



Conservation Commission Meeting Minutes

Wednesday, July 23, 2025

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

Present: Megan Hickey (Chairperson pro tempore), Marilyn Kozodoy, Dorothy MacFarlane, Kalina Vendetti (Chairperson)

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

Absent: Brian Payne

Staff: Matt Penella, Conservation Agent

Location: Town Hall Offices, Room 200 & Via Zoom

Commission Meeting Opened: 6:34 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 properties in 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 the following documents: an invoice from Environmental Partners Group, LLC for MS4 support services for \$20,000, an Orders of Conditions for 54 Shore Drive,

and ratification of Enforcement Orders for the Pilgrim John Howlands Society and 44 Raboth Road.

II. Action Items

a) Commission discussion/vote on standards for unpermitted docks.

Agent Penella stated that due to the issue of unpermitted docks in the town, the Commission had requested him to research how other towns address such issues. The Agent conducted said research and consulted with town counsel to produce a draft policy for Commission review and vote. According to town counsel, this does not need a public hearing notice as it is not a change in regulations, rather a policy to guide how the Commission will handle unpermitted docks going forward. According to the draft policy, any dock that was in place or modified before January 1, 2010 would not need permitting unless it was modified anytime between 2010 and the issuance of the policy. Any unpermitted or modified docks during that time *may* be granted a two-year grace period to get permitted, with local filing fees being waived, and with no enforcement action by the Commission. In special circumstances, the Commission may still take enforcement action when necessary. The Commission decided to amend the policy to change the start date to January 1, 2015. Commissioner Kozodoy asked if the Great Ponds section of the Chapter 91 Program applies. The Agent said that if an applicant comes before the Commission to build anything, including a dock, and when a permit is issued, all other permits need to be in place, including a Chapter 91 permit or license. If a dock is already built unpermitted and the Commission is issuing Orders of Conditions to make it legal then the Commission would require evidence of the Chapter 91 permit or license before issuing a COC.

VOTE: Commissioner Artiano made a motion to include the guidance document as written and edited by counsel with a start date of the January 1, 2015. The motion was seconded by Commissioner Kozodoy. PASSED 5-0-1.

VI. Public Hearings

a) 20 Marion Drive (now 1 Royson Drive): Request for Amendment to SE 037-0880 for the proposed installation of a sediment forebay and rain garden within the 200-foot Riverfront Area of Smelt Brook.

Chairperson Hickey reopened a public hearing for 1 Royson Drive. Agent Penella stated that the applicant has agreed to additional peer review assessment and has submitted payment for the additional costs. He noted that they are still waiting on stormwater calculations from the engineer. Agent Penella recommended continuing the hearing for at least another month. Commissioner Kozodoy inquired about the timeline the payment was received.

VOTE: Commissioner Kozodoy made a motion to continue to September 10, 2025. The motion was seconded by Commissioner MacFarlane. PASSED 6-0-0.

b) 135 Indian Pond Road: Notice of Intent (NOI) for the proposed construction of an attached ADU (accessory dwelling unit), decks, installation of a hot tub, and a septic upgrade within the 100-foot buffer zone to Inland Wetland Resource Areas.

Chairperson Hickey opened a public hearing for 135 Indian Pond Road. Rob Carlezon of Grady Consulting, representative for the applicant, presented the plot plan for additions and septic upgrade plan for 135 Indian Pond Road. The house is set back, well off of Indian Pond Road wedged between two abandoned cranberry bogs with a wetland in the back that was delineated in 2013 by South River Environmental. The proposal is for an addition with an ADU within it, two decks to connect the existing home with the addition, and a hot tub. To accommodate the addition, a septic upgrade is proposed with a second tank being installed at the front of the house and an increase to the existing leaching field that is outside of the 100-foot buffer.

Staff comments: Agent Penella clarified that part of the existing leaching field is slightly within the 100-foot buffer to wetlands. He pointed out that the FEMA flood zone is not identified as BLSF (Bordering Lands Subject to Flooding) and the wetland setback lines shown are not from the most landward resource area. No streams are shown on the plan however aerial imagery and older maps show there may be a stream. Jones River Watershed Association (JRWA) was consulted and believe there to be a portion of stream on the property from Trout Brook, but this is not confirmed. If there is a stream there then it would change jurisdictional boundaries and setbacks. As the proposed plan stands, it does not meet the standards of KWPR (Kingston Wetland Protection Regulations) since the existing structure is non-conforming being only 16-feet away from the wetlands, there are septic components within the 100-foot buffer, the proposal puts a structure within 22-feet of the wetland edge in the form of the hot tub and 35-feet in the form of the deck. KWPR does not allow any septic components to be within the 100-foot buffer. The impervious coverage is very small and the driveway is unpaved. The Planning Department requested clarification as to whether or not the ADU is being proposed as a by-right ADU, and the Health Department raised questions about the square footage being above the maximum standard for by-right ADU. From the Commission's standpoint, any time septic systems are enlarged, regulations apply. And so, unless the upgrade can be moved completely out of the 100-foot, it does not meet the standards of KWPR. In addition, if it is confirmed that there is a stream, then that could substantially change matters regarding whether there is space to move everything out of jurisdiction. The proposed project is located within an Aquifer Water Protection Plan Zone 2 Water Resource Area, but the project narrative

states that it is not. KWPR septic regulations that apply to the proposal were highlighted. The narrative discussed the standards and proposed work but did not fully indicate compliance and where obvious compliance issues exist it does not explain how the performance standards could be met. The Commission may deny the project for failure to meet the standards of KWPR or continue the hearing allowing the applicant to make edits. The project appears to meet the standards of 310 CMR 10.00 Mass. Wetlands Protection Act, so the project ideally would be approved under the WPA.

Commissioner Franklin stated that if the plans are incomplete, then the Commission should continue the hearing automatically rather than adjudicating over inaccurate or incomplete information. He stated that the existence of a stream needs to be determined and the size of the leaching field cannot be increased if the existing and/or septic expansion is not in compliance with Title V and KWPR. Commissioner MacFarlane stated that if the ADU is larger than allowed then it is another reason to deny. Mr. Carlezon explained that while the actual proposed footprint is more than the allowed ADU square footage of 900, only a portion of the addition will be considered as the ADU as the rest of the addition will be connected to the main part of the existing house. Mr. Carlezon further stated that although the septic may not meet KWPR standards, the septic tank is Title V compliant and that under state regulations, tanks can be as close as 25-feet from wetlands.

VOTE: Commissioner Hickey made a motion to deny due to lack of information, i.e., the existence of a stream being unconfirmed, lack of compliance with boundaries and setbacks, failure to present mitigation and variance requests. The motion was seconded by Commissioner Vendetti. PASSED 4-2-0.

VOTE: Commissioner Hickey made a motion to close the hearing, the motion was seconded. PASSED 6-0-0.

II. Action Items (continued)

b) Request for Amendment/Deviation: Ring Road Solar, LLC (126 and 131-137 Ring Road; SE 037-0899 and 0890) – Security fencing with wildlife passage included.

Chairperson Hickey re-opened the public meeting to discuss the Request for Amendment/Deviation for Ring Road Solar, LLC (126 and 131-137 Ring Road, SE 037-0899 and 0890). The applicant did not provide updated materials by the deadline therefore the meeting should be continued.

VOTE: Commissioner MacFarlane made a motion to continue to August 27, 2025. The motion was seconded by Commissioner Vendetti. PASSED with a vote 6-0-0.

III. Enforcement

a) 176 Main Street

Agent Penella showed that the property is on the corner of Main Street and Brook Street where there is an existing driveway area close to the freshwater marsh associated with the Jones River. On July 7, 2025 the Agent was driving by the property and saw that vegetation between the marsh and the driveway had been cleared and grass seed had been put down. The entire property is within the 100-foot buffer zone to resource areas and the portion in question is in the outer 200-foot Riverfront Area to the Jones River. Due to a recent storm and substantial runoff from Main Street, erosion occurred. A notice of violation was sent, the owner responded and is amenable to correcting matters, the Agent conducted a site visit, took photos and was contacted by an environmental consulting firm who is starting to prepare a restoration plan. Commissioner Franklin raised concern that the amount of runoff that occurred off of Main Street may need to be addressed by the Town to prevent future erosion and runoff. Owner, Adam Dennison, spoke to say that the day after the storm a construction crew was working on re-doing the curbing up the hill from their property. The catch basin has since been cleaned out but when it is clogged with sediment a lot of water flows down and settles in that portion of Main Street and traffic splashes it up over the burn. Agent Penella recommended that a restoration plan be presented to the Commission within a month.

VOTE: Commissioner Kozodoy made a motion to continue to August 27, 2025 with an enforcement order that a restoration plan delivered to the Conservation Office by August 25, 2025. The motion was seconded by Commissioner Vendetti. PASSED 5-0-0.

b) 39 Winthrop Street

Commissioner Franklin recused himself as an abutter. An unpermitted chicken coop structure was constructed next to an existing shed. The Conservation Agent sent the homeowner an NOV (Notice of Violation). The owner replied promptly and is eager to correct matters, has engaged a wetland scientist and is preparing to file an RDA.

VOTE: Commissioner Vendetti made a motion that an RDA be received by the Conservation Office by August 25th and if not received by that date, an enforcement order will be issued mandating a filing within two weeks, after which fines will be issued daily until received. The motion was seconded by Commissioner Kozodoy. PASSED 4-0-1. (Commissioner Artiano was absent from the meeting at the time of the vote).

c) 164 Pembroke Street

Commissioner Kozodoy recused herself. Commissioner Franklin left the meeting. In order to have a quorum, Commissioner Artiano came back to the meeting for the enforcement item. Herbicide and lawn fertilizer were applied upslope of a vernal pool. The homeowner believes that runoff from Pembroke Street is causing the issues with the vernal pool, not the fertilizers being applied to the lawn. Agent Penella recommended a site visit by the Commission so that they can determine if fertilizer, including organic, can be used on the lawn without being considered a contaminant and to see firsthand the lay of the slope leading to the vernal pool, and whether or not there is runoff from the street contributing to the problem. The landscaping company, Green Cape Cod, applies organic fertilizer and broad leaf weed sprayer as necessary. The property has wetlands on three sides including a certified vernal pool. Commissioner MacFarlane commented on the value of wetlands as they collect and purify water. She commented on the detrimental effects of fertilizers and pesticides. Commissioner Vendetti stated that when a property is surrounded by wetlands, the wetlands take precedent and cannot be encroached upon. Representative, Jim Creed, Jr. of Creed Law, LLC, presented a packet to the Commission including an OOC SE 37-471, specific condition #17 (perpetual restriction), COC for 37-471 highlighting an unchecked box for ongoing conditions, OOC SE 37-543. Mr. Creed said they would like to come up with a protocol for pesticides and herbicides that are safe and meet the Commission's requirements to preserve the vernal pool. Agent Penella said he had conferred with town counsel on the matter of the OOCs. When the property was developed and permitted, no chemicals were to be used on the property, furthermore on another OOC for the backyard area it was specified to be no chemical use within 25-feet. Counsel felt that the original OOC is still valid. Mr. Creed said that the homeowner had informed the applicator of the herbicides/fertilizer to avoid the 25-foot buffer to the wetlands. Commissioner Hickey said it is up to the homeowner to ensure that the applicator followed the perpetual condition. Agent Penella stressed the need for a clear understanding going forward between the homeowner and the Commission and as for a violation that has already occurred, the Commission has the right to issue a \$300 fine. Commissioner Artiano asked if the homeowner had a proposal for a perpetual condition. Mr. Creed stated that the homeowner would like to be able to take care of his lawn without causing any damage to the vernal pool and is open to any suggestion from the Commission regarding what type of product can be used safely, and then would in turn use a new applicator and educate them on where and how to apply. Mr. Creed said he would work with town counsel to come up with a perpetual condition that all parties can agree on. Commissioners Vendetti and Hickey expressed reservations that the representative would work with town counsel rather than the Commission. Agent Penella said he would work with the representative to compose a perpetual condition and to chose which product can be used on the lawn, then town counsel

would review it before the Commission voted on it. The Agent recommended a site visit by the Commission.

VOTE: Commissioner Hickey made a motion for a one-time fine of \$300 for the application of Sustane fertilizer and Dimension herbicide which was a violation of the original Order of Conditions. The motion was seconded by Commissioner MacFarlane. PASSED 3-1-0.

VOTE: Commissioner Hickey made a motion to continue for a month and in the meantime, no application should be made to the lawn until the next meeting on August 27, 2025. The motion was seconded by Commissioner MacFarlane. PASSED 4-0-0.

IV: Meeting Minutes

Minutes for April 9, 2025, were submitted to the Commission for review and approval.

VOTE: Commissioner MacFarlane made a motion to approve the minutes for April 9, 2025. The motion was seconded by Commissioner Vendetti. PASSED 4-0-0.

V: Updates Agent Penella updated the Commission on the Mass Ready Act which is proposing significant changes to the Wetlands Protection Act. MSMCP (Massachusetts Society of Municipal Conservation Professionals) is looking for comments regarding the changes from Conservation Departments and/or Commissions by July 29, 2025.

VOTE: Commissioner Hickey made a motion that a letter be sent by the Conservation Agent to MSMCP outlining concerns and things they feel should be removed from the Act before it gets passed. The motion was seconded by Commissioner Kozodoy. PASSED 4-0-0.

CLOSING REMARKS

Chairperson Hickey made closing remarks at 8:57 p.m. The next meeting will be held on August 13, 2025, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Kozodoy made the motion to adjourn, seconded by Commissioner MacFarlane; PASSED 4-0-0.

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

Prepared by: Hannele Minsk, interim transcriber



TOWN OF KINGSTON **NOTICE OF MEETING**

BOARD:	Conservation Commission
DATE & TIME:	Wednesday, July 23, 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:

1. \$20,000 invoice from Environmental Partners Group, LLC for MS4 support services
2. Orders of Conditions 54 Shore Drive
3. Enforcement Order Pilgrim John Howlands Society
4. Enforcement Order 44 Raboth Road

ACTION ITEMS:

1. Commission discussion/vote on standards for unpermitted docks.
2. Request for Amendment/Deviation: Ring Road Solar, LLC (126 and 131-137 Ring Road; SE 037-0889 and 0890)- Security fencing with wildlife passage included.

ENFORCEMENT:

1. 176 Main Street
2. 39 Winthrop Street
3. 164 Pembroke Street

MEETING MINUTES:

1. 04/09/2025

UPDATES:

PUBLIC HEARINGS:

1. 20 Marion Drive (now 1 Royson Drive): Request for Amendment to SE 037-0880
2. 135 Indian Pond Road - Notice of Intent (NOI) for the proposed construction of an attached accessory dwelling unit, decks, a hot tub, and a septic system upgrade within the 100-foot buffer zone to inland wetland resource areas.

ADJOURN:

NEXT REGULAR MEETING:

1. 08/13/2025

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

Scanner (M)



SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 07/23/2025

NAME	INTEREST	ADDRESS
Joe Newton	abutter of	4 Jaskas Hill Ln
E. ING	135 Indian Pond Rd former abutter	
John McNeil	135 Indian Pond Rd	135 Indian Pond Rd
James Creed	164 Pembroke St	733 B Pinal St MASTHEAD
Joseph Casna	164 Pembroke St	Same