



## **Conservation Commission Meeting Minutes Wednesday January 26, 2022**

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

**Present:** Kalina Vendetti (Chairperson), Jim Franklin (Vice-Chair), Dorothy MacFarlane, Glen Duffy

**Virtual:** Buz Artiano, Megan Hickey

**Absent:** Dana Duperre

**Staff:** Matt Penella, Conservation Agent  
Mike Perrin, Assistant Conservation Agent

**Location:** Town Hall Offices Room 200

**Commission Meeting Opened:** 6:30 p.m.

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**Chairperson Kalina Vendetti:** The time is 6:34pm, the date is Wednesday January 26, 2022, 2021. Commissioners Buz Artiano and Megan Hickey are attending virtually. Megan is joining later. According to Open Meeting Law, Buz and Megan can still vote, but all votes will need to be held as rollcalls. We will now vote to open the meeting.

**VOTE:** PASSES 5-0-0 (Dot, Jim, Glen, Buz, Kalina)

**Kalina:** Please note we are doing a hybrid meeting with in-person and virtual attendance. If a member of the virtual public would like to make comments during a public hearing, please use the "raise hand" function on Zoom, and you will be assigned a speaking time. If you are listening in via Telephone Dial-In, press     \*9 to raise your hand, and then press     \*6 to unmute yourself. This meeting is being recorded by PacTV and a record of this meeting will be posted on the Kingston town website as soon as we are able. Anyone intending to make an audio or video recording of this meeting should notify the Chair at this time.

### **BUSINESS:**

#### **I. Signing Documents**

**Kalina:** Will the Agent please brief us on what needs to be signed?

**Matt:** We have bills for Environmental Partners Group MS4 support, printing of our CPC applications, 53G for Off Winter, and Forestry Suppliers.

#### **II. Action Items**

a) 24 Wapping Road COC

**Kalina:** Will the Agent please provide an update regarding the Request for COC for 24 Wapping Rd?

**Matt:** This is all set. I have been working with them for a few months. There was one issue, being as section of lawn where seed was not growing fast enough. I suggested installing biodegradable erosion control and they would be all set. This has been done.

**VOTE:** Jim makes a motion to issue the COC.

b) MassTrails Grant

**Matt:** We are preparing a grant for the MassTrails Program that covers the same trail renovation and signage work submitted to CPC. We have a signature page in support of the application for the Commission to sign.

c) Neighborhood Outreach Grant

**Matt:** We are working on this outreach grant to reach out to landowners to discuss conservation options.

**Jim:** What kind of options?

**Mike:** I will be going through parcels in town and identifying priority parcels. These landowners will receive a mailing highlighting conservation options. There will also be an in-person workshop. We will create the mailing to show conservation options.

**Jim:** I think this is worthwhile.

### iii. Enforcement

a) 29-31 Main St

**Kalina:** Can the Agent please update us on the situation at 29-31 Main St?

**Matt:** There is not much of an update. The work is on hold due to the weather, but the contractor is ready to work when conditions allow.

b) May Ave/Post Ct

**Kalina:** Can the Agent please update us on the situation at May Ave/Post Ct?

**Matt:** We have gone through the restoration plan in previous meetings. I took a close look at the documents provided by Brad Holmes, the Representative. Barring any questions, I would recommend the Commission vote to issue Enforcement Orders to approve and set the guidelines for this restoration work. Revisions will be made to the previous Order to account for completed work and guide future effort such as monitoring.

**Brad Holmes, ECR:** I do not have any objections. We have been working together and I support what he has recommended.

**Buz:** I just wanted to share that Brad has done work for me not relating to this project and I do not see a conflict.

**Kalina:** The Commission agrees, thank you.

**Jim:** I make a motion to issue the Enforcement Orders as stated.

**MOTION:** Jim makes the motion, Dot seconds. PASSES 5-0-0.

c) 97 Main Street

**Matt:** With some digging, we found that DEP reported the same issues a few years back while inspecting an oil spill resulting from a car crash. DEP tied in Conservation and Health. Conservation issued a Notice of Violation, but from what we can tell, there was no response. We reached out to DEP and they said they would provide more information. The property was recently sold as well.

**Jim:** We expect to get in contact?

**Matt:** Correct.

**Jim:** Would the Registry have it?

**Matt:** We can check for sure. We are waiting for the info from DEP.

**Jim:** The landowner would assume obligation, correct?

**Matt:** Correct.

**Dot:** Is the issue the spill?

**Matt:** No, DEP already investigated the spill caused by a car crash. These are dumping issues.

**Jim:** When do we start the clock and follow the protocols?

**Matt:** We are waiting on the info from DEP so we have all info together before approaching them.

#### IV. Minutes

**Kalina:** Will a commissioner make a motion to accept the meeting minutes from January 12, 2022 as they are presented?

**MOTION:** Jim makes the motion, Dot seconds. PASSES 5-0-0.

**Kalina:** Will a commissioner make a motion to accept the meeting minutes from January 18, 2022 as they are presented?

**MOTION:** Jim makes the motion, Glenn seconds. PASSES 4-0-1, Dot abstains.

#### V. Updates

a) 11 Wapping Rd Earth Removal

**Kalina:** Dot recuses herself from this issue.

**Matt:** I had a meeting the other day with the Applicants, the Town Planner, and the Town Administrator. We discussed the revised plans, but they did not address all the Commission's edits. I suggest the Commission vote to approve the plan as long as all requests are met.

b) Grays Beach CZM Grant

**Matt:** We received notice this week that we received grant funding for stormwater management, including replacing some pavement with rain garden. The garden club said they would be willing to help.

**Kalina:** Thank you, Matt, on behalf of the Commission.

c) Ring Rd Bogs ROFR

**Matt:** I heard from the solar company that they are still waiting on comments from their financiers on the Conservation Restriction draft and we should hear from them by the end of the week.

## **PUBLIC HEARINGS:**

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### **Section A – 79 Elm St (Map 55, Lot 7)**

**Kalina:** The time is 7:01PM. I open a hearing for 79 Elm St for an Abbreviated Notice of Resource Delineation. The Applicant is Yeshayah Bust and the Representative is Bradley McKenzie of McKenzie Engineering.

**Buz:** I want to disclose again that both Brad Holmes and Brad McKenzie have done work for me recently not relating to this project and I do not see a conflict.

**Brad Holmes, ECR:** I am assisting with this ANRAD application. Matt joined me for a site walk to assess the wetlands flags and we made three or four revisions, which are reflected in the updated ANRAD delineation. There is no work associated with this filing. We are looking for approval for the A series wetland.

**Matt:** Specifically, the applicant was looking for approval of the A series wetland. It was slightly revised while on my site visit with Brad. Other potential resources within the BVW would need additional delineation during future filings. The undeveloped area is priority habitat set by the National Heritage Program, and there are vernal pools on abutting properties. For a recommendation, I would suggest the Commission issue an ORAD confirming the A Series wetland (BVW). Apparently, the B series is not within proximity to the applicants plans. There could be vernal pools and an intermittent stream within the BVW, so any future filings require delineation of these potential resource areas, as the 200ft riverfront buffer might need to be applied.

**Jim:** How can we make sure the potential vernal pool is accounted for in future filings?

**Matt:** If language is included in the ORAD and a plan comes through later down the line that references the ORAD for delineation, the Agent will find this when looking at the ORAD.

**Jim:** I ask that we have further discussion noting that.

**Brad:** I think you would be covered with the language as presented by Matt.

**Matt:** Here is the plan. The vernal pool would be inside the BVW, so the BVW buffer would stretch further than the vernal pool buffer, thus protecting both resource areas.

**Jim:** Thanks, this is clearer and I am ok with issuing the ORAD as presented. I make the motion to issue an ORAD.

**VOTE:** Jim makes the motion, Dot seconds. PASSES 5-0-0.

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### **Section B—114 Country Club Way (Map 73, Lot 4-114)**

**Kalina:** The time is 7:11PM. I open a hearing for 114 Country Club Way. The applicant is Kevin Tonsberg, CAO Realty Trust and the Representative is Brad Holmes, Environmental Consulting & Restoration, LLC. A Notice of Intent (NOI) was submitted for single family home improvements consisting of deck, house bump outs, garage, retaining walls, patio, fencing, and more within the buffer zone. Does the representative have any comments?

**Buz:** Is Kevin Tonsberg the landowner?

**Brad Holmes, ECR:** I believe so, but I have not dug into ownership.

**Buz:** I raise this because I am not sure if he has standing to submit this filing, because last time the property was owned by someone else. I would like this to be confirmed.

**Kalina:** We should ensure that Mr. Tonsbrg is indeed the landowner before continuing with any discussion.

**Brad:** Is it possible to check the assessor's data right now?

**Mike:** It appears CAO purchased the property in 2021 and Kevin is listed as a co-owner.

**Buz:** I am satisfied, thank you.

**Brad:** There is currently an open Order of Conditions for the construction of the home and restoration work. There were some additions added that did not match the plan, so an additional NOI was submitted following the general order instructing Applicants to ask the Commission how to proceed, which they asked the Applicant to file.

**Buz:** I want to clarify that this general condition asks Applicants to approach the Commission before changes to the plan are made, not after like the case here.

**Brad:** The additions that were not permitted were two small overhang bump-outs at the back of the home, a 28x12' deck, a garage, and a retaining wall leading to the garage. The NOI has been submitted to include those changes. These occur within the buffers of an isolated vegetated wetland and a vernal pool within the IVW. Most of the work is outside of the vernal pool buffer, with the deck as an exception of 128sqft. I met Matt and the Applicant on site to discuss mitigation, and this resulted in submitting a new plan with two drywells. The deck is about 12ft off the ground and the patio below is pervious dirt and will be left as such or gravel; if we wanted to change this, it would be outside the 100ft buffer to the vernal pool. We are looking for the Commissions comments and hopefully their approval to proceed with the permitting of these structures and the addition of the drywells.

**Matt:** There is a lot of history behind this project and property. I informed Brad that this hearing would likely be more of a conversation than anything because I want more time to review, and I want to gather more historic info. To start discussions, we pulled out a few revisions. We need to see when the wetlands were delineated and the property lot & number on the plan. Beyond these, we need to see the design and location of the fence and the design of the patio before permitting. Calculations of impervious coverage conversation should be provided depending on the design of the patio. There should be dialog showing the project will not impact the vernal pool, and some with the fence not blocking wildlife movement. Aside from this, these structures would be permissible. This is an unusual case because the OOC issued for the restoration allows encroaching on the 100ft buffer envelope for the vernal pool, which we would like to avoid in most cases, but the former Commission approved only 80ft and remaining 20ft as lawn.

**Buz:** I suggest we contact former Commissioner Jim Parker about this, as he was heavily involved in the permitting process. My problem with this application is that it was made clear to the applicant during the previous OOC that no further work could be done behind the house, which is what occurred and is in front of us after-the-fact right now. I would like to do a site walk to see the conditions.

**Jim:** I would also like to do a site visit. There is documentation back to the 90s. The document shows the vernal pool locations, and the Applicant even tried to de-certify the vernal pool. The vernal pool location was known by the Applicant. It was clear in the previous OOC that the Applicant would need to come to the Commission before doing work, not after. These appear to be a cumulative action, so this should go into our decision making. We did not see any variance either.

**Matt:** They might not need a variance; this will require more research on our end.

**Jim:** Our regulations do state that the Commission may require the 100ft vernal pool envelope as a 100ft no-disturbance zone.

**Matt:** Additionally, a few of us looked back in the minutes regarding the last situation to find language stating that the Applicant cannot do any work off the back of the house, and we have not been able to find this language.

**Julie Johnson, abutting neighbor:** I have been involved in this situation and with the Applicant for awhile, and have come before the Commission regarding my own property; it seems that the frequent change over leaves only Buz and Dana with previous involvement. I would be upset if the Applicant gets any leniency. I bought my house from the Tonsberg's in 2017 and the

presence of the vernal pool was not disclosed to me. I had a lawyer and there was nothing listed on the deed, only them telling me about it. I received an enforcement order about a month after purchase and went through lawsuits and much of my time. The Commission would not grandfather me in, so I lost 30% of my usable land and lost much property value, and the Tonsberg do not care. They put an unpermitted patio up, which has since been removed, and put a deck up, and now they are moving in next to me. The negligent behavior irks me and the lack of action from Commissions is aggravating. Also, there is incorrect information for the septic system, which does not have the property or necessary inspection by DEP. I sent this information to a few people and they said it was fine, but I do not think it is fine. Both septic systems are next to the vernal pool and this bothers me.

**Buz:** Have we seen the septic as-built for 114?

**Matt:** Yes. The Health Department checked with the engineer, and they said this was all set and it was out of our jurisdiction.

**Julie:** The engineers work for the Tonsberg's and the Health Agent does their pool; they are employed by the Tonsberg's so they could say what you want to hear.

**Matt:** I understand how this works. The Health Department checked with the engineer who stamped the plans. What I heard from other town departments, there is no way we can require the Applicant to dig up the septic to confirm.

**Julie:** These are state regulations and fines.

**Matt:** There is a well-defined pattern of behavior here. We have records in the Enforcement Order from 2015 to present. There is nothing showing a pass, for anyone. There is no language in the bylaws or regulations for repeat offenders, and we must remain unbiased. There is no special treatment.

**Julie:** What about the deck?

**Matt:** That is what we are discussing tonight.

**Jim:** We have not given any indication that we or anyone is providing special treatment. We must follow the bylaw and regulations, which we will do.

**Kalina:** Thank you for sharing your information and perspective to the Commission.

**Pine duBois, Jones River Watershed Association:** Back in the 80s or 90s, I saw the vernal pools and hundreds of spotted salamanders. My concern is not the structures, but the lawn and potential for fertilizer and pesticides.

**Megan Hickey:** I would like to see clarification about access to the garage, as no driveway is shown in the plan. The Representative said that the ground would stay as dirt, but this cannot be the case, so we must see this for ourselves. Julie, we hear your frustration, and we are here to help protect the wetlands.

**Glenn Duffy:** There are dry wells in the current plan, is this to mitigate impact?

**Matt:** Yes. The whole lot slopes towards the wetlands. The retaining wall outside of our jurisdiction helps. From the previous OOC, there will already be impacts to the resource area from the house and lawn in the vernal pool envelope, but this could be an opportunity to mitigate some of this.

**Brad:** To address Megan's concern, I may have misspoken and said the area in question would be dirt, but this is not the case. The area in the backyard is permitted as lawn, and the area underneath the deck is dirt. Anything that is not lawn, like gravel leading to garage, or any reduction of lawn, is a good thing in my opinion. Any changes to this would be a filing.

**Mike Perrin:** I do not see on the plan details of what the material will be under the deck. Can you please provide this?

**Brad:** I am happy to. It would certainly be a pervious patio underneath. I can include this on the plan.

**Kalina:** I think we should continue to set up a site visit. This would be February 9<sup>th</sup> Section C. Does the Commission approve the need for a site visit?

**Commission:** Agrees a site visit is needed.

**Buz:** I make a motion to continue this hearing to February 9<sup>th</sup>.

**VOTE:** Buz makes the motion, Jim seconds. PASSES 6-0-0.

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**Section C– Foundry Pond Drive**

**Kalina:** The time is 7:56PM. I re-open a hearing for the Foundry Pond Drive matter. At the last meeting, it was stated that this hearing would be re-opened tonight. This was incorrect. The applicant previously requested to February 23rd, not January 26th. We will now move on to the next hearing.

**VOTE:** Buz makes the motion, Jim seconds. PASSES 6-0-0, roll call.

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**Section D – 1-13, 1-15 Old Orchard Ln (Map 59, Lot 53)**

**Kalina:** The time is 7:57PM. I re-open a hearing for 1-13 & 1-15 Old Orchard Ln for the repair of a sea wall within 100' of a coastal resource area. The Applicant is Mark Guidoboni and the Representative is Adam Brodsky.

**Mark Guidoboni, Applicant:** I am here with a proposal from the Woods Hole Group for the peer review we discussed on August 11. I have provided the funds to Matt to start the clock. I have no issue with the amended request, as it meets the scope as discussed.

**Matt:** Mr. Guidoboni felt that the bid may have been for services beyond what we requested in our request for proposals. We had Mark's lawyer issue a letter saying that, and Woods Hole Group returned with a revised proposal that he believes does fit the scope. I want to add a disclosure that Mitchell Buck of Woods Hole Group informed us from the start that someone who works at WHG lives on the premises. It is not anyone doing the work, but a coworker of the coastal engineer. I personally do not see that as a conflict of interest. If the Commission is fine to go forward with this, the Commission can vote in approval of the peer review and we can go forward from there.

**Jim:** Is the disclosure that Mitch provided in writing?

**Mark:** Yes, it is in the document I am providing and signing.

**Matt:** Great. The timeline was set at 6 weeks, but we are pushing for as soon as possible in case any construction needs to be done; construction should be done in the winter months.

**Mark:** Continuance to March 9 should be good.

**Glen:** Can you explain the 6 weeks please?

**Matt:** When asking for quotes, we also ask for a timeline and completion deadline. This would provide the Commission with an idea of where to continue.

**Dot:** I make a motion to accept the amended contract.

**Mark:** I agree.

**VOTE:** Dot makes the motion, Jim seconds. PASSES 6-0-0.

**Jim:** I make a motion to continue the hearing until March 9<sup>th</sup>.

**VOTE:** Jim makes the motion, Megan seconds. PASSES 6-0-0.

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**Section E – 48 Howland’s Ln (Map 48, Lot 17)**

**Kalina:** The time is 8:04PM. I re-open a hearing for 48 Howland’s Lane. The applicant is Scott Cohen of Wrentham Woods LLC and the representative is Theo Kindermans of Stantec. The applicant has requested continuance until February 9<sup>th</sup>, 2022.

**Matt:** No comments. This is ongoing peer review.

**Jim:** For our reference, it is written that we can continue anything we do not receive a week before the meeting.

**VOTE:** Jim makes the motion, Dot seconds. PASSES 6-0-0.

**CLOSING REMARKS**

**Kalina:** The next meeting will be held on February 9<sup>th</sup>, 2022 at 6:30PM. The time is 8:08PM. Will a Commissioner make a motion to adjourn the meeting?

**MOTION:** Dot makes the motion, Jim seconds. PASSES 6-0-0.

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**Prepared by:** Michael Perrin, Assistant Conservation Agent, Conservation Department

**Approved by Conservation Commission:**

**Materials Presented at Meeting:**

- Agenda
- Agent/Staff Notes
- Applications, plans, and relevant documents associated with the public hearings and discussions
- Meeting Minutes subject to review and approval





**TOWN OF KINGSTON**  
**NOTICE OF MEETING**

**BOARD:** CONSERVATION  
COMMISSION

**MEETING LOCATION:** Room 200

**DATE & TIME:** January 26, 2022  
6:30 p.m.

**AUTHORIZED SIGNATURE:**  
Michael Perrin, Assistant  
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.

The Commission requests that all members of the public attend virtually. All Commissioners, Applicants, and Representatives are asked to attend in-person. To access the meeting remotely, please use the following instructions:

To access via Zoom:

<https://pactv.zoom.us/j/93546722040?pwd=eitwaksyQm9oWW1xMFlhL0tob110OT09>

**Passcode:** 403139

Or Dial-In by Telephone:

**US:** +1 301-715-8592

**Webinar ID:** 935 4672 2040

**Passcode:** 403139

**AGENDA**

**BUSINESS 6:30 p.m. – 7:00 p.m.**

1. Signing Documents
  - Bill for EPG MS4 support
  - Bill for We Print Today
  - Bill for Mark Casey
2. Action Items
  - 24 Wapping COC
  - MassTrails Grant
3. Enforcement
  - 29-31 Main St
  - May Ave/Post Ct
  - 97 Main St
4. Minutes:
  - January 12, 2022
5. Updates:
  - 11 Wapping Rd Earth Removal

**PUBLIC HEARINGS:**

**Section A – 79 Elm St (Map 55, Lot 7)**

Applicant: Yeshayah Bust; Representative: Bradley McKenzie. Abbreviated Notice of Resource Delineated (ANRAD) to confirm the delineation of wetland resource areas located in one parcel.

**Section B– 114 Country Club Way (Map 73 Lot 4-114)**

Applicant: Kevin Tonsberg, CAO Realty Trust. Representative: Brad Holmes, Environmental Consulting & Restoration, LLC. Notice of Intent (NOI) for single family home improvements consisting of deck, house bump outs, garage, retaining walls, patio, fencing, and more additions.

**Section C – Foundry Pond Dr (Map 58, Lot 92-4 & 92-6)**

THE APPLICANT PREVIOUSLY REQUESTED CONTINUANCE UNTIL FEBRUARY 23, NOT JANUARY 26 AS INCORRECTLY STATED IN JANUARY 12<sup>TH</sup> MEETING.

**Section D – 1-13, 1-15 Old Orchard Ln (Map 59, Lot 53 & Map 59, Lot 53-3)**

Applicant: Mark Guidoboni; Representative: Adam J Brodsky, Esq. Request for Amendment to Order of Conditions (R. Am. OOC) for DEP Filings SE 037-0869 and SE 037-0854 to repair a sea wall within 100 feet of a coastal resource area.

**Section E – 48 Howland's Ln (Map 48, Lot 17)**

Applicant: Scott Cohen; Representative: Theo Kindermans, Stantec. Notice of Intent (NOI) to construct a new 36-unit residential housing development within 100 feet of a wetland resource area.

**NEXT MEETING: February 9, 2022 @ 6:30PM**

**PLEASE NOTE THE MEETING WILL BE AUDIO RECORDED.  
OTHER BUSINESS NOT REASONABLY ANTICIPATED WITHIN 48 HOURS**

The Town of Kingston advises its employees and the public that it does not discriminate on the basis of 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](mailto: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: 1/26/22

NAME	INTEREST	ADDRESS
Brad Holmes	114 CCW, May Ave 79 Elm	ECH
John [unclear]	110 Elm	
Michael O'Connell	79 Elm	
Katherine Kiefert	79 Elm	
Mark Gendron	1-15 Old [unclear]	CH

