

Approved Feb. 11, 2026



Conservation Commission Meeting Minutes Wednesday, November 12, 2025

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

Present: Kalina Vendetti (Chair), Jim Franklin (Vice-chair), Dot MacFarlane, Marilyn Kozodoy, Brian Payne

Virtual: none

Absent: Buz Artiano, Megan Hickey

Staff: Matt Penella (Conservation Agent), Georgianna Minenna (Asst. Conservation Agent)

Location: Town Hall Offices, Room 200 & Via Zoom

Commission Meeting Opened: 6:35 p.m.

BUSINESS

I. Signing Documents

The Commission signed invoices Horsley Witten Group for the 20 Marion Drive Peer review, Kingston Landscaping LLC for Calista Farm Trail mowing, and the MMA for posting the Assistant Conservation Agent position, and signed a reimbursement for Commissioner Kozodoy for purchase of a Wetlands Enforcement Manual.

II. Action Items

1. 28 Raboth Road: Request for Determination of Applicability – continued from an earlier date.

Chairperson Vendetti continued a public meeting to discuss the Request for Determination of Applicability (RDA) for 28 Raboth Road. Agent Penella has received no updated materials from the application. Mr. Dirico, the applicant, did stop by the Conservation Department office to discuss the area in question and expressed his desire to continue mowing it. Agent Penella reminded him that mowing is not legally permitted in that area.

Ann Sobolewski, lawyer from Prince Lobel Tye and representative for the owners of 28 Raboth Road, reported that the property owner is requesting three specific tasks. Per the report provided to the Commission in August indicating the presence of invasive species on the property, the applicant would like to remove mugwort and tree of heaven on the property. They would also like to remove damaged trees located near the residence on 30 Raboth Road, and would like to mow the re-seeded and rehabilitated banked area to reduce the tick population. Attorney Sobolewski presented photos of the rehabilitated area before disturbance, showing that it was an area with short vegetation, not tall grass. One of the property owners has contracted lyme disease twice, Mr. Dirico is currently in treatment for lyme disease, and their dogs have returned from that area of the property with 60 ticks on them.

Agent Penella pointed out that the area was clearly vegetated with tall trees before disturbance. He said that allowing a large area to be mowed and maintained as lawn in the riverfront area to a perennial stream may not be appropriate as part of an RDA filing. He reminded those in attendance that this filing did not originally include mowing. The applicant had proposed maintenance of existing landscaping with removal of dangerous trees and invasive vegetation. It was only during review of the filing that the Agent and Commission learned that this area was restored through the enforcement process, and has since been mowed. Agent Penella recommended continuing the meeting. He asked the applicant to provide evidence that the area in question was previously part of the maintained area so the Commission can decide whether to allow modifications of the RDA. The Commission only has evidence that the area was previously forested and included a two-track driveway running to a house near the pond. Ms. Sobolewski stated that the applicant agrees that the area did previously have tree cover, and said that you cannot see the ground condition from areal imagery when trees are present. She agreed to provide that evidence to the Commission.

VOTE: Commissioner Franklin made a motion to continue the meeting to December 10, 2025, seconded by Commissioner Kozodoy. PASSED 5-0-0.

2. 19 Rocky Nook Road: Request for Determination of Applicability for proposed demolition of single-family house.

Commissioner Vendetti opened a public meeting to discuss the Request for Determination of Applicability (RDA) for 19 Rocky Nook Avenue. Agent Penella briefed the Commission on the application. The applicant proposes demolition of an existing single-family house at 19 Rocky Nook Avenue within the 100' buffer to coastal bank and other coastal resource areas. Grady Consulting is working on an NOI filing for a replacement dwelling. The application shows erosion control across the front yard between the dwelling and resource areas. During the November 5th site visit, the Agent told the contractor that the silk sock should also be run to the edge of the driveway after demolition. He also emphasized the importance of site stability between demolition and construction of a new dwelling, especially because an NOI has not yet been filed for that construction. The agent suggested use of a thick woodchip layer or laying down large, weighted tarps for erosion control. The application also proposes the removal of invasive Norway maple trees from the backyard, but they appear to be out of jurisdiction. The proposal appears to meet KWPR and the WPA, so no further filing is necessary. He reminded the applicant that \$300 fines can be issued every time and every day sediment laden water reaches Kingston Bay, further emphasizing the importance of site stability. He recommended issuing a negative three Determination of Applicability approving the project as shown, potentially with a special condition for site stability between demolition and house construction.

Lisa Barlow of 23 Chilton Ave, Kingston, MA stated that they agree to stabilize the site between demolition and new construction, and understand the fine schedule should sediment reach the water.

VOTE: Commissioner Franklin made a motion to issue a Negative 3 Determination of Applicability approving the project with special conditions as discussed, seconded by Commissioner Kozodoy. PASSED 5-0-0.

III. Enforcement

1. 44 Raboth Road

Agent Penella said that, per the enforcement order, the applicant has provided (1) a stamped and signed letter from a state-certified professional engineer certifying that the submitted as-built plan for the retaining wall is a true as-built plan, and that it was inspected in the field and drawn as constructed, (2) a stamped, signed letter from a state-

certified professional engineer certifying that the wall was built to manufacturer specifications, and (3) a signed and stamped plot plan showing the location of the wall and the concrete parking area. Though the letter doesn't specifically state that the as-built plan was a true as-built plan, it contains enough detail that Agent Penella considers it equivalent. Despite the fact that some of the owners' paved area and sheds are not located on their parcel, the parcel still contains more impervious surface within jurisdiction than the 15% allowed under KWPR. The retaining wall is between 3 feet and 8 feet tall according to the engineer's letter, and is closer than the 50 foot legal setback for retaining walls greater than 4 feet tall. The engineer's letter also stated that some of the blocks in the wall had shifted, and the wall was leaning towards Smelt Pond likely due to lack of proper drainage and absence of GeoGrid reinforcement as described in the manufacturer's specifications. The engineer recommends removing the blocks, installing the GeoGrid reinforcement and drainage, and replacing the wall. Because the wall was not installed correctly to begin with, and is in violation of KWPR, Agent Penella recommends that the Commission require any re-built wall meet KWPR standards and require that the entire property come into compliance. Specifically, the retaining wall, paved driveway, dock that was enlarged significantly past what is allowed by KWPR, and drainage issues towards 46 Raboth Road caused by the wall and paved area are not currently in compliance.

Commissioner Franklin recommended that the owner file an NOI to remove the wall. Commissioner Payne asked when the homeowners received the engineer's letter. Agent Penella said that they likely also received it today, so Commissioner Payne recommended continuing the meeting to give them time to put together a plan in response to the letter.

VOTE: Commissioner Franklin made a motion to continue to November 26, 2025, seconded by Commissioner Kozodoy. PASSED 5-0-0.

2. 20 Marion Drive/1 Royson Drive

Agent Penella visited this property after the first round of storms on September 25 and observed clear water flooding Royson Drive and cloudy water in the lower impoundment of Smelt Brook near the intersection of Royson Drive and Marion Drive. He couldn't see a specific cause of the cloudiness. He returned later in the day during active rain and observed a large brown puddle in Royson Drive, water running past the erosion control, sediment coming off the active work area, and brown water entering the upper impoundment. There were two machines moving dirt on site, uncovered dirt piles, and nothing in place to stabilize the work area upslope of the road. The property owner considers the photos of cloudiness in the lower impoundment deceiving because his consultant considers the cloudiness of biological origin and not caused by the work site.

Agent Penella can't specifically attribute the cloudiness to the work site, but observed many other stabilization issues with documented evidence on the site that day. The Agent spoke with the owner on site that day, who said that the runoff wouldn't have happened if the rain garden proposed in the Request for Amendment to Orders of Conditions was in place, but Agent Penella considers this a separate issue of lack of stabilization during active work. Agent Penella stated that, while the owner is and has been responsive to the Commission, there have been many issues on this site since 2023 that violate the Orders of Conditions. Agent Penella suggested that, instead of revoking the permit as has been suggested in the past, the Commission require that the owner have an environmental monitor on site to make sure the original Orders of Conditions are followed and to prevent further runoff into Smelt Brook. Commissioner Kozodoy pointed out that that an environmental monitor is required in Special Condition # 28. Agent Penella recommends that the monitor be an experienced wetland scientist chosen by the Committee, not the applicant, who will be on site in advance of any large rain storms and potentially weekly during active site disturbance. If the monitor finds that their recommendations aren't being followed, then the Commission can choose to issue fines or revoke the permit. The applicant, among other people, has called the September 25th event a "freak" rainstorm, but Agent Penella said that large rainstorms are becoming more common and that large rainstorms shouldn't be a problem if the site is properly stabilized.

Agent Penella and Commissioner Kozodoy discussed previous issues and violations on the site. Commissioner Kozodoy said that there was a special condition in the original OOCs stating that there should be an erosion control monitor on site. Agent Penella said that the monitor was not required to be a wetland scientist, so the project site manager was chosen. However, they are clearly not doing enough, which is why Agent Penella recommended a separate environmental monitor as described above. Commissioner Franklin agreed that an independent third party is needed on the site, because the Commission can no longer trust the owner and his contractors to prevent sediment release. Agent Penella said that an Enforcement Order would be sufficient to make that requirement, and to resolve the violation on September 25.

Commissioner Franklin asked why the property has so many erosion control problems, and whether the Commission needs to require additional, specific erosion control measures. Agent Penella said that there are many issues with erosion control on this site, including the erosion control measures falling apart, erosion control was not being added in the proper places, and placement of portable toilets too close to the riverfront area. He said that the Commission doesn't have to specify specific erosion control measures because they don't know the order of construction activities on this site, and the environmental monitor can make those recommendations.

Adam Brodsky, legal representative for the project, said that he will work with the property owner and Agent Penella to agree on conditions for an environmental monitor. He reminded the Commission that there is a 2 year statute of limitations for WPA violations, and said that he will just discuss the September 25 rain event. He said that, while it isn't an excuse, it was a very large storm. However, he agrees that the project still needs to improve erosion control on the site.

Agent Penella and the Commission agreed that the agent will work with the applicant to write conditions for the environmental monitor, present them to the Commission at a future meeting, and then Agent Penella will draft the official Enforcement Order based on any changes required in that discussion.

VOTE: Commissioner Vendetti made a motion to continue to December 10, seconded by Commissioner Franklin. PASSED 5-0-0.

IV. Minutes

1. July 9, 2025

Commissioner MacFarlane asked if 2015 was the correct date for the look-back period for dock regulations, and Agent Penella confirmed that it is correct.

VOTE: Commissioner Payne made a motion to approve the minutes for July 9, 2025, seconded by Commissioner Kozodoy. PASSED 5-0-0.

2. July 23, 2025

VOTE: Commissioner Kozodoy made a motion to approve the minutes for July 23, 2025, seconded by Commissioner Payne. PASSED 5-0-0.

V. Updates

1. Community Preservation Committee applications: 83 Wapping Road and Maple Street

Agent Penella reported that he submitted two applications to the Community Preservation Committee (CPC). One was to purchase 83 Wapping Road, which contains the Conservation Department easement to access Hathaway Preserve. The seller, Roger Correia, has said that he was willing to work with the Town on that purchase. The purchase would add meaningful access to the Preserve, though the agent did point out some potential issues with the cost. The other application is for the purchase of 8 and 20 Maple Street, as a collaboration between Conservation and Affordable Housing. The

property is currently under an agreement with a developer, but Agent Penella wanted to submit for funding to purchase the property if the developer walks away from the deal after the due diligence period.

2. Grant updates

Agent Penella reported that the Department received a Coastal Zone Management grant for design and permitting of two stormwater BMPs at the end of Drew Avenue and Seaver Avenue. The Department did not receive funding from the Municipal Vulnerability Program for replacement of the Lake Street culvert, nor did the Department receive funding from MassTrails for the Bates Pond accessible trail project. The Department is planning to apply for a MassDOT grant to fund the Lake Street culvert replacement, as that project is the biggest priority for funding.

VI. Public Hearings

1. Baker Avenue (Map 58, lot 92-6): Notice of Intent for the construction of a single-family home with a driveway, garage, deck, roof water infiltration system, drinking water well, utilities, grading, and landscaping within the 100-foot buffer zone to a Bordering Vegetated Wetland and the 200-foot Riverfront Area to an intermittent stream – continued from an earlier date.

Chairperson Vendetti continued a public meeting to discuss the Notice of Intent (NOI) for Baker Avenue. Agent Penella reported that the applicant has provided a wetlands report on the nearby stream and the stormwater calculations for the future use shown for the infiltration gallery, as required before the project was put out for peer review. Three quotes for peer review were requested. Only Beals and Thomas replied, quoting the peer review at \$5,100. Agent Penella summarized KWPR regulations on hiring outside consultants, saying that the Commission can impose reasonable fees on an applicant for the employment of outside consultants as deemed necessary for the Commission to come to a final decision. Agent Penella said that the Commission either has the option to hire Beals and Thomas, or request further quotes. Beals and Thomas has been used before for other projects, but not for a filing in progress. Agent Penella spoke positively of their work. He pointed out that they sometimes represent applicants to the Commission, but he doesn't have a concern about conflicts of interest because it is a large company. Agent Penella recommends using Beals and Thomas, and he will follow up with the applicant.

VOTE: Commissioner Kozodoy made a motion to hire Beals and Thomas for the peer review, second by Commissioner MacFarlane. PASSED 5-0-0.

VOTE: Commissioner Franklin made a motion to continue the hearing to January 14, 2026, seconded by Commissioner Kozodoy. PASSED 5-0-0.

2. 45 Rocky Nook Avenue (Map 39, lot 24): Notice of intent for construction of a pervious deck and a 2' by 11.2' addition to an existing single-family house, within the 100' buffer zone to coastal wetland resource areas.

Chairperson Vendetti opened a public hearing to discuss the Notice of Intent (NOI) for 45 Rocky Nook Avenue. Paul Seaberg, representative from Grady Consulting, presented the project proposal for a deck and small addition within the 100' buffer zone to the Top of Coastal Bank. The applicants propose to remove the existing deck and construct a new pervious deck to the north and east of the house with crushed stone beneath it. They are also proposing a 2' by 11.2' addition, cantilevered with no foundation below. A silt sock erosion control barrier will be placed between the project and resource area.

Agent Penella reported on findings from the November 5 site visit. He confirmed that the existing deck was mostly impervious based on spacing of the boards. The proposed deck ends at a 5' by 7' outdoor shower with 6" of crushed stone for drainage. Agent Penella isn't sure if the shower will cause drainage issues, especially depending on frequency of use. The proposed erosion control should be sufficient for the project. The addition is mostly out of the 50' buffer zone to the most landward coastal resource area, so it meets the KWPR structural setbacks. The plan proposes a 3.9% reduction in impervious surface (from 37.7% to 33.8%), measurements which were confirmed by Agent Penella. Because the property is already over the 15% limit in impervious surface allowed under KWPR, and because the proposed work will decrease impervious surface on the property, no variance requests are needed. The Commission should make every effort to limit runoff from this project because it is landward of a recently-opened Massachusetts shellfish growing area and eelgrass beds that are declining in the bay. Agent Penella recommended that the Commission discuss construction sequence and methods, especially the order of ground disturbance and compaction and how it will impact runoff versus ground infiltration of water. He also recommended that the Commission ask the applicant about their plan to minimize disturbance from the new deck supports. Overall, he recommends allowing the project, as long as the area beneath the deck properly infiltrates water. The water and sewer departments recommended extra protections for underground utilities during construction. Agent Penella proposed a few special conditions, including that the deck remain pervious in perpetuity, placement of painted stakes showing the sewer and water lines during construction, additional stockpile of silt sock during construction, any dumpsters must be covered, and usual restrictions on use of pesticides and herbicides

within the 100' buffer zone. The representative agreed to have erosion control materials on hand.

Commissioner Franklin asked about the current state of the ground where the six inches of stone will be placed. Mr. Seaberg said that it is a grassy area with a small planting bed. They may remove some of the existing soil to make sure the crushed stone layer is level. Commissioner Franklin was concerned about runoff in this area once the ground is disturbed and doesn't want this project to establish a slope away from the property. He asked whether the soil under the stone will be disturbed, and Mr. Seaberg said yes. He also requested that the stone will be installed lower than grade to allow water to infiltrate instead of running off, which Agent Penella said will have to be a special condition.

Commissioner MacFarlane asked if the plants currently in place will be removed. Agent Penella said that the plants have already been cut down to the ground, with no soil disturbance.

VOTE: Commissioner Franklin made a motion to close the hearing, seconded by Commissioner MacFarlane. PASSED 5-0-0.

VOTE: Commissioner Franklin made a motion to issue Order of Conditions, with special conditions as discussed, approving the project. Seconded by Commissioner Kozodoy. PASSED 5-0-0.

3. 20 Marion Drive (1 Royson Drive): Request for Amendment to Orders of Conditions – continued from an earlier date.

Chairperson Vendetti continued a public hearing to discuss the Request for Amendment to Order of Conditions (RAOOC) on 1 Royson Drive, formerly known as 20 Marion Drive. Agent Penella summarized the updated peer review findings submitted by Horsley Witten Group on November 6th, which found that the applicant has not demonstrated compliance with the riverfront area performance standards, all alternatives have not been considered, and recommended the rain garden as the best solution to address the roadway runoff. Agent Penella isn't convinced by these findings, because the reviewers didn't know that Royson Drive was privately owned by the applicant and thus didn't consider all alternatives.

Amy Ball and Janet Bernardo of Horsley Witten Group said that knowledge that Royson Drive was privately owned would likely have changed their recommendations. They also said that the applicant needs to provide mitigation at a 1:1 area ratio, which the current plan does not do, because the rain garden is closer to the riverfront area than existing conditions. Part of the applicant's proposal is to cut the pipe from the existing catch basin and put it into a forebay, and to put the existing paved waterway into a forebay which

overflows into a rain garden that will eventually discharge into the river in a way that is unclear to the reviewers. The site has a lot more runoff than was likely anticipated, so the applicant needs to consider further action on the north side of the road especially because of the sediment washing into the road. Suggestions included installing rain gardens on the north side of the road and installing erosion control and sediment basins during construction. A water quality unit can also be added to the existing catch basin. The applicant has claimed that, once the infiltration galleries are finished, there won't be further pooling and sedimentation issues, which Ms. Bernardo agreed with. However, it is hard to know for sure, and Agent Penella emphasized the importance of taking care of this issue before the project is finished, as it will be more challenging to fix down the road. Commissioner Kozodoy said that the approved Orders of Conditions are not being followed. The Commission must protect the riverfront, which is a resource area and not a buffer zone, and thus needs the best solution to mitigate it. Agent Penella said that the RAOOC has improved, because two rain gardens are now being proposed instead of the one that was on the original RAOOC, but it is still unclear if the gardens are the best option. Commissioner Franklin stated that the proposed design doesn't address all the issues, and an update is needed based on the peer review. Commissioner Kozodoy agreed.

Adam Brodsky, legal representative for the applicant, stated that this portion of the site is considered previously developed riverfront area, and thus subject not to 310 CMR 10.58 (4), which covers undeveloped riverfront area and requires an alternatives analysis, but to 310 CMR 10.58(5), which deals specifically with redevelopment. He read sections of 310 CMR 10.58(5), which discuss the requirements for development in degraded riverfront area, including stormwater management and proximity to the resource areas. He re-asserted that the stormwater management issues being discussed are temporary and only occurring because construction is ongoing.

Commissioner Franklin asked Agent Penella if Attorney Brodsky's citation of and comments about the WPA as it relates to this project were provided to the Commission in writing, which they were not. Commissioner Franklin told Attorney Brodsky that any legal arguments brought before the Commission need to be provided in advance, so the Commission has enough time to review them, with input from Town Council if needed. Commissioner Kozodoy said that Town Council has attended meetings about this property in the past, and she would like them to attend in the future. Commissioner MacFarlane pointed out that there are requirements for erosion and stormwater control during construction which are not being met regardless of Attorney Brodsky's arguments to the regulations. Agent Penella said that references to the regulations are allowed during meetings, and the Commission can always continue if more time is needed to consider those arguments. Commissioner Kozodoy said that during the original NOI filing, there was

a condition that no activity could occur on the side of the street closer to the brook. Attorney Brodsky corrected her, saying that there could be no activity in that area unless an amendment is filed, which they are doing with this filing. Attorney Brodsky also clarified with the Commission that he was not trying to offer any opinions or legal arguments with the regulations and was just using them to clarify certain issues.

Pine duBois, Executive Director of the Jones River Watershed Association and member of the public, was invited to speak. She stated her concern for the degradation of Smelt Brook from this property, and asked who owned the culvert under Marion Drive. Pine reminded those in attendance that Smelt Brook is connected to the Jones River, which is the target of a great deal of ecosystem and habitat restoration work. She stated that the dam at Foundry Pond is no longer necessary and the culvert under Marion Drive is too small. Most of the site has historically been affected by cranberry agriculture, and Smelt Pond and Smelt Brook are degraded ecosystems that have lost migrating fish populations. She emphasized the need to view this Brook as a living ecosystem and asked for restoration to be considered on this site.

Rick Grady from Grady Consulting spoke next to discuss the issue of ponding on Royson Drive. His plans propose lowering the grade adjacent to the paved swale in a sediment forebay, which will remove the puddle, adding the rain garden to increase stormwater infiltration, and adding a passive naturalization area of the same size as the area disturbed for the rain garden. He re-iterated their opinion that this area is previously disturbed, so they are not getting closer to the resource area. He discussed their responses to the HWG peer-review, including adding a swale and another rain garden on the north side of Royson Drive. He also believes that, if this infrastructure was already in place, past discharges (including the September release of stormwater) would not have happened. Commissioner Franklin asked if changes have already been made in response to the peer review, and Mr. Grady said yes, the work on the north of the road was added. Agent Penella asked if all the water from the September 25th rain event would have been contained if all of these measures were in place. Mr. Grady said that it would have been, which Agent Penella found hard to believe due to the volume of water coming off the site. Mr. Grady did acknowledge that he wasn't on site during the September rain event, and that there is a need for erosion control during construction.

Commissioner MacFarlane asked about the water that comes off the paved swale. Mr. Grady said that the water that comes over the swale will flow overland and enters the river. Agent Penella said that there is also a clogged pipe running from the catch basin. HWG recommends to cap and leave the pipe in place, having the water flow into and out of the rain garden and overland as necessary. Commissioner MacFarlane asked whether the

swale can be turned into a rain garden, and Agent Penella and Mr. Grady said that the proposed rain garden will start at the swale. Agent Penella said that he thought he saw a catch basin in that area at one point, but it's not on the plans. Mr. Grady said that the discharge pipe from the catch basin is confirmed by a camera view to be clogged and broken. Mr. Grady, Agent Penella, and the Committee discussed different options for the pipe, including moving it to discharge in the location of the invasive olive tree that is scheduled for removal, or capping it and letting the water flow overland as suggested by HWG.

Commissioner Franklin asked Agent Penella what information the Commission needs to feel confident in approving a plan for this amendment request. Agent Penella suggested asking for updated recommendations from HWG and taking more time for the Commission to review Attorney Brodsky's talking points with Town Council.

Mr. Grady asked for specific clarification on the Commission's preference for handling the discharge pipe from the catch basin. Ms. Bernardo said that in the original peer-review letter, they suggested an overflow weir with a v-notch to allow water to rise in the rain garden and flow overland, which was not shown on the revised plans but is HWG's preferred solution. Commissioner Franklin suggested continuing the hearing to the next meeting. Agent Penella asked what information is expected before the next meeting. Mr. Grady said that he will update the plans based on the peer review and tonight's discussions. Commissioner Franklin asked Mr. Grady to coordinate with Agent Penella and HWG to make sure the plan meets all the discussed requirements. Commissioner Kozodoy said that this expected plan will meet the special condition in the NOI that work in the riverfront area only be approved with good cause. Mr. Grady said that the good cause is solving ponding on Royson Drive, and Commissioner Kozodoy agreed but just wanted to ensure that all alternatives suggested in this discussion and in the peer review were considered.

Ms. Ball pointed out that the current grading of the lawn areas south of the buildings will cause water to run into the road, which doesn't match the stormwater calculations or the plans approved under the original Order of Conditions. Water coming off of these areas is not included in any of the catchment areas.

Commissioner Payne asked whether the Commission is asking HWG for a written update to the peer review to reflect tonight's discussion, and Commissioner Franklin said that they are.

VOTE: Commissioner Franklin made a motion to continue the meeting to December 10, 2025, seconded by Commissioner MacFarlane. PASSED 5-0-0.

4. 127 Wapping Road (Map 52, lot 5): Notice of Intent for demolition of a single-family house and cesspools, and construction of a new single-family house with a septic system, retaining walls, site grading, and paving, within the 100' buffer to Bordering Vegetated Wetland and the 200' Riverfront Area to a perennial stream.

Chairperson Vendetti opened a public hearing to discuss the Notice of Intent (NOI) at 127 Wapping Road. Commissioner MacFarlane said that this property is across the street from her sister's house, and asked if she should recuse herself. Agent Penella said that, as long as this information won't affect her decision-making, she doesn't have a financial stake, and isn't a direct abutter, then she doesn't have to.

Pat Brennan from PGB Engineering, representative for applicant David Gasse, presented the proposed work. The parcel is 22 acres with an existing house, garage, shed, and debris. There are wetlands on both sides of the property, including a perennial stream on the west side. The work proposes to raze the existing 3-bedroom house and construct a new 3-bedroom house in its place. The site has very high groundwater (approximately 28" deep). The house has 2 cesspools that are in the water table, as is the basement of the house. The basement of the new house will be at least 2' above ground water, almost at existing grade, so fill is needed. The existing house is about 12' away from the closest wetland, and the new house will be constructed 20' further from the wetland boundaries. The house area is essentially surrounded by wetlands, so all work is within the buffer zone. The house will be constructed in the 200' riverfront area, but is outside of the 100' riverfront area. The septic system will be put in place in front of the house in the location of one of the existing cesspools. The system is a minimum of 50' off the wetlands, and will be raised with fill to separate it from the groundwater. To reduce the amount of fill needed on the property, they are proposing a retaining wall off the corner of the house. The septic system is a GeoMat system, an alternative system that provides better treatment than a conventional septic system and allows for reduced separation between the system and groundwater and the system and house foundations. Because the new house will have the same number of bedrooms as the existing house, the Board of Health has classified it as a septic repair, instead of a replacement under Title V. There are 2 large trees in front of the house that have been identified to have substantial decay so they want to remove them. There is a garage that needs to be repaired. The applicant doesn't plan to work on the garage anytime soon, but Agent Penella suggested adding it to the filing if they planned to work on it in the next few years. They are also proposing to extend the paved driveway to connect under the house. The applicant is requesting four variances, including driveway paving within the 30' buffer zone, placement of one of the posts for the back deck in the 40' buffer, and placement of the house foundation and retaining wall, which is over 4' tall, in the 50'

buffer. There are few options to move the house out of the setback areas because of the layout of wetlands on the site, and they want to construct the new house roughly within the footprint of the existing house. He pointed out the erosion control areas on the site.

Agent Penella said that it is not clear if the proposed septic system constitutes an increase in flow, and pointed out that no mitigation was shown for the requested septic variance. He discussed some of the Commission's options on this application, including continuing the hearing and giving them more time to show mitigation for the requested variances, approving the project under the WPA but not under KWPR, or denying the application. Agent Penella said that the wetland lines have not been confirmed. It is challenging to confirm these wetland lines because the property has been developed for a long time and there is a lack of vegetation, so he is planning to meet with the wetlands scientist on site. He recommends continuing the hearing at the very least to confirm the wetland lines. The application said that there are no vernal pools on the site, likely just meaning on the work site, but Agent Penella pointed out two potential vernal pools on the northwestern and northeastern property lines. The pools and their buffer zones are outside of the proposed work area. The two trees in front of the property may be historic and while they appear to have structural issues that may cause property damage, they also show some evidence of growing. The agent recommended having a certified arborist look at them and write the Commission a letter with recommendations. The proposal stated that the only jurisdictional work on the garage is clearing vegetation behind the building to make room for any work, though the agent disagrees. The Agent doesn't have any evidence that the garage predates the WPA or is legally permitted, though the representative provided aerial imagery from 1971 that may show the garage that the agent hasn't reviewed yet. There is no grandfathering of structures under wetlands law, but the Commission can decide what types of work, including removal, would be permitted with this garage. The applicant will have to show that any proposed garage work is the least impactful option, and will likely require a variance due to its extremely close proximity to BVW. The Agent said the property likely doesn't fall under agricultural exemptions, because those exemptions only apply to land farmed for commercial use within a 5-year window and the applicant has said that the house on this property has been vacant for about 10 years. The applicant has already started cleaning junk from the site, including taking down trees, within jurisdictional areas, and the Agent reminded him that most work on this property will require a permit. The Agent also does not necessarily agree that there is no increase in flow to the proposed septic system from the Conservation Commission's point of view. The property has been abandoned for years if not decades, and the new house will likely have increased water use through modern appliances like washing machines and dishwashers. He reminded the Commission that Title V is not relevant under the WPA or KWPR. Agent Penella also pointed out that the applicant has not provided any mitigation for pollution from the

proposed septic system, only the GeoMat system that is in place just to mitigate the effects of high water. The Agent recommended that the applicant could consider adding agricultural use to this filing for parts of the property, as it is considered to be in a natural condition at this time despite evidence of historic use. The proposed house and septic systems are further from the wetland areas than the existing house and cesspools, and are better than the existing conditions. The applicant has requested four variances, and may need more, but hasn't provided mitigation besides moving the structures further from resource areas and groundwater.

Commissioner MacFarlane asked about the trees, and Agent Penella said that they are basswood trees each with large, visible holes going through them.

Commissioner Franklin expressed his opinion that this project does not constitute a septic repair, because they are building a house and septic system in a new location and the buyer agreement stated that the cesspools had already failed. Commissioner MacFarlane agreed that the house is currently unlivable. Commissioner Franklin stated that the proposed septic system is only an alternative technology as pertains to the leeching field, not for removal of bacteria, nitrogen, or other pollutants, so he would not approve its placement within the 100' buffer and so close to groundwater without further mitigation. The Commission can only grant a variance if there are no increased impacts to the resource areas. Commissioner Franklin suggested giving the applicant more time to provide a better plan for the septic system.

VOTE: Commissioner Franklin made a motion to continue the hearing to November 20, 2025, seconded by Commissioner Kozodoy. PASSED 5-0-0.

CLOSING REMARKS

Chairperson Vendetti made closing remarks at 9:20 p.m. The next meeting will be held on November 26, 2025, starting at 6:30 p.m. in Room 200.

VOTE: Commissioner Kozodoy made the motion to adjourn, seconded by Commissioner MacFarlane. PASSED 5-0-0.

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