



Conservation Commission Meeting Minutes

Wednesday, August 28, 2024

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

Present: Kalina Vendetti (Chairperson), Marilyn Kozodoy, Megan Hickey, Dorothy Macfarlane, Brian Payne

Virtual: Jim Franklin (Vice-Chairperson), 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 the following documents: an extension permit for the Order of Conditions for MassDOT, a Determination of Applicability (DOA) for 56 Main Street, an amended Enforcement Order for 56 Main Street, an amended Enforcement Order for 28 Raboth Road, and an amended Enforcement Order for 375 Elm Street.

II. Action Items

a) 15 Kingston Street: Request for Certificate of Compliance

Chairperson Vendetti opened a public meeting to discuss the Request for a Certificate of Compliance for 15 Kingston Street. Agent Penella explained that this matter was discussed at the previous meeting, during which a discrepancy in the plan regarding the impervious surface

was identified. An updated plan has since been submitted, confirming that 14.9% impervious surface was approved in the Order of Conditions and the as-built plan shows 14.7%.

Agent Penella noted that the shed and the foundation for the pool equipment were not included in the Order of Conditions. However, the shed is located outside the 50-foot no-structure setback and could be approved through an administrative review. He advised the applicant to submit an administrative review application for both the shed and the pool equipment foundation. These structures are already accounted for in the 14.7% impervious surface calculations, which remain below the approved limit.

The applicants submitted the administrative review application, and Agent Penella indicated that he could issue approval if the Commission agrees. He also recommended the issuance of a Certificate of Compliance.

VOTE: Commissioner Payne made a motion to issue a Certificate of Compliance for 15 Kingston Street. The motion was seconded by Commissioner Kozodoy. The motion PASSED with a vote 7-0-0.

b) Kingston Street culvert emergency certification

Agent Penella explained that there is a culvert in front of 15 Kingston Street that runs underneath the road. The metal corrugated culvert has deteriorated and subsided, resulting in a sinkhole forming on Kingston Street. Environmental Partners Group has been contracted to design the replacement of the culvert with a headwall. Agent Penella noted that, since the issue is not strictly within the road layout, he issued an emergency certification to replace the culvert before the sinkhole expands further.

III. Enforcement

a) 44 Raboth Road

Agent Penella stated that this matter was discussed at a previous meeting, during which it was decided that a site visit would take place. A site visit was subsequently conducted with a few Commissioners in attendance, along with the homeowner, Tom Carroll. During the visit, Mr. Carroll explained that he built the retaining wall to prevent runoff from entering the pond. Agent Penella noted several observations about the property. There are two docks on the property, one of which has been there since the 1960s or 1970s. The larger dock was replaced and significantly resized between 2019 and 2021. The agent explained that replacing or resizing a historic dock requires a permit and added that typically, residential properties are restricted to one dock. Additionally, tree clearing occurred on the property to create the retaining wall and a concrete parking area near the driveway. The property also has multiple sheds within

jurisdiction, though their age and how long they have been in place are unknown. The agent noted that a significant portion of the unpermitted alterations extends beyond the property line onto land owned by abutters. Mr. Carroll stated that the abutting property owners were aware of this and had no objections. However, these property owners were not invited to the meeting, which could become a consideration if changes or retroactive permits are pursued.

Agent Penella noted that the site has been historically developed, with the initial development dating back to 1890, before wetland regulations were in place. However, unpermitted work has also occurred in recent years. A Commissioner inquired about the current septic system, prompting the agent to investigate records with the Health and Building Departments. No record of a septic system was found. Mr. Carroll informed the agent that the property has a historic cesspool. The agent also noted that a renovation in 1994 included foundation pier replacement, window replacement, siding, and a small deck addition. Although the building permit for the work required compliance with wetland regulations, no wetland permit was filed at that time.

The agent summarized that while some property alterations predate wetland regulations, unpermitted work in recent years needs to be addressed. At a minimum, retroactive permitting is necessary for the retaining wall and parking area. Due to the property's size, opportunities for mitigation are limited, but options include reclaiming portions of the shoreline with native vegetation and reducing the property to one dock. The agent also suggested infiltration measures for downspouts to mitigate impervious surfaces. He added that the retaining wall does not meet the minimum standards of the Kingston Wetland Protection Regulations. However, this requirement could be waived if the property owner demonstrates that no better viable alternatives existed. The agent emphasized that if a retroactive permit is issued, it should be thoroughly reviewed for compliance with the regulations and structural soundness.

Mr. Carroll acknowledged that he should have obtained permission to complete the work and stated that he built the retaining wall to prevent runoff from entering the lake. Commissioner Kozodoy acknowledged that there is a lot happening on the property and suggested starting with the docks, noting that only one dock is permissible on a residential property. She added that the size of the dock should not exceed 160 square feet, but the floating dock on the property is approximately 250 square feet. Mr. Carroll stated that the floating dock measures 16 feet by 16 feet. Commissioner Kozodoy also noted that regulations limit dock width to 4 feet, while the dock on the property is 13 feet wide. Mr. Carroll confirmed the dock's width and stated that he replaced "the uprights and put hardwood on top." He added that he could remove the dock with the duck house, noting that no ducks currently live there. Agent Penella clarified that floating docks are still considered docks.

The agent then asked the Commission for their input on the retaining wall. Commissioner Franklin inquired about the height of the wall, and Agent Penella estimated it to be at least 8 feet tall. Commissioner Franklin asked whether a permit had been obtained from the Building Department. Thomas Carroll stated that no permit was obtained. Commissioner Franklin suggested that the Building Department assess the wall's structural soundness. Agent Penella stated that while the Conservation Commission could defer this matter to the Building Department, it is within their jurisdiction to ensure the wall's structural integrity and compliance with wetland regulations for a retroactive permit to be issued. He added that an Enforcement Order could require the property owner to obtain a permit through the Building Department and demonstrate that the retaining wall meets the Kingston Wetland Protection Regulations. Mr. Carroll reiterated that the retaining wall has been effective in preventing runoff into the lake.

Commissioner Payne emphasized the importance of assessing the wall's structural soundness and determining whether its location and design were the best options for wetland protection. The agent recommended revisiting the issue at a later meeting and advised the property owner to consult with the Building Department about the necessary steps for permitting. Commissioner Artiano stressed the need to provide the property owner with clear instructions. Commissioner Payne added that Mr. Carroll should also meet with his neighbors to reach an agreement regarding the paved parking area and other alterations that have encroached on abutting properties.

VOTE: Commissioner Franklin made a motion to continue the enforcement discussion to September 25th, 2024. Commissioner Payne seconded the motion. The motion PASSED with a vote of 7-0-0.

b) 15 Bagnell Street

Agent Penella stated that this enforcement issue originated last year due to the unpermitted clearing of vegetation within a jurisdictional area. The property owners had a vegetable garden in the cleared area and were permitted to keep the garden through the harvest season before removing everything from the site. A one-year follow-up was planned to determine if any restoration measures would be necessary. Now that a year has passed, the site has not fully stabilized. Approximately 50-60% of the site remains unvegetated, and the areas with denser vegetation primarily consist of loam weeds where the vegetable garden had been located.

The agent also noted that he documented a pile of wood chips and grass clippings dumped in the wetland area. The homeowners have agreed to remove these materials and refrain from dumping in that area in the future. Agent Penella recommended installing conservation posts to

prevent further encroachment and implementing restoration efforts in the wetland and buffer zone.

Kevin and Connie Pooler, property owners of 15 Bagnell Street, stated that they had removed the vegetable garden from the area and left the site untouched to allow natural regrowth. Kevin Pooler added that he would be willing to reseed the area or remove weeds as needed. Agent Penella explained that removing the weeds to prevent them from going to seed and reseeding with an appropriate seed mix would likely help stabilize the area. Commissioner Artiano suggested spreading a conservation seed mix over the area and installing three conservation posts along the edge of the cleared zone. Agent Penella proposed issuing an Enforcement Order requiring the installation of three conservation posts, the application of a wetland and buffer zone seed mix, and a follow-up site visit in one year to evaluate the site's regrowth and stabilization.

VOTE: Commissioner Payne made a motion to require the installation of three conservation posts and the application of an appropriate wetland and buffer zone seed mix, with the work to be completed by October 31, 2025. A compliance check would be conducted in one year around October 31, 2025 to assess regrowth. Commissioner MacFarlane seconded the motion. The motion PASSED with a vote of 7-0-0.

c) 71 Elm Street

Agent Penella provided an update regarding a Notice of Violation issued a year ago for vegetation and soil disturbance along the driveway at 71 Elm Street. At that time, the Commission decided that a site visit would be conducted in one year to assess regrowth and determine whether restoration would be necessary. Following a recent site visit, it was determined that the site has sufficiently stabilized, with no invasive species observed. Agent Penella recommended closing the Enforcement Order and issuing a letter to the homeowner to confirm the resolution.

VOTE: Commissioner Kozodoy made a motion to close the enforcement matter for 71 Elm Street. Commissioner Payne seconded the motion. The motion PASSED with a vote of 7-0-0.

IV: Meeting Minutes

Minutes for July 10, 2024, were submitted to the Commission for review and approval.

VOTE: Commissioner Kozodoy made a motion to approve the minutes for July 10, 2024. The motion was seconded by Commissioner MacFarlane. The motion PASSED with a vote 6-0-1.

V. Updates

a) 15 Kingston Street Administrative Review

Agent Penella stated that an Administrative Review application was submitted for the shed and pool equipment foundation, which were not included in the original Order of Conditions. The agent noted that these additions bring the impervious surface calculations to 14.7%, which remains below the approved 14.9% specified in the Order of Conditions.

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.

Chairperson Kalina Vendetti re-opened the hearing for 1 Landing Road. Agent Penella stated that the revised plans requested at the previous hearing have been received. The updated plan specifies 3/8-inch deck spacing for a pervious condition and confirms that the drywell is sized for a 1-inch storm. The plan also indicates that all existing downspouts will be tied into the drywell system; however, it does not specify that the new addition's downspouts will also be connected. The plan accurately shows existing and proposed impervious surface calculations, with the existing coverage listed at 34.3% and the proposed coverage at 40%. While this represents a significant increase in coverage, the Commission may accept downspout infiltration as mitigation if deemed sufficient. A formal variance request would still be required, and any Order of Conditions issued should specify whether such a variance was granted. The agent recommended the issuance of an Order of Conditions.

Agent Penella also noted that grass clippings were observed on the other side of the fenced yard. As part of the permit issuance, the representative was informed that the clippings would need to be removed and that dumping in that area occur in the future. Commissioner Artiano stated that in the previous hearing he specified that all downspouts, including those from the addition, must be tied into the drywell system. He stated that he does not support accepting the plan with its current language. Commissioner Artiano also recommended including a special condition restricting the use of chemical fertilizers, pesticides, and herbicides on the property. Agent Penella agreed and suggested adding a special condition specifying that all downspouts, including those from the addition, must be connected to the drywell system.

VOTE: Commissioner Kozodoy made a motion to close the hearing. The motion was seconded by Commissioner Payne. The motion PASSED with a vote 7-0-0.

VOTE: Commissioner Artiano made a motion to approve the Notice of Intent with the following special conditions: 1) all downspouts, including those from the addition, must be tied into the new drywell system, with an updated plan of record submitted; and 2) no chemical fertilizers, pesticides, or herbicides shall be used on the property. The motion was seconded by Commissioner Franklin. The motion PASSED with a vote of 7-0-0.

CLOSING REMARKS

Chairperson Kalina Vendetti made closing remarks at 8:13 p.m. The next meeting will be held on September 11th, 2024, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Payne made the motion to adjourn, seconded by Commissioner Kozodoy; PASSED 7-0-0.

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:

- 08/28/2024 meeting agenda
- 07/10/2024 meeting minutes
- Kingston Street Culvert emergency certification documents
- Request for Certificate of Compliance documents 15 Kingston Street
- Administrative Review documents 15 Kingston Street
- Notice of Intent documents for 1 Landing Road
- Enforcement documents for 44 Raboth Road
- Enforcement documents for 71 Elm Street
- Enforcement documents for 15 Bagnell Street



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 08/28/24

NAME	INTEREST	ADDRESS
Connie + Kevin Plover	reassessment	15 Bignell St
KARLI TOBIAS (RATTA RESIDENCE)	NOTICE OF INTENT	1 LANDING ROAD
Tom Carroll		44 Rabot + 10

TELEPHONE: 781-585-0537



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD: Conservation Commission

DATE & TIME: Wednesday, August 28, 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.youtube.com/@kingstonmeetingsLS

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. Extension Permit for Orders of Conditions MassDOT
2. Determination of Applicability (DOA) 56 Main Street
3. Amended Enforcement Order 56 Main Street
4. Amended Enforcement Order 28 Raboth Road
5. Amended Enforcement Order 375 Elm Street

ACTION ITEMS:

1. Request for Certificate of Compliance: 15 Kingston Street
2. Kingston Street culvert emergency certification

ENFORCEMENT:

1. 44 Raboth Road
2. 15 Bagnell Street
3. 71 Elm Street

MEETING MINUTES:

1. 07/10/2024

UPDATES:

1. * Administrative Review: 15 Kingston Street

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 within the 200-foot riverfront area to the Jones River and buffer zones to wetland resource areas.

ADJOURN:

NEXT REGULAR MEETING:

1. 09/11/2024

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.