



Conservation Commission Meeting Minutes

Wednesday, September 25, 2024

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

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

Virtual: Dorothy Macfarlane

Absent: Jim Franklin (Vice-Chairperson), Vittorio “Buz” Artiano

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 Order of Conditions for 1 Landing Road, an Enforcement Order for 15 Bagnell Street, a \$4,900 invoice from Beals and Thomas for the Sampson’s Brook Headwaters Restoration Project, and a \$2,895 invoice from Barrett Tree Service for invasive plant treatment at Calista Farm.

II. Action Items

- a) 15 Crystal Drive: Request for Determination of Applicability (RDA) for the construction of a retaining wall and grading within the buffer zone to wetland resource areas.**

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 15 Crystal Drive. The applicant requested a continuance to October 9, 2024.

VOTE: Commissioner Kozodoy made a motion to continue the RDA meeting to October 9th, 2024. The motion was seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

a) 11 Wharf Lane: Request for Determination of Applicability (RDA) for the installation of a gravel driveway, the use of loam and hydroseed to raise a portion of lawn, and the removal of trees and vegetation within the buffer zone of several coastal wetland resource areas and within Land Subject to Coastal Storm Flowage.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 11 Wharf Lane. Brad Holmes from ECR, the project representative, stated that the Commission had issued an Enforcement Order (EO) for unpermitted landscaping activities on the property. In response, a restoration and mitigation proposal was prepared. Brad presented the restoration plan to the Commission, noting that the Conservation Department also requested the filing of an RDA for portions of the unpermitted work. He explained that the unpermitted work included the removal of a tree, installation of a gravel driveway, and lawn improvements. Brad also identified areas of the property with invasive plants proposed for removal.

Agent Penella clarified that the RDA is to retroactively permit the unpermitted work, while the EO addresses the restoration and mitigation proposal, including invasive plant treatment. He inquired about a brown area marked on the plan and asked whether it was included in the RDA or the EO. Brad Holmes responded that the property owners want to remove mugwort from the area and relandscape portions of it. Agent Penella expressed concern about permitting landscaping in the entire area since it extends to the Coastal Bank. Brad clarified that the owners do not intend to relandscape the whole area but would like to remove mugwort, clean up the shrubs, and address a previously landscaped area near the patio and steps. The proposed work is minor, focusing on cleaning up the site.

Commissioner Hickey stated that she would like to see all proposed work clearly defined to avoid discrepancies or confusion. Brad Holmes presented a photo of the area, describing it as unmanaged and cluttered with dirt and stone piles. The proposed work involves removing debris, clearing invasive plants like mugwort, and stabilizing the site. He noted that the area currently consists of rubble and does not include plans for hardscape or patios. Agent Penella inquired if the area was one where trees had been removed.

Mary Hill, a resident of 11 Wharf Lane, stated that no trees were present in the area. She described it as overgrown with invasive species, including Japanese knotweed, mugwort, bittersweet, and Rose of Sharon. She explained that since the enforcement issue arose, the

area has been neglected and has become overgrown. Mary also noted that the area, adjacent to their neighbor's property at 2 Braintree Avenue, extends up to the seawall and contains debris left by previous owners.

Agent Penella expressed no objection to approving invasive species removal, stating that the area holds no particular ecological value beyond the invasives. He recommended approving invasive species removal and site stabilization through the RDA, with an option to incorporate some native plant species. For more formal landscaping or horticultural plantings, a separate filing would be required. Brad Holmes agreed, stating that they could use native species outlined in the mitigation plan for the area.

VOTE: Commissioner Hickey made a motion to issue a Negative 3 Determination of Applicability (DOA). The motion was seconded by Commissioner Payne. The motion PASSED with a vote 5-0-0.

VOTE: Commissioner Kozodoy made a motion to issue An Enforcement Order to approve the mitigation/restoration work on site. The motion was seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

b) 26 Wapping Road: Request for Determination of Applicability (RDA) for repaving the parking area and routine vegetation management within the 200-foot riverfront area to the Jones River and the buffer zone of a Bordering Vegetated Wetland. The project also includes the installation of a fence within the buffer zone of a Bordering Vegetated Wetland.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 26 Wapping Road. Agent Penella stated that no wetland delineation had been completed with the associated RDA filing and noted that a delineation should be conducted before the Commission makes a determination. The filing discusses installing a fence and routine vegetation maintenance on the property. Agent Penella explained that without a definitive wetland delineation, it is difficult to determine if the proper setbacks are being maintained.

Eric Diaz, Professional Engineer from StrongPoint Engineering and representative for the project, stated that the RDA plan includes a wetland delineation based on a previous plan, and many of the wetland flags were still present in the field when the current plan was created. Eric noted that the wetland is well defined in the field by a slope that marks the edge. He added that since the current plan was prepared, Brad Holmes has conducted a wetland delineation

on-site, which aligns closely with what is shown on the plan and has not changed significantly. Eric offered to update the plan with the current wetland flags if the Commission would prefer.

Eric presented the current plan to the Commission and explained that the applicants were unaware that repaving the parking lot required a filing with the Conservation Commission. He stated that the repaving was done within the existing footprint and that erosion controls were used. Eric also highlighted an area where vegetation management had been performed, including brush clearing, and presented photos of the area. He explained that the proposal includes adding a fence to define the limit for vegetation management within the disturbed area and to prevent encroachment into the buffer zone. Eric stated that the fence would be installed no closer than 30 feet to the wetland boundary, except where it follows the existing tree line as shown on the plan. He clarified that there is no intention to cut down trees for the fence installation and that the exact fence line would be determined in the field.

Agent Penella asked Eric if the field location for the wetland delineation had already been confirmed in the field. Eric confirmed that the flags still need to be confirmed in the field. Agent Penella recommended postponing the final review and determination until the wetland flags are shown on an updated plan. He also suggested that seasonal mowing be conducted within the vegetation management area to support adequate habitat in the riverfront area.

Commissioners discussed additional considerations, including raising the fence off the ground to allow wildlife movement. Agent Penella recommended that the fence not extend closer than 30 feet to the wetland boundary and instead just have the fence end in that area. Commissioner Payne suggested installing conservation posts in the area to further define the boundary.

VOTE: Commissioner Hickey made a motion to continue the meeting to October 9th, 2024. The motion was seconded by Commissioner Kozodoy. The motion PASSED with a vote 5-0-0.

c) 20 Marion Drive: Request for Amendment to Orders of Conditions

Chairperson Vendetti opened a public meeting to discuss the Request for Amendment to the Orders of Conditions for 20 Marion Drive. Agent Penella stated that an extension request had been received for the property, and during the review, it was determined that a stormwater solution would be required to extend the permit. The proposed stormwater solution necessitates an amendment to the Orders of Conditions. If the Commission determines that this is the best option, they can proceed to hold a hearing regarding the amendment. Agent Penella noted that the proposed rain garden was the same solution presented during the extension request.

Rick Grady from Grady Consulting, representing the project, explained that the site proposal includes constructing six large infiltration areas designed to infiltrate the 100-year storm event. Currently, three of the systems have been installed, and three more will be installed as construction progresses. Rick stated that the best solution is to construct a rain garden and sediment forebay between the current discharge from Royson Drive and Smelt Brook. He noted that the elevations in the area are suitable for this design, which would help reduce runoff into Smelt Brook and address flooding issues on Royson Drive.

Commissioner Kozodoy stated that she was acting Chairperson during the original Notice of Intent and has familiarity with the property. She pointed out that the area of the proposed work is within the Riverfront Area, which is a resource area rather than a buffer zone. She emphasized that regulations require work within a Riverfront Area to meet performance standards, including conducting a formal alternatives analysis to prove there is no viable alternative to the project. Commissioner Kozodoy expressed support for peer review regarding stormwater management and the current proposal.

Rick Grady stated that he personally did not think peer review was necessary but acknowledged it was the Commission's decision. Agent Penella noted that the Orders of Conditions include a perpetual condition stating that no additional work can be performed within the Riverfront Area without Commission approval for good cause, submitted as a Notice of Intent or an Amendment to the Orders of Conditions. He explained that resolving the stormwater issue on-site constitutes good cause, making the proposal eligible for consideration as an amendment request.

Agent Penella recommended peer review, stating that an additional opinion would be beneficial for evaluating the proposal. He added that if the amendment is approved as proposed, it would require a variance for the 40-foot no-stormwater setback. If the Commission agrees to hear the request as an amendment, proposals for peer review can be sought.

Agent Penella asked Rick Grady if the applicant would agree to a peer review. Rick responded that he believed it would be helpful in this case. Agent Penella and Rick Grady agreed to schedule the amendment request hearing for October 23. Agent Penella stated that he would reach out to three consultants for quotes on peer review, specifically to determine whether the proposed stormwater solution is the best option. He also noted that an alternatives analysis is required. Rick Grady stated that they have already started the alternatives analysis and will have it ready for review.

VOTE: Commissioner Payne made a motion to accept the amendment request. The motion was seconded by Commissioner Hickey. The motion PASSED with a vote 5-0-0.

III. Enforcement

a) 44 Raboth Road

Agent Penella stated that he had received notification from Jenna Carroll, who informed him that she had a personal matter and would not be attending the meeting. In her notification, Jenna mentioned that she had contacted the Building Department and was advised to begin with a building permit application, which she planned to drop off later in the week.

Jenna also indicated that there would be no issue removing the deck with the duck house. She explained that it could be easily lifted out of the water without causing any disturbance and dismantled on land. She added that, if the Commission required its removal, they would prefer to complete the work before the weather becomes too cold.

Commissioner Hickey noted that it had already been stated during the previous meeting that the duck house would be removed. Agent Penella confirmed that since the removal of the duck house would not cause any disturbance, it could proceed without the need for an Enforcement Order. The agent and Commission agreed to continue the enforcement discussion to October 9th.

b) 2 Wildwood Circle

Agent Penella stated that he received a call about work being conducted behind 2 Wildwood Circle within the Riverfront Area of a stream. The work involved the construction of a large play structure for children. The homeowner informed him that no trees were removed and that the play structure was installed in an area previously occupied by an above-ground pool installed by a previous homeowner.

Agent Penella added that there is no record of permitting for the previous pool and that this situation might simply require a retroactive permit. Dan Cleggett, the property owner of 2 Wildwood Circle, stated that all the work was done within his existing fenced-in backyard. Agent Penella noted that he would confirm this during a site visit. The enforcement matter was continued to October 9, 2024.

c) 11 Wharf Lane

The enforcement mitigation plan was presented during the RDA portion of the meeting for 11 Wharf Lane. The Commission voted to issue an Enforcement Order to address the mitigation work.

IV: Meeting Minutes

Minutes for July 24, 2024, were submitted to the Commission for review and approval.

VOTE: Commissioner Hickey made a motion to approve the minutes for July 24, 2024. The motion was seconded by Commissioner MacFarlane. The motion PASSED with a vote 5-0-0.

V. Updates

a) 16 Bagnell Street Administrative Review

Agent Penella stated that an Administrative Review application was submitted for 16 Bagnell Street to remove a large oak tree within jurisdiction. The tree was deemed hazardous to both the property and the neighbor's property due to a large split in its trunk. The Administrative Review application for the tree removal was approved.

b) 15 Kingston Street Culvert

Agent Penella stated that he issued an emergency permit for the replacement of the culvert under Kingston Street, located across from 15 Kingston Street. He noted that the work was contracted by the Highway Department, which initially indicated that they would build a headwall. However, the headwall was not constructed, and all work was completed within the existing road layout. As a result, the emergency permit was unnecessary, and no further permitting is required.

c) Culvert Replacement Grant

Agent Penella stated that he recently applied for a U.S. Department of Transportation (DOT) grant to fund the replacement of the Lake Street Culvert. While the project is ready for construction, it has not yet been funded. The grant requires a 20% match, which represents a significant amount of money due to the overall cost of the project.

d) MassDOT Parcel

Agent Penella stated that approximately a year and a half ago, the Community Preservation Committee (CPC) approved funding for the purchase of a parcel intended to be added to Camp Nekon. The town needed to complete an appraisal, but when the Department of Transportation (DOT) was reapproached to negotiate, the original contact person had retired, and all related files were lost. DOT restarted the process and has maintained their asking price of \$100,000. However, the town's appraisal determined the value to be \$67,500, and DOT has not shown a willingness to adjust the price. DOT conducted their own appraisal, which came out significantly higher. Agent Penella noted that he is working to determine if the town's original appraisal is still valid.

e) Calista Farm CPC

Agent Penella stated that CPC funding had been approved for invasive plant treatment at Calista Farm. He reported that the work has been completed and was successful. He noted that native species in the field are thriving and that the property is progressing in a positive direction.

f) Delano Avenue

Agent Penella stated that the stormwater BMP at Delano Avenue had become overgrown with invasive species. He noted that funding from the state was allocated to repair the stairway to the river, improving it as a safer accessway for residents. He added that the invasive species in the area were also successfully treated and replaced with native species.

g) Silver Lake

Agent Penella stated that the water level at Silver Lake continues to drop due to the lack of recent rainfall. He noted that Brockton has increasingly relied on Silver Lake as their primary water source, withdrawing an average of 10–11 million gallons per day. The agent reported that he and the Town Administrator recently met with the Mayor of Brockton and their DPW Director to address the issue. Shortly after the meeting, Brockton began withdrawing 1.5 million gallons per day from Aquaria, reducing the lake's water level decline from 1 inch per day to 0.5 inches per day.

The agent highlighted that the current water level at Silver Lake is 3 feet below zero, indicating significant recession. He has been advocating for Brockton to implement water restrictions, but no action has been taken so far. Additionally, he has been collaborating with local legislators to explore whether emergency water funds could be used to enable Brockton to increase its reliance on Aquaria. Currently, Brockton's minimal use of Aquaria is due to funding constraints.

Agent Penella explained that Kingston's water restrictions are based on the flow of the Jones River, which originates at the natural headwaters in Silver Lake. However, the headwaters have not connected to the Jones River in months due to the low water levels. He emphasized the ecological impact, noting that recent dam removals in the Jones River have allowed herring to return. Approximately 20,000 herring reached Silver Lake this year to breed, but a significant number of juvenile river herring are now trapped in the lake, unable to return to the ocean due to the low water levels. If the fish cannot return to the ocean, it could severely impact the herring run. The agent stressed that Brockton needs to maximize its water withdrawal from Aquaria and implement water restrictions to mitigate the receding water levels at Silver Lake.

VI. Public Hearings

No public hearings were discussed by the Commission.

CLOSING REMARKS

Chairperson Kalina Vendetti made closing remarks at 8:00 p.m. The next meeting will be held on October 9th, 2024, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Kozodoy made the motion to adjourn, seconded by Commissioner Hickey; 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:

- 09/25/2024 meeting agenda
- 07/24/2024 meeting minutes
- RDA documents for 15 Crystal Drive
- RDA documents for 11 Wharf Lane
- RDA documents for 26 Wapping Road
- Request for Amendment documents for 20 Marion Drive
- Enforcement documents for 44 Raboth Road
- Enforcement documents for 2 Wildwood Circle
- Enforcement documents for 11 Wharf Lane
- Administrative Review documents 16 Bagnell Street



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 09/25/2024

NAME	INTEREST	ADDRESS
Mary Hill		11 Wharf Lane
Brad Holmes		" " "
Dan Clegg		
Larry Demar	1 Royson	9 Prospect Ct
Rick Gray	"	71 Evergreen St

TELEPHONE: 781-585-0537



TOWN OF KINGSTON

NOTICE OF MEETING

BOARD:	<u>Conservation Commission</u>
DATE & TIME:	<u>Wednesday, September 25, 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.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. Order of Conditions for 1 Landing Road
2. Enforcement Order 15 Bagnell Street
3. \$4900 invoice from Beals & Thomas for the Sampson's Brook Headwaters Restoration Project
4. \$2895 invoice from Barrett Tree Service East for Calista Farm invasive plant treatment

ACTION ITEMS:

1. 15 Crystal Drive: Request for Determination of Applicability (RDA) for the construction of a retaining wall and grading within the buffer zone to wetland resource areas. The applicant has requested continuance to October 9th, 2024.
2. 11 Wharf Lane: Request for Determination of Applicability (RDA) for the installation of a gravel driveway, the use of loam and hydroseed to raise a portion of lawn, and the removal of trees and vegetation within the buffer zone of several coastal wetland resource areas and within Land Subject to Coastal Storm Flowage.
3. 26 Wapping Road: Request for Determination of Applicability (RDA) for repaving the parking area and routine vegetation management within the 200-foot riverfront area to the Jones River and the buffer zone of a Bordering Vegetated Wetland. The project also includes the installation of a fence within the buffer zone of a Bordering Vegetated Wetland.
4. 20 Marion Drive: request for amendment

ENFORCEMENT:

1. 44 Raboth Road
2. 2 Wildwood Circle

3. 11 Wharf Lane

MEETING MINUTES:

1. 07/24/2024

UPDATES:

1. 16 Bagnell Administrative Review
2. 15 Kingston Street culvert

PUBLIC HEARINGS:

ADJOURN:

NEXT REGULAR MEETING:

1. 10/09/2024

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.