



Conservation Commission Meeting Minutes

Wednesday, September 10, 2025

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

Present: Kalina Vendetti (Chairperson), Megan Hickey, Marilyn Kozodoy, 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: 6:35 p.m.

BUSINESS:

I. Signing Documents

The Commission signed the following documents: Enforcement Orders for 164 Pembroke Street and 176 Main Street.

II. Action Items

a) Request for Determination of Applicability (RDA) for 28 Raboth Road for proposed removal of hazard trees and treatment of invasive plants.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability for 28 Raboth Road, as submitted by Stenbeck & Taylor on behalf of owner, Frank Dirico. Brian Taylor of Stenbeck & Taylor presented a plan to remove hazard trees and invasive

plants. More trees were originally slated for removal than are shown on the revised plan. But due to their close proximity to Smelt Brook, the flags marking them for removal have been taken down. Brad Holmes of ECR prepared a Restoration Monitoring Report for the previously approved restoration planting, and a Vegetation Management Proposal for the newly discovered invasive plants on the property. Kudzu had been discovered on the property and so to address that, Brad revised the Vegetation Management Proposal. Dave Harrington, arborist, wrote a summary letter addressing the various types of damage to the trees. Agent Penella said that he reviewed the letter from Mr. Harrington which states that many trees on the property are a hazard to the public: a girdling root on one of the split maple trees, including large pines with lightning strikes along the shoreline of the pond, one pine with a huge crown close to a utility pole, many trees are split or have rotten trunks, several dead trees along the brook, and several leaning and/or dead trees along the rear driveway. Agent Penella said that the filing applies to 28 and 30 Raboth Road, under the same ownership. Upon his site walk with Mr. Taylor, he noted that some of the maples could be pruned rather than cut down. The agent said that a bigger concern is an area on the property that had previously been forested and in a natural condition, but was then cleared and made into a lawn. As part of an enforcement action the area was seeded with a restoration mix, but then the seeded area was mowed. There were no conservation posts proposed for the restoration site, but there was also no filing that turned the area from a natural riverfront area of a perennial stream to a lawn. Mr. Taylor agreed and said that he had mentioned to the owner that it was a concern needing to be handled. He further stated that conservation posts would be helpful. Agent Penella moved on to the issue of the treatment of the invasive species, Tree of Heaven and Kudzu. He contacted DCR about the Kudzu, and was told it needs to be removed soon before it goes to seed. The Kudzu will need to be bagged and solarized. Agent Penella said he was in favor of issuing a Negative DOA to get the invasive species treated but as for the removal of the trees, he does not feel comfortable issuing a permit yet. In addition, the agent stated that the priority is that the DOA should be modified to include the area that was mowed to become a restoration area, or that there should be a filing that converts some or all of it into a landscaped area. Commissioner Kozodoy asked for clarification if this meant there should be a Negative DOA for the invasive vegetation treatment and then a separate action for the restoration. Agent Penella said he will check with town counsel to see if the two actions can be split. He reiterated that the work on the invasive vegetation needs to be addressed soon by bagging the Kudzu and to hand-pulling the Mugwort plants. Further, he recommends a continuance for the owner to come back with a revised filing showing on the plan the area that was cleared without a permit, then seeded with restoration mix, and then mowed ever since. Further, the plan should show conservation posts, a plan to over-seed with the restoration mix, and a maintenance plan. Another option would be the applicant can submit a landscape plan under an RDA, keeping in mind that much of the area is within the 100-foot buffer to Smelt Brook and so the plan should indicate that standard.

VOTE: Commissioner Kozodoy made a motion to continue that matter to September 24, 2025 to give the applicant time to submit a revised filing. The motion was seconded by Commissioner Payne. PASSED 5-0-0.

III. Public Hearings

a) 20 Marion Drive (1 Royson Drive): Request for Amendment to Orders of Continuance-continued from an earlier date.

Chairperson Vendetti opened a public hearing to discuss 20 Marion Drive (1 Royson Drive); this is a Request for Amendment to Orders of Continuance for the proposed installation of a sediment forebay and rain garden within the 200-foot Riverfront Area of Smelt Brook. Agent Penella stated that this had been out for peer review for a long time and that a couple months ago the peer review consultant reported that they did not have the calculations for the sizing of the bio retention area or rain garden and that they would need both more money and the calculations. The Commission had approved to have the work done and did receive payment, but it took months to receive the calculations on the sizing; once received the agent forward the calculations to the Horsley Witten Group who is doing the peer review. Agent Penella recommends continuing until October 8, 2025.

VOTE: Commissioner Payne made a motion to continue to October 8, 2025. The motion was seconded by Commissioner Kozodoy. PASSED 5-0-0.

b) 49 Old Mill Road: Notice of Intent (NOI) for proposed addition, porch, septic system upgrade and driveway modification within the buffer zone to BVW and the 200-foot KWPR Riverfront Area to an Intermittent Stream.

Chairperson Vendetti re-opened a public hearing to discuss 49 Old Mill Road; this is a Notice of Intent for a proposed addition, porch, septic system upgrade, and driveway modification within the 100-foot buffer zone to a Bordering Vegetated Wetland and within the 200-foot Riverfront Area to an Intermittent Stream. Brad Holmes from ECR presented a revised plan with more detail on the architectural plan regarding the in-law addition or ADU and the septic system upgrade done by Grady Engineering. The application has been submitted to the Board of Health who in turn is waiting for the Conservation Commission to review it before making a decision. The plan proposes that the existing tank will be removed and replaced with a new tank, the leaching field would be in the driveway area, and the existing driveway would be removed. Once the leach field and piping for the tank is installed for the tank, the driveway will be replaced in its existing footprint with no enlargement of the driveway. Agent Penella reviewed his notes on the proposal: the project proposes a 2-story in-law addition with the first level exterior portion aligning with the location of the existing deck and sunroom, the proposed porch extends beyond the existing. The proposed in-law addition triggers the need for a septic system upgrade. The existing septic system leaching field is designed for 818 gallons per day. The new tank is proposed to be a two-chamber, 2,000 gallon tank that would be installed in the same area as the existing with leaching trenches and a reserve area. In discussing this filing with the Health Agent, it was

determined that the new leaching field area is designed for the same flow rate as the existing system. The project is adding one bedroom to the existing home so the flow is increasing to 440 gallons per day. The project narrative does not discuss compliance with the state and local wetland protection regulations regarding the septic upgrade. The existing paved driveway is proposed to be removed in order to access the septic components to be replaced when the septic project is complete. The existing deck is considered impervious as photo documentation from May 2025 shows. The proposed structural work is within the 50-foot no-disturb boundary which is out of compliance with KWPR 10.08 b2 for the deck and porch and 10.08 b5 for the addition. KWPR 10.08 b6 provides the standard for structures not be closer to resource areas when lot constraints exist, but it is unclear whether that would apply in this situation where the Commission could not be accused of an unconstitutional taking by denying a modification to an already developed residential property. Variance requests for the project have been received. The plan states that the in-law addition is further from the closest resource area than the proposed 28.9' away vs. the existing distance of 28.7', the proposed deck stairs are closer at 27.5', so altogether the structure would be about 1 ½' closer. The standard requires that both structures with open-pile foundations be built at least 40-feet away from any protected area. The project will increase impervious coverage from 12.2% to 14% but remain under the maximum allowed 15% under KWPR. A portion of the project is located within the inner 100-foot Riverfront Area to an Intermittent Stream, however the work is proposed within an area already developed as an existing yard. For that reason, Agent Penella hasn't reviewed the stream's status or viewed the associated habitat. The project narrative does include seven related points, such as the discussion of mitigation plantings, a roof runoff infiltration system, conservation posts, and roof drain calculations. It had been noted previously that there had been dumping of yard waste and debris in the BVW, this issue will need to be dealt with. In regard to septic regulations; see KWPR 10.02 b2-b3:

(2) A subsurface sewage disposal system for new construction that is constructed in compliance with the requirements of the Title V of the State Environmental Code (310 CMR 15.00 et seq.), or more stringent local Board of Health requirements or Zoning By Laws, shall be presumed to protect any and all interests identified in the By-Law, provided that none of the components of said system, including, but not limited to connecting pipes, holding tanks, distribution boxes, and subsurface soil absorption systems, are located upon or within 100 feet of any area subject to protection listed in Section 2.01. All distances shall be measured from the natural edge of the bordering vegetated wetland, the flood zone line, and/or mean annual high water line of the Area Subject to Protection. Setbacks may not be obtained or increased by filling, altering, or relocating an Area Subject to Protection. The minimum 100-foot setback requirement shall not be required when a replacement system is necessary provided that no alternative location is available on the lot or other parcel under the ownership or control of the owner of the system proposed for upgrade and that the system, including grading and retaining structures, is placed as far as possible from the wetland resource areas.

(3) Should a replacement system also constitute a substantial enlargement and increase in flow from expanded use of the existing system, the Commission may require that the minimum 100-foot setback distance be observed.

Based on the plan's narrative shown, this proposal may constitute a substantial enlargement and does constitute an increase in flow when compared to current use of the existing system. The Commission would be within their rights to deny the project based on failure to meet performance standards of KWPR related to septic systems. The project, as shown, does not meet the aforementioned standards of KWPR, as well as 10.08 b2 and 10.08 b5 regarding structural setbacks. Additional notes from the agent: question as to whether the proposed porch would be pervious and require a special condition on 3/8

spacing, special condition requiring the conservation posts remain in place in perpetuity as well as applying the 2-year monitoring beginning the calendar year after completion, all existing yard waste be removed prior to start of project construction. However, the Commission should determine whether the mitigation is sufficient enough to warrant approval of the project through issuance of OOCs. The standard should be a cumulative, positive, or neutral situation regarding detrimental effects to the relevant resource areas. In regard to the septic system, the location is not where a system would be installed under current regulations if the home were being constructed under today's standards. There is no increase in the size of the leach field but there is an increase in flow with the addition of the ADU. The tank is larger than the existing per the standard for ADUs. The Commission should be prepared to handle more filings like this, as the issue is something that will come up more due to the new state by-right law for ADUs. As proposed, this NOI does not meet the standards of KWPR although it does provide mitigation. Commissioner Kozodoy asked if there is alternative way to approach the septic system design. Agent Penella answered that yes, there are alternative technology systems that have been required by the Commission in the past. Those systems are much more expensive and require more maintenance, but the water that comes out of the tank into the leaching field is drinking quality, so there is a benefit to the wetlands. Mr. Holmes asked if Agent Penella had spoken to the Health Agent since the application had been submitted to the Board of Health, and if so did they have concerns that the design was not adequate. Agent Penella said that the concerns expressed by the Health Agent were that the existing septic system needs an upgrade. However, as far as the Commission is concerned, they do not have to approve every proposed upgrade. Agent Penella stated that the Commission should have a standard in place while still looking at each situation on a case by case basis. Mr. Holmes said that the existing septic system is inadequate and in need of an upgrade and that would be an improvement to the site; also the design of the system is oversized per KWPR as it is now. They are proposing an oversized system to handle the project, and while the plan is to add a bedroom; they are replacing an old, inadequate system with a new, oversized system. Mr. Holmes said that if the upgrade is not approved, then the applicant would have to continue using a system that is not adequately protecting the resource areas, versus allowing an upgrade, with a waiver, as an oversized system for one additional bedroom. Commissioner Hickey said that in addition to the septic upgrade not meeting KWPR standards being an issue, there is also the issue of the addition being close to the buffer zone. Mr. Holmes summarized the pros and cons of the project from a conservation viewpoint; the construction of an in-law ADU within an existing footprint is a potentially negative aspect, the upgrade of the septic system would be a positive, the removal of at least 9' of lawn that is currently mowed up to the edge of the wetland and then planting native shrubs and a buffer seed mix along with conservation posts installed at the edge to create a vegetated buffer against the project area is a positive aspect. Commissioner Payne asked Agent Penella if the Health Agent had reported that the septic system is failing or not. Agent Penella was not sure if that was the wording used but what he knew that soil borings had been done and the Health Agent had observed that the soil was suitable for infiltration. Commissioner Payne expressed concern that the proposed mitigation does not extend all the way up to the road. Commissioner Kozodoy suggested that increasing or improving the buffer would be helpful. Agent Penella agreed that it would help but stated that whether or not mitigation is enough to issue variances should be decided by the Commission and based on science and best practices. The agent said that having the mitigation wider and connecting up to the road would help and he also pointed out that while the case was made to

replace the system because the existing one is failing, but only if it comes with an increase in bedroom flow rate, would not be the route he would recommend. Mr. Holmes stated that the mitigation planting plan can be adjusted to bring it along to wetland flag A-1 if the Commission would deem that necessary. Commissioner Payne asked how old the current septic system is and Commissioner Hickey referred to her notes which state that it was installed in 1987. Commissioner Payne said that the system is fairly old and will no doubt need replacement soon and so if the Commission can get something out of that process in the way of mitigation, then that is a good deal. Agent Penella suggested a continuance with a new proposal that shows an increase in mitigation, confirm the sizing of the roof infiltration system, sizing on the drywells, and alternative technology for the septic upgrade. Commissioner Vendetti said she was in favor of denying without prejudice, and then the applicant can come back when they have a revised NOI. Commissioner Kozodoy said she thought they were getting close to finding a solution, and would approve a continuance. Mr. Holmes said he did not realize the septic was going to be an issue because it had already been submitted to the Board of Health who in turn is waiting for the Commission to approve it. He said he would have had more complete information ready had he known ahead of time that there was an issue with the septic. Agent Penella stated that there is sometimes a discrepancy between wetland regulations and the Board of Health's review.

VOTE: Commissioner Kozodoy made a motion to continue to October 8, 2025 to allow the applicant to come back with a revised NOI. The motion was seconded by Commissioner Payne. PASSED 5-0-0.

II. Action Items (continued)

b) Request for Determination of Applicability (RDA) for 17 Nobadeer Circle for the proposed construction of an addition to a single-family house within the buffer zone to wetland resource areas, including a potential vernal pool off-site. This is a continuance from a previous meeting.

Commissioner Vendetti opened a public meeting to discuss an RDA for 17 Nobadeer Circle. The applicant has requested a continuance until October 8, 2025.

VOTE: Commissioner Payne made a motion to continue to October 8, 2025. The motion was seconded by Commissioner Kozodoy. PASSED 5-0-0.

IV. Enforcement

a) 44 Raboth Road

Agent Penella said he had been contacted by the owner that she had received the plan from the engineer and was attempting to get it to the Building Commissioner. Agent Penella had looked briefly at the plan and gave some feedback; there was a note on the plan that the engineer needed to revisit the site and collect elevation and location data. The owner reported that the engineer is not coming back to get that data and so she is reaching out to a surveyor. The retaining wall is roughly 10' tall and was built within 30-feet of the pond. KWPR standards are no walls over 4' with 50-feet of the wetland, but since the wall was already built the Commission requested that the applicant get a building permit. If a

building permit is denied then the wall will need to be removed or modified. In conversations with the owner, it was mentioned that the wall was built to keep runoff from going down into the wetland. In addition, an unpermitted parking area was installed at the top of the wall. The Commission needs to determine if the wall is stable and if it is stable and building permit is obtained, then the owner will need to file with the Commission for unpermitted work, i.e., the wall and the concrete area. The agent said he received an email from the abutter at 46 Raboth Road with concerns about storm water runoff.

Let the record show that at this point in the meeting, Commissioner Franklin joined the meeting via phone.

The owner, who was in attendance online, asked if there was any more information she should provide at the meeting. Agent Penella said no more information was needed from her at the moment but gave her next steps to address; being that before she enlists a surveyor, more is needed from the engineer. The engineer should provide a narrative letter to the plan detailing the inspection of the wall and the letter should be stamped and submitted to the Commission. The owner may need to provide location data to the Building Commissioner, but she should discuss that with him first to see if it is needed before getting a surveyor.

VOTE: Commissioner Kozodoy made a motion to continue to September 224, 2025. The motion was seconded by Commissioner Hickey. PASSED 5-0-1.

IV. Meeting Minutes

Minutes for August 13, 2025, were submitted to the Commission for review and approval. Commissioner Kozody submitted edits to Agent Penella via email prior to the meeting and he then made the edits. Commissioner Vendetti did not review the minutes.

VOTE: Commissioner Payne made a motion to approve the minutes. The motion was seconded by Commissioner Kozodoy. PASSED 5-0-1.

VI: Updates

a) Grant Updates

Agent Penella reported that a grant was received from the Division of Ecological Restoration Culvert Replacement Program for the Lake Street culvert, but it was not the amount that was requested. The agent reported that they are still waiting for an answer on two federal grants, one has a 10-percent match requirement and the other has a 20-percent match requirement. The Lake Street project is roughly 1.5 million dollars. A weight-bearing assessment of Old Lake Street needs to be done as required by the Fire Chief. That analysis will be \$5,000. The engineer can be enlisted to prepare bid documents for the eventual bidding of the project but the project cannot happen until enough money in match-

funding is obtained to build it. Agent Penella said due to the current fiscal environment, he is trying to not ask the residents of Kingston for any money and so he is trying to get the funds through the state with federal money. MVP will not be funding the project. The agent is still waiting to hear back about the trails grant for the Bates Pond Project.

b) Blackwater Memorial Restoration Update

The project is done and they have started to host guided walks. Commissioner Hickey said she walked the trails and reported that it is beautiful and path is nice and flat. The agent said he told Commissioner MacFarlane that the COA bus could bring people to enjoy the site and that the trail is wide and flat for walking. The agent presented some slides of the site courtesy of drone footage from Jimmy Powell of the Jones River Watershed. There is now connectivity between an 8-acre acidic fen habitat and Blackwater Pond which will be able to connect Stony Brook, to the Jones River and then to the ocean. Wildflower seed mix has been planted along the trails with a cover crop of buckwheat. The area will be hydro-seeded for the winter. The project hit all the ecological goals and gives people a better walking surface around the first bog and a better view. Commissioner Payne said the longer trail is about 1.2 miles and the shorter loop is about a quarter mile.

c) Agent presentation on need for management plan at Sampson Park for the former Sampson's Pond site.

Agent Penella said he will be coming forward with a proposal to the Commission regarding Sampson Park. Once the Elm Street dam was removed, a flood plain connected to the Jones River naturally developed with native plants and bio diversity. A management plan for the area is needed so that the area doesn't become forest right up to the Jones River. Birch trees are growing along the river which is good buffer but to maintain the area as a flood plain meadow, management is needed.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 8:17 p.m. The next meeting will be held on September 24, 2025, starting at 6:30 p.m. in Room 200.

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

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, September 10, 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. Enforcement Orders for 164 Pembroke Street and 176 Main Street, as voted at the August 27, 2025 meeting.

ACTION ITEMS:

1. 28 Raboth Road: Request for Determination of Applicability for proposed removal of hazard trees and treatment of invasive plants.
2. 17 Nobadeer Circle: Request for Determination of applicability for proposed addition to single-family house. Continued from an earlier date.

ENFORCEMENT:

1. 44 Raboth Road

MEETING MINUTES:

1. August 13, 2025

UPDATES:

1. Grant updates
2. Blackwater Memorial Forest restoration update
3. Agent presentation on need for management plan at Sampson Park for former Sampson's Pond site.

PUBLIC HEARINGS:

1. 20 Marion Drive (1 Royson Drive): Request for Amendment to Orders of Conditions- continued from an earlier date.
2. 49 Old Mill Road: Notice of Intent for proposed addition, porch, septic system upgrade and driveway modification within the buffer zone to BVW and the 200' KWPR Riverfront Area to an intermittent stream.

ADJOURN:

NEXT REGULAR MEETING:

1. September 24, 2025 at 6:30 PM

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

SIGN-IN SHEET

PLEASE NOTE THIS MEETING IS BEING VIDEO & AUDIO RECORDED

DATE: 9-10-2025

NAME	INTEREST	ADDRESS
Brian Taylor	28 RABOTH RD	~ ~
B Holmes	49 Old Mill	

TELEPHONE: 781-585-0537