \$2,800 invoice from Pare Corporation for the Reed Millpond Dam inspection
4. \$4,625 invoice from Environmental Partners Group, LLC for MS4 support for the month of May
5. \$744 invoice from Massachusetts Association of Conservation Commissioners for annual membership fees
6. \$18.40 postage reimbursement to the Assistant Conservation Agent

ACTION ITEMS:

1. 10 Baker Avenue: Informal discussion about change in project layout
2. Discuss dock standards
3. Modify Kingston Wetland Protection Regulations (KWPR) standard conditions

ENFORCEMENT:

1. 28 Raboth Road
2. 44 Raboth Road
3. 375 Elm Street

MEETING MINUTES:

1. 05/08/2024

UPDATES:

PUBLIC HEARINGS:

1. 1 Landing Road: Notice of Intent (NOI) for the proposed construction of an addition and deck to the existing single-family dwelling with the 200-foot riverfront area to the Jones River and buffer zones to wetland resource areas.

ADJOURN:**NEXT REGULAR MEETING:**

1. 08/14/2024

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.