



Conservation Commission Meeting Minutes

Wednesday, October 8, 2025

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

Present: Kalina Vendetti (chair), Dot MacFarlane, Marilyn Kozodoy

Virtual: Buz Artiano

Absent: Jim Franklin, Megan Hickey, Brian Payne

Staff: Matt Penella, Conservation Agent

Location: Town Hall Offices, Room 200 & Via Zoom

Commission Meeting Opened: 6:30pm

Announcement: The Open Space Committee is still 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

BUSINESS

I. Signing Documents

The Commission signed the following documents: 44 Raboth Road Enforcement Orders and Ring Road Solar Determination of Applicability (DOA), and an invoice for Kingston Landscaping, LLC for September mowing at Bay Farm.

II. Action Items

1. 17 Nobadeer Circle: Request for Determination of Applicability for proposed addition to single-family house. Continued from an earlier date.

Chairperson Vendetti re-opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 17 Nobadeer Circle. Agent Penella gave background information on the project, reporting that this filing is for a proposed addition to a single-family home that will not contain a bedroom. The homeowner has worked with the Health Agent to get a deed restriction limiting the house to 3 bedrooms, which means there will be no increase in the flow rate to the septic system. The restriction was recorded in registry of deeds. Agent Penella recommended issuance of a Negative 3 Determination of Applicability (DOA) approving the project.

VOTE: Commissioner Kozodoy made a motion to issue a Negative 3 DOA approving the project, seconded by Commissioner MacFarlane. PASSED 4-0-0.

2. 3 Prospect Street: Request for Determination of Applicability for proposed addition to single-family house.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 3 Prospect Street. Kevin Flaherty from Flaherty & Stefani, representing property owners Brad and Erin Sears at 3 Prospect Street, presented the project to the Commission. The project is a proposed one-story, one-bedroom addition off the right side of an existing single-family house. Brad Holmes from Environmental Consulting & Restoration flagged the wetlands on the property, including a potential vernal pool (PVP) in the back, shown on the existing conditions plan. The proposed work is outside of the 100' PVP buffer and 50' bordering vegetated wetlands (BVM) setback, and is almost entirely within the existing lawn area. They will be removing one shrub near the work area, which will be mitigated by planting white oak trees on the property line. During a site walk with the Conservation Agent, a sump pump pipe discharge was observed near the rear of the property. Mr. Flaherty reported that it has likely been there for years, pre-dating

the current owners. As part of the proposed work, they will remove the existing discharge and reroute it to the front yard. He presented the project plan, showing erosion control at the edge of the 100' PVP buffer and the parts of the existing sump pump drain that will be removed.

Agent Penella summarized property conditions, including previously discussed removal of a non-native spruce tree and its replacement with native white oaks. He saw the sump pump pipe entering the wetland and recommended capping it under back lawn. He also observed dumping in the back of the property and recommended removing it and possibly placing conservation posts along the back edge of the woods line before work started. He reported that the representative agreed to cap the pipe and re-route it through the new foundation into a drywell that will also take roof runoff from the addition. Mr. Flaherty reported that the property is on town sewer, so there are no septic concerns with this project. Agent Penella said that while Smelt Brook is nearby, the proposed addition is outside of the 200' riverfront area. The entire proposed project is within existing developed area on the property, so poses no additional concerns for the PVP. Otherwise, the project fits WPA and KWPA guidelines, so the Agent recommends issuing a Negative 3 DOA approving the project. The Commission could require movement of dumped material and conservation posts before work begins, or could handle those issues later on.

Commissioner Artiano asked that conservation posts and cleanup happen prior to work starting. He said that three posts would suffice, one on each corner and one in the middle, and Mr. Flaherty agreed to add them.

VOTE: Commissioner MacFarlane made a motion to issue a Negative 3 DOA approving the project with special conditions as discussed, seconded by Commissioner Artiano. PASSED 4-0-0.

3. 28 Raboth Road: Request for Determination of Applicability for proposed removal of hazard trees and treatment of invasive plants. Continued from an earlier date.

Chairperson Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 28 Raboth Road. Frank Dirico, property owner with his wife Jennifer Cronin, reported that they are very concerned about the amount of ticks on the property. He, his wife, and their dogs have found ticks on them and have been bitten. He attributes the number of ticks possibly to the long grass on the property that the Commission has asked him not to mow, and asked for continuance to better understand tick habitat and how the Commission can help them mitigate the issue.

VOTE: Commissioner MacFarlane made a motion to continue to October 22, 2025, seconded by Commissioner Kozodoy. PASSED 4-0-0.

III. Public Hearings

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

Commissioner Vendetti re-opened a public hearing to discuss the Request for Amendment to Orders of Conditions for 1 Royson Drive (formerly 20 Marion Drive). Agent Penella reported that the applicant requested continuance because the peer review was only received the day before the meeting. He requested more time to review it and respond.

VOTE: Commissioner Artiano made a motion to continue to October 22, 2025, seconded by Commissioner Kozodoy. PASSED 4-0-0.

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. Continued from an earlier date.

Chairperson Vendetti re-opened a public hearing to discuss the Notice of Intent (NOI) for 49 Old Mill Road. Agent Penella provided an update on the project. At the last hearing, the Commission decided that the proposal didn't meet KWPR standards for structural setbacks or for septic components within 100' of resource areas, and asked the applicant to return with an improved application. The applicant has since proposed extending the mitigation to Old Mill Road to protect the bordering vegetated wetlands (BVW), and has confirmed that the roof infiltration system is built to handle a 1" storm. The applicant has also proposed an alternative treatment technology septic system (a Singulair Bio-Kinetic WTS Model 960). This system will reduce 5-day biochemical oxygen demands and total suspended solids entering the leaching fields by over 95%. It improves effluent water quality but doesn't appear to treat nitrogen, phosphorous, or bacteria directly. The system is not perfect, and would be damaging in a place with more open water, perennial streams, vernal pools, and other open water features, but the Agent recommends that this is enough mitigation for the increase in flow on this property. He recommends issuance of Orders of Conditions (OOCs) with the special conditions as discussed at the previous hearing.

Commissioner Kozodoy pointed to the specifications for this septic system, which say that additional enhancements can transform the system into a de-nitrifying system, and asked if the applicant has considered those enhancements. The representative for the project said that Scott Fanara with Grady Consulting was the one who discussed the septic system with Health and Conservation Agents, and doesn't know the details of those discussions.

Pine duBois, a Kingston resident, reported that the river tributary near the property flows to the Jones River, which already has problems related to pollution. There are other dwellings nearby, and she is concerned about setting a standard for the area when we know that Jones River is affected by nitrogen. She wants to be sure the Commission is considering cumulative effects from the other units downstream in their decision. The water comes from an upstream cranberry bog. The Commission needs to consider nutrient load as a significant problem and understand that this property is not disconnected from the local ecosystem.

Adam Brodsky, the lawyer representing the applicant, pointed to Scott Fanara's letter to the Commission on the septic system, which says that, in his professional opinion, the treated effluent will have no adverse impact on local KWPA interests for riverfront to intermittent stream. He stated that this project is not subject to riverfront requirements in the state WPA, only the local requirements. The letter says that the proposed system will cause a 94-96% reduction in biochemical oxygen demand over existing conditions, a 50-82% reduction in total suspended solids, and a median average reduction in nitrogen of 12-65 mg/L. Mr. Fanara's letter says that the system will cause no adverse impact on the nearby intermittent stream. Mr. Brodsky reported that they recognize Commission's jurisdiction in this area, and the applicant proposed this system to provide additional protections without being required to do so.

On the topic of setting precedents Agent Penella stated said that in another location or for a new build this system probably wouldn't be sufficient. Given this specific project where there is a house and septic already in place, and this is only a 1-br increase, this system will counteract the effects of that increase.

Commissioner Kozodoy just wanted to ensure that all the options were considered, given the known effects of nitrogen on these systems and the information from the company that makes nitrogen treatment sound like an easy enhancement. Commissioner Artiano said that nitrogen removal greatly increases cost and maintenance of the system over time. Agent Penella added that there are also phosphorous removal systems available, but they also require a lot of maintenance.

VOTE: Commissioner Kozodoy made a motion to close the hearing, seconded by Commissioner MacFarlane. PASSED 4-0-0.

VOTE: Commissioner Artiano made a motion to approve the project as presented on amended plans with mitigation and special and standard conditions as discussed, seconded by Commissioner Kozodoy. PASSED 4-0-0.

IV. Enforcement

1. 20 Marion Drive / 1 Royson Drive

Agent Penella reported his findings from compliance checks on September 25, 2025 during a large rain storm. During the check, he observed significant release of sediment from 20 Marion Drive into the impounded section of Smelt Brook. Agent Penella discussed his observations with the property owner, Larry Demar, on site and informed him that the Commission would discuss this incident during the next meeting. The owner has since requested continuance so he has time to discuss with his lawyer. Agent Penella told him that that the Commission doesn't have to accept continuance, but he wouldn't recommend the Commission discuss this issue without a representative present from the project. He reported that owner did take some steps to mitigate sediment release following his visit, including bringing more silt sock onto the property, but the Agent is unsure whether those measure will be sufficient. The Agent gave him additional advice about how to better stabilize site when they have exposed dirt for long periods of time. He Recommends continuing to the next meeting on October 22.

Commissioners Artiano and Kozodoy pointed out that this is another of many times the Commission has discussed issues with sediment runoff from this project. Commissioner Artiano asked when the project will be completed. Agent Penella said he doesn't know for sure, but believes they are currently building the 3rd of 5 buildings. The Commission has considered revoking the permit, especially because it was issued with a large number of conditions, many of which haven't been followed. Commissioner Kozodoy said that they do have grounds to revoke the permit. Agent Penella reported that some parts of the site have been stabilized, and conditions likely will be better once the whole site is stabilized, but there are ongoing issues during construction. The Agent observed workers using machinery to move dirt around on September 25, and observed exposed dirt, dirt piles, and other unstable conditions during the rain event. He recommended continuing so that the owner and/or his representatives can be part of the discussion, and advised that the Commission will be more effective at protecting the resource area if they don't revoke the permit. Commissioner Vendetti clarified with Agent Penella that the owner did receive notice of this meeting.

VOTE: Commissioner Artiano made a motion to continue the hearing until October 22, 2025, seconded by Commissioner MacFarlane. PASSED 4-0-0.

2. 8 Smelt Pond Road

Upon review of filings of ongoing projects, Agent Penella realized that the Department never received any of the required pre-work information, including recording Orders of Conditions, from 8 Smelt Pond for the single-family home addition and installation of an alternative technology septic system permitted in 2022. When he reached out to the property owner, the owner reported that the project was almost done. Agent Penella informed him of the missing pre-work requirements and did a site visit. The Agent received proof that the OOCs were recorded after issuance, just not provided to department. And photos that the owner put up a sign with the permit number. During a site visit, Agent Penella did not observe any erosion or sedimentation control on the site. The owner reported said that it was there when work began on the septic replacement, but he removed it because he didn't know it needed to remain in place. The Agent observed a dirt pile on the driveway among other problematic site conditions. The owner has since followed the Agent's advice, including replacing erosion control on the site and removing the dirt pile, which was proven by photos sent from the owner. The dirt pile ran off into wetlands across the street from the house, but the agent advised the owner not to remove it because the machines needed will cause further damage. The Agent did ask him to remove the dirt and place woodchips on that area for stabilization. The Agent also observed that the concrete patio behind the house had been removed and was currently covered with pervious stone dust. It will be replaced with pervious pavers. While that replacement is an improvement to the site, it is still unpermitted work. The Agent didn't observe runoff behind the house, despite recent rain events.

Dan Pepe, the property owner, reported that he sent photos of the original silt fence placement to the Agent to prove that erosion control was in place during work. He also reported following the other recommendations from Agent (including placing a sign with the permit number and providing proof of filing OOCs). He explained that the original erosion control was removed after the old septic system was removed. He has since removed the dirt pile and placed woodchips as recommended by Agent Penella, instead of placing a silt fence around the pile. Mr. Pepe also clarified that the patio behind the house currently has pervious crushed stone, not stone dust.

Agent Penella advised that the patio replacement, while good, should be permitted, probably through a Request for Determination of Applicability (RDA). Mr. Pepe has agreed to finish the mitigation plantings and will follow up with the Agent upon completion. Agent Penella discussed the challenges that come from mistakes being made by applicants due to their misunderstanding of next steps after receiving permits, especially when a homeowner, rather than an engineer, is doing the work. Agent Penella recommended that the Commission require the owner to file an RDA with a deadline after which the

Commission could consider enforcement. The Commission agreed and required that Mr. Pepe file an RDA by the first meeting in December.

Commissioner MacFarlane asked whether the owner will need to hire an engineer to complete the application, and Agent Penella said he may not have to. Mr. Pepe said that he felt comfortable getting an engineer if needed.

V. Meeting Minutes

1. July 9, 2025

The vote to approve these minutes was moved to the next meeting because Commissioners Artiano and Vendetti were absent and unable to vote on approving the minutes, meaning the vote would not meet quorum.

VI. Updates

1. Recent stormwater issues.

Agent Penella reported on compliance checks that were done on both Off Tarklin Road lots on September 25, 2025 during the severe rain event. He hasn't been to either since pre-work checks, and observed erosion control issues, specifically stormwater with sediment flowing past erosion control. He issued \$300 citations to each builder, but revoked them because he usually gives contractors more warning before issuing fines.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 7:15 p.m. The next meeting will be held on October 22, 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: Georgianna Minenna, Assistant Conservation Agent