

Conservation Commission Meeting Minutes

Wednesday, February 26, 2025

Town of Kingston

26 Evergreen Street, Room 200

Kingston, MA 02364

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

Virtual: Jim Franklin (Vice-Chairperson), Dorothy MacFarlane

Absent: Vittorio “Buz” Artiano

Staff: Matt Penella, Conservation Agent

Location: Town Hall Offices, Room 200

Commission Meeting Opened: 6:35 p.m.

Announcement: The Open Space Committee is seeking a new member. The Open Space Committee assists the Conservation Commission in overseeing the management and use of conservation properties to help better access and utilize these resources in a positive way. This is an opportunity for a resident to assist in implementing the town’s open space plan, help improve parking and trails, and identifying future conservation and passive recreation priorities in the town. Interested residents may inquire by calling the Conservation Office at 781-585-0537, or by e-mail to Assistant Conservation Agent, Julianna Denum at:

jdenum@kingstonma.gov

BUSINESS:

I. Signing Documents

The Commission signed two Certificates of Compliance (COC’s) for 120 Country Club Way approved at the last meeting.

II. Action Items

a) 2 Wildwood Circle: Request for Determination of Applicability (in retro) for construction of a large play structure within the Riverfront Area to an Intermittent Stream and the Buffer Zone to a Bordering Vegetated Wetland.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability, filed retroactively, for the construction of a large play structure within jurisdiction. Representative for Dan Cleggett, Brad Holmes of Environmental Consulting & Restoration, LLC (ECR), stated that they had filed an RDA to bring the property into compliance with state and local regulations. An enforcement order was issued to Mr. Cleggett for the construction of a play set at the back of his property which is partially within the 100' buffer zone to a bordering vegetated wetland and within the 200' to riverfront area to an intermittent stream. Prior to the applicant's ownership of the property, there was an above-ground pool and a surrounding deck, which the applicant replaced with the play structure within the general footprint of the pool. An enforcement order was issued, thus the RDA. The applicant and representative had reviewed comments from the Conservation Agent and responded with approximate calculations based off aerial imagery. Agent Penella stated that part of the issue was that the pool itself was never permitted by the previous owner. From a site visit it was confirmed that the structure was built within the existing fenced yard area, it is the outer extent of a buffer to BVW, is outside of a 50' no structure boundary, is in the outer 100'-200' to the intermittent stream, and in an area that was already cleared by a previous owner. There are several different performance standards that apply in this case for riverfront area, buffer zone, impervious coverage, and structures; most relevant being the impervious surface standard as the property may be over 15%. Performance standards for Riverfront Area apply in this case but this portion of the riverfront area has not been in a natural state for 10-15 years as it is fenced in, considered part of the yard, has 100' plus of naturally vegetated buffer to the intermittent stream, and 50' plus of naturally vegetated buffer to BVW. The agent does not see this project as altering any resource areas other than through the potential of addition of impervious surface and the existing lawn in the area may be detrimental due to chemical and fertilizer runoff. The agent had recommended that the Commission require documentation of the percent of impervious coverage and any permit that is issued the Commission may want to impose special conditions limiting outdoor chemical use. ECR supplied calculations showing that prior to the construction of the play structure, the impervious surface was at 13.9% and after the structure was built it is at 17.3%. The agent recommends that the homeowner work with ECR to determine how much of the surface needs to be made pervious. Mr. Holmes asked if planting vegetation in the open space area beyond the fence leading to the VPW would compensate for the impervious amount. If not will, then he and the homeowner would find a solution via adding spacing to the decking. Agent Penella would like to see the area vegetate on its own and does not recall a situation where the Commission allowed mitigation for something

that would need a variance during an RDA. However, on the other hand, the agent stated that it seems ridiculous to have someone file an NOI for a play structure which requires engineer plans and additional unnecessary costs. Agent Penella recommended a continuance while the applicant and the representative figure out a way to get it under 15%, if it cannot be done by spacing some of the decking then they can contact the agent to discuss other options for the property. The agent also suggested the representative measure off the area again on the ground, rather than through aerial, to see if any pervious percentage was missed. Commissioner Franklin stated that he was in agreement with the Agent's recommendation. The representative, Mr. Holmes said a month would be sufficient to get things done.

VOTE: Commissioner Franklin made a motion to continue the hearing until March 26, 2025. The motion was seconded by Commissioner Kozodoy. PASSED 6-0-0.

III. Public Hearings

a) 2 Braintree Avenue - Notice of Intent (NOI) for additions to a Single-family house within the Buffer Zones to Coastal Resource Areas and within Land Subject to Coastal Flowage.

Chairperson Vendetti opened the public hearing for 2 Braintree Avenue, this is an NOI for proposed additions to a Single-family house within the Buffer Zones to Coastal Resource Areas and within Land Subject to Coastal Flowage. Nicholas Leing from Grady Consulting, LLC was online to present the project. Mr. Leing reported that after a site walk, some revisions to the plan were made based on comments received from the Conservation Agent. The revisions made: the revision date box was added to the plan, additional setback lines were added to represent all the setbacks for the separate resource areas, the locations of 4 cedar trees that must be maintained in perpetuity (due to an enforcement order) were added to the plan. Mr. Leing stated that they need to formally request a variance for construction within Land Subject to Coastal Flooding. An overview of the resource areas on property: flood zone line and offsets to the left of that extend towards the buffer zone which encompasses the entire property; to the east is a storm revetment with the landward side being top of coastal bank and the southerly side salt marsh. The proposed additions are: enclosing an existing overhang, installing a front door where there is not one currently, removing a portion of driveway and walkway to offset the additional impervious area created by the front addition, installing around the foundation of the structure 9 smart vents (flood vents) to allow the free passage of water between the interior and the exterior to stabilize the structure in a flooding situation. Agent Penella noted that all of the work is proposed either within Land Subject to Coastal Storm Flowage or its' no-touch setbacks which are shown on the plan and the Eastern Red Cedars should remain in perpetuity due to enforcement order, which is noted on the plan. The

agent reported that there was a comment from DEP that said: "As noted on the plan, project is located within Land Subject to Coastal Flowage, Zone VE, and limit of moderate wave action. Conservation Commission may wish to consult with the Building Inspector regarding their requirement to elevate the structure on a pile-supported foundation and check accuracy of coastal bank pursuant to DEP Coastal Bank Policy 92-1." The agent sent the filing to the Building Dept. but has not received a reply yet. Agent Penella confirmed with the representative that helical pilings are proposed. The agent said that due to the position of the revetment wall, he did not perceive the accuracy of the coastal bank to be an issue of concern on this particular project. The agent also noted the property is just landward of Mass. Shellfish Growing Area, CCB 43.3, which is currently active and used by the public with commercial oyster beds at the outer reaches, and every effort should be made to limit runoff in this area and that eelgrass beds have been declining because of runoff from lawn areas. At the site visit, the agent noted the crawlspace area has plastic covered with dirt and he wondered if flooding occurred, and water was going back and forth through the flood vents, if it would be a concern that anything would be brought back out to the bay. In terms of the development going closer to resource area, it is already on an area covered by impervious decking and covered by a roof overhang and so is not particularly concerning. The agent stated that if the Commission issues a permit, they will need to specify the variance request and add special conditions i.e., any dumpster used during the project must be covered, and outdoor chemicals and fertilizers need to be approved. Mr. Leing stated that the smart vents are used frequently, especially in new construction and are recommended because they help with FEMA flood insurance and that the purpose of the vents is to allow the pressure from floodwater to be alleviated so the structure can remain intact. Commissioner Franklin stated that the problem with the area is runoff into the bay and to improve the infiltration and decrease the runoff on the site, some drywells should be built in. He felt that the time to do it is right, with construction proposed already. With regard to the proposal to enclose the roof overhang, Commissioner Franklin asked if decking beneath the area that would be removed entirely or just cutting some boards out and leaving the rest. Mr. Leing said that they would be cutting out just the section that would be within the walled-in area. Commissioner Franklin would like to see the spacing on the remaining deck to meet commission standard for pervious surface, and also add some offset plantings at the top of coastal bank resource area to help prevent runoff. Mr. Leing responded that to remove the decking not under the overhang would be quite an undertaking. Veronica McCarthy, the homeowner, stated that the proposal is to enclose the small amount of overhang on the porch in order to extend the kitchen enough to fit a table. Ms. McCarthy further stated that the main water line and water heater can only be accessed from the outside. Her wish is to enclose that area so as to have interior access which would be easier for her especially during winter months. Agent Penella stated that there is still not a formal variance request, so the Commission is looking at continuance. The agent would like to see some native plantings

introduced on the property at the top of coastal bank, protected by conservation posts. Mr. Leing agreed that they could have a variance request and any revisions to the plan showing mitigation by March 5th.

VOTE: Commissioner Kozodoy made a motion to continue until March 12, 2025. The motion was seconded by Commissioner Hickey. PASSED 6-0-0.

II. Action Items (continued)

b. 23 Spruce Street – Request for Certification of Compliance SE 037-0932

Chairperson Vendetti opened a public meeting to discuss the Request for Certificate of Compliance for 23 Spruce Street. Agent Penella stated that the last time the item was continued, the builder was on vacation and had been informed that the as-built plan needed to be updated to show correct location of conservation posts, however the builder was waiting for the engineer to provide the updated plan.

VOTE: Commissioner Franklin made a motion to continue until April 23, 2025. The motion was continued by Commissioner Hickey. PASSED 6-0-0.

IV. Enforcement

a) 44 Raboth Road

Agent Penella stated that due communication breakdown between the property owners and the Building Department, a building permit was not issued, since all information has not been provided. There are multiple issues with the property but the most egregious is the construction of a wall with a concrete parking area on top of it without a permit from any department. The Building Commissioner provided specifics on exactly what the applicant needs to provide. The company that made the blocks sent specs that outline the process, whereby the information about the site location is sent to the block company and they will then stamp and sign the plans. Without that information, stamped and signed, the Building Department is not able to make a determination on whether the wall could be built. Commissioner Hickey asked if the docks that were supposed to be removed are still in the water. Agent Penella stated that the homeowner had informed him that they could not be removed until the spring. Commissioners Payne and Hickey recalled that the homeowner stated back in August 2024 that the docks would be removed immediately. Agent Penella stated that there are more issues with the property and that the Commission still needs to create retroactive dock standards. The agent would like to focus on the most important issues first. Commissioner Franklin stated that he would like the Commission to give the property owners more time to get all the paperwork in order and submitted which will then dictate next steps for the Commission and close out the ongoing discussion with the Building Department. Commissioner Kozodoy asked if the Board of

Health was still involved with the property in regards to a privy on the property. Agent Penella stated that the Board of Health informed the property owner that they could leave the privy structure on site but should fill in the privy pit. Agent Penella suggested that the Commission could inform the property owner that if some progress on these matters isn't made by a designated date and that an enforcement order will be issued with fines if compliance isn't achieved. Commissioner Kozodoy stated that with so many different parts that need to be addressed, there may be different end dates and she would like that all clearly outlined for the owner. Agent Penella agreed and said that he was primarily focused on the wall at present since it is the most egregious violation with the most capacity to damage the resource area if it was not built properly. Due to its proximity to the pond, the wall does not meet the standards of KWPR as it is built, therefore the wall is the item in most need of an NOI filing in-retro or complete removal. The other issues on the property can be dealt with later. The agent stated that a month's time should be sufficient for the owner to reply with information from the block company. Commissioner Franklin agreed that a month is a reasonable amount of time.

V. Updates

a) Wetland Restoration at Blackwater Memorial Forest

Agent Penella showed pictures of the project beginning with the entrance from the parking lot showing the first water control structure where Sampson's Brook is, there is a central ditch that has been widened and the water control structure is going to be removed. There will be a rounded cobble stream bottom with a notched log weir to control the water level. All of the existing ditches are being filled, forcing water back to the middle of the forest, thus reducing standing water for mosquito breeding. Micro-topography will take the established agricultural cranberry bog mat and turn it back into a natural wetland by breaking up the flat topography and the cranberry vines. Once rainfall has filled everything in, bridges will be built and then the property will re-open. The in-water work needs to be completed by March 15th and then in April the trail will be worked on. The trails on the north side are still open but cannot be accessed from the parking lot but can be accessed from trails near Town & Country Estates or near the Big Y and Stop n' Shop power lines trail.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 7:45 p.m. The next meeting will be held on March 12, 2025.

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



KINGSTON CONSERVATION COMMISSION



26 Evergreen Street, Kingston, MA 02364

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 2-26-25

NAME	INTEREST	ADDRESS
Veronica McCarthy	2 Braintree Ave	Kingston
Marian McCarthy		
Brad Holmes	2 Wildwood Circle	EEB, LLC

TELEPHONE: 781-585-0537



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD:	Conservation Commission
DATE & TIME:	Wednesday, February 26, 2025 @ 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:

ACTION ITEMS:

1. 2 Wildwood Circle - Request for Determination of Applicability (in retro) for construction of a large play structure within the Riverfront Area to an Intermittent Stream and the Buffer Zone to a Bordering Vegetated Wetland.
2. 23 Spruce Street - Request for Certification of Compliance for SE 037-0932

ENFORCEMENT:

1. 44 Raboth Road

MEETING MINUTES:

UPDATES:

1. Agent updates on ongoing projects

PUBLIC HEARINGS:

1. 2 Braintree Avenue - Notice of Intent for additions to a Single-Family House within the Buffer Zones to Coastal Resource Areas and within Land Subject to Coastal Storm Flowage.

ADJOURN:

NEXT REGULAR MEETING:

1. Wednesday, March 12, 2025

Join Zoom Meeting

<https://pactv.zoom.us/j/96816332793?pwd=WmZRUWhTc0dsWUUsrNGhSSjBNdDFldz09>

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.