

Approved + Finalized 6/8/22



Conservation Commission Meeting Minutes Wednesday April 27th, 2022

Town of Kingston
26 Evergreen Street, Room 203
Kingston, MA 02364

Present: Kalina Vendetti (Chairperson), Jim Franklin (Vice-Chair), Dorothy MacFarlane, Glen Duffy, Megan Hickey, Vittorio 'Buz' Artiano

Virtual:

Absent:

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

Location: Town Hall Offices Room 203

Commission Meeting Opened: 6:30 p.m.

Chairperson Kalina Vendetti: The date is April 27th, 2022. The time is 6:34pm. We will now vote to open the meeting.

VOTE: PASSES 6-0-0.

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: Two bills for Environmental Partners Group. Two bills for WB Mason for office supplies. A bill for Woods Hole Group for Old Orchard peer review. A bill for the gates for Camp Nekon. We also have the Order of Conditions with special conditions, KWPR only, for 114 Country Club Way, as discussed at the last meeting. Also, four amended Orders of Conditions with special conditions for 1-15 Old Orchard Lane, as discussed at the last meeting.

Matt: Before we start, Boy Scout Troop 49 would like to request use of Camp Nekon for a camp and cleanup event this Saturday. I am planning to meet them there for the cleanup. This

consists of camping outdoors and a small campfire. I informed the fire department. They need commission permission for use of the property.

VOTE: Buz makes the motion to grant permission to Troop 49, Jim seconds; PASSES 6-0-0.

Glen: Question on the 114 Country Club OOC. What is the process of removal of the repurposed asphalt?

Matt: The removal of the repurposed asphalt and replacement with crushed stone was written into the most recent plan. Having this on the plan covers the work. We specify in the special orders that the area can be replaced with crushed stone, or converted to lawn or natural state, allowing the homeowner to remove the driveway in the future.

II. Action Items

Kalina: There are no Action Items on the agenda for tonight. We will move on to enforcement.

III. Enforcement

a) 29-31 Main St

Kalina: Can the agent please brief us on the situation at 29-31 Main St?

Mike: I spoke with Mr. Mehrmann. No real update. He is still working to get the contractor to do the work. He does have three years to get it done because the work was issued under an OOC.

Buz: I believe the pile has shrunk.

Mike: I spoke with him, and he said no work has been done.

Matt: We can drive by and look.

b) May Ave/Post Ct

Kalina: Can the agent please brief us on the situation at May Ave/Post Ct?

Matt: I reached out to Brad Holmes and told him we should run over what has been done. He did submit a restoration monitoring update. We should do this on-site.

c) 64-70 Summer St

Kalina: Can the agent please brief us on the situation at 64-70 Summer St?

Matt: Darren is here to present the Notice of Intent plan for Sean, the applicant. Darren did submit a plan while I was away. I do not believe this is complete.

Darren Grady, Grady Consulting: I am the representative for 64-70 Summer St. The NOI is not complete. I submitted a partial NOI to the office and wanted to go over some questions with the office. The plan includes the existing conditions of the site. I wanted to ask about a planting plan. I think Monday or Tuesday next week it will be complete.

d) 19 Ring Rd

Kalina: Can the agent please brief us on the situation at 19 Ring Rd?

Mike: I received an update Freeman Boynton of Duxbury Construction, who is doing this first phase of restoration. He informed me that the erosion control was installed today, and the fill was removed from the wetland. The homeowner has until May 27 to get the full restoration plan submitted to the commission.

IV. Minutes

Kalina: Do we have meeting minutes?

Mike: I did not send the minutes from March 23rd to the commission, apologies. I will send the minutes out this week to be looked at by the commission and voted on for the next meeting.

V. Updates

Kalina: There are no updates on the agenda tonight.

VI. Public Hearings

Section A – 50 Independence Road (Map 12 Lot 2)

Kalina: The time is 6:52PM. I open a hearing for 50 Independence Rd for a Notice of Intent received for work associated with the construction of 16 parking spaces within 100 feet of a wetland resource area. The Applicant is Freeman Boynton Jr., of Duxbury Construction. The applicant has requested to continue this meeting until the May 11th meeting. The applicant has requested a continuance until the May 11 meeting.

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

Section B – 88 Ring Road (Map 61, Lot 29)

Kalina: The time is 6:54PM. I open a continued hearing for 88 Ring Road for a Notice of Intent received for work associated with the construction of a home addition, construction of a stone revetment, and associated site grading within 100 feet of a wetland resource area. The Applicant is Alex Darzenta and the Representative is Joseph Webby of Webby Engineering Associates, Inc. The applicant has requested a continuance until the May 11 meeting.

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

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

Kalina: The time is 7:04PM. 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.

Walter Sullivan Esq.: Last meeting the hearing was continued due to a few items in the application that the agent and commission believed were lacking. We wanted to respond to this report. We were not able to meet with the agent or the consultant. Yesterday we submitted revised plans as a response. Due to the lateness of the submission, we would be amendable to a continuance. We would like to work with the commission, agent, and peer consultant to move the project forward. We also need the commission's approval to move forward with the Zoning Board hearing. We would like to take the commission through the revisions.

Buz: The issue as I see it, is that you have not come to us with a clean bill of health from our consultant. Until that happens, I do not think presenting would make sense. The burden of proof is on the applicant, and you know our bylaws. You need to meet the standards of the bylaw. I would recommend working with our peer reviewers to meet the performance standards and come back to present. I do not want to see the project if you do not meet the bylaws.

Walter: I agree. I would like to submit these revised plans to the peer review consultants. I would like our engineers to be able to work with these consultants.

Buz: I agree. I think you should be working with our consultant, so I am on board with that.

Jim: The applicant has had over a year, and I do not think the revisions bring them any closer to fitting the bylaw. The burden is on the applicant to fit the bylaws. I do not agree that the applicant's engineers should work with the peer reviewers because that would put the applicant's interests over the commission's. There have been a lot of issues with the application over this whole time and it has taken the agent and commission a lot of time to go through multiple revisions because the original started at such a low point. This leads to burning out and people missing things, which we, and the peer reviewer, almost did.

Buz: I disagree. I believe the professionals should be able to go back and forth, then we can review his work, especially for a project of this size.

Matt: I believe the peer review process should bring to light issues with of the application, and I do not think the peer reviewer's should directly guide the applicants. I sat in on a few meetings to make sure this was not happening.

Jim: I make a motion that the representatives present the revisions.

Matt: The burden of proof is on the applicant from the beginning. They said they had a quick turnaround time, but the burden has always been on them, for almost over a year now.

Walter: Yes, the burden is on the applicant. We can present now or we can go through peer review.

VOTE: Jim makes the motion for presentation, seconded by Dot; FAILS 1-5-0 (Jim aye)

Matt: I believe the revised plan submitted yesterday is not even close to complete. They removed four units to shift structures outside of the 50' buffer to land subject to coastal storm flowage. It does not show attributes and details that were on previous plans, including accessory structures that are likely still within the 50' buffer to LSCSF, and we are missing a lot. The revision addresses the major issue brought up at the last meeting, but not many of the other issues brought up by the commission.

Buz: It is my opinion that if the hearing is closed and the application is denied, then they will just reapply. I think we should continue and allow the applicant to meet the standards, then come back to the commission with revisions and a clean bill of health from our peer reviewers. I make a motion to continue to allow the applicant to make the proper revisions.

Kalina: There is no second to the motion.

Dot: I make a motion to deny the application.

Jim: Can I make a friendly amendment to the motion?

Dot: Yes.

Jim: As an amendment to Dot's motion, I amend the motion to say that the commission deny the application based on the fact that the applicant has failed to meet his burden of demonstrating to the commission that by a preponderance of the credible evidence submitted by qualified experts in support of all matters asserted by the applicant that 1) the area is not significant to the protection of any of the interests identified in the bylaw or WPA, 2) that the proposed work will contribute to the protection of the interests identified in the bylaw or WPA, and 3) that the presumptions set forth in these regulations concerning the area subject to protection is not valid. Failure to meet the burden of proof shall be cause for the Conservation Commission to issue a denial or such conditions as deemed appropriate for the proposal and any work or activity proposed therein.

Walter: If I may. The applicant would be willing to withdraw the application without prejudice. This would eliminate the opportunity to appeal.

Jim: I believe we should deny this specific application, with opportunity for the applicant to refile, because there has already been many rounds of peer review. The revisions submitted

yesterday undo aspects of the peer review already undertaken. The issue of core habitat has still not been addressed, and it is clear that structures would be within storm surge areas designated by the Army Corps.

Buz: I would not be in favor of the denial and would rather continue the hearing.

Kalina: There is a motion to deny the application questioning if the applicant has met the burden, as supported by evidence and professional expert review, to demonstrate that 1) the area is not significant to the protection of any of the interests identified in the bylaw, 2) that the proposed work will contribute to the protection of the interests identified in the bylaw, and 3) that the presumptions set forth in these regulations concerning the area subject to protection is not valid. Failure to meet the burden of proof shall be cause for the Conservation Commission to issue a denial or such conditions as deemed appropriate for the proposal and any work or activity proposed therein. The motion is, based on this language, the commission denies the application.

Buz: I am wondering if we should close the hearing.

Matt: It should be closed before voting on the denial. It should also be stated that the motion only calls out the bylaw, but the Wetlands Protection Act should also be accounted for and evaluated to see if the application fits under this legislation.

Buz: I make the motion to close the hearing.

VOTE: Buz makes the motion to close the hearing, Jim seconds; PASSES 6-0-0.

Jim: As an amendment to Dot's motion, I amend the motion to say that the commission deny the application based on the fact that the applicant has failed to meet his burden of demonstrating to the commission that by a preponderance of the credible evidence submitted by qualified experts in support of all matters asserted by the applicant that 1) the area is not significant to the protection of any of the interests identified in the bylaw or WPA, 2) that the proposed work will contribute to the protection of the interests identified in the bylaw or WPA, and 3) that the presumptions set forth in these regulations concerning the area subject to protection is not valid. I will second this motion.

Kalina: The motion is to deny the application based on the fact that the applicant has failed to meet his burden of demonstrating to the commission that by a preponderance of the credible evidence submitted by qualified experts in support of all matters asserted by the applicant that 1) the area is not significant to the protection of any of the interests identified in the bylaw or WPA, 2) that the proposed work will contribute to the protection of the interests identified in the bylaw or WPA, and 3) that the presumptions set forth in these regulations concerning the area subject to protection is not valid. Failure to meet the burden of proof shall be cause for the Conservation Commission to issue a denial or such conditions as deemed appropriate for the proposal and any work or activity proposed therein. The motion is to issue a denial. The official motion also includes the WPA.

VOTE: Dot makes the motion, Jim amends the motion, Jim seconds; PASSES 5-0-1 (Buz abstains due to uncertainty if he is able to vote given he may have missed one or more meetings).

Kalina: The application is denied.

Section E-- 114 Country Club Way (Map 73 Lot 4-114)

Mike: There is no public hearing for this matter. I made this mistake while creating the agenda. My apologies. The matter has already been discussed tonight under the signing documents section.

CLOSING REMARKS

Kalina: The next meeting will be held Wednesday, May 11th, 2022 starting at 6:30PM. The time is now 7:40PM.

VOTE: Jim makes the motion to adjourn the meeting, Buz seconds; PASSES 6-0-0.

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

AMENDED 4/26/22



TOWN OF KINGSTON
NOTICE OF MEETING

**BOARD: CONSERVATION
COMMISSION**

MEETING LOCATION: Room 203*

**DATE & TIME: April 27, 2022
6:30 p.m.**

**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.

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=eitwaksyQm9oVWV1xMTInL0tob1l0QT09>

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 Woods Hole Group
 - Bills for WB Mason
 - Bill for John Bonomi
 - Bills for Environmental Partners Group
 - 1-13 & 1-15 Old Orchard Ln Amended OOC
 - 114 Country Club Way OOC
2. Action Items
3. Enforcement
 - 29-31 Main St
 - May Ave/Post Ct
 - 19 Ring Rd
 - 64-70 Summer St
4. Minutes:
 - March 23, 2022

AMENDED 4/26/22

5. Updates:

PUBLIC HEARINGS:

Section A – 50 Independence Rd (Map 12 Lot 2)

Applicant: Freeman Boynton, Jr; Representative: Freeman Boynton, Jr., Duxbury Construction LLC. Notice of Intent (NOI) to construct 16 asphalt parking spaces along Independence Road within 100' of a wetland resource area.

THIS HEARING HAS BEEN CONTINUED UNTIL MAY 11, 2022

Section B – 88 Ring Road (Map 61 Lot 29)

Applicant: Alex Darzenta; Representative: Joseph Webby, Webby Engineering. Notice of Intent (NOI) to construct an addition to existing dwelling, construct a stone revetment wall, and site grading within 100' of a wetland resource area.

THIS HEARING HAS BEEN CONTINUED UNTIL MAY 11, 2022

Section C – 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' of a wetland resource area.

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

~~Applicant: Kevin Tensberg, CAO Realty Trust. Representative: Brad Holmes, Environmental Consulting & Restoration, LLC. Notice of Intent (NOI) for single family home improvements consisting of deck, house bump out, garage, retaining walls, patio, fencing, and more additions within 100' of wetland resource areas.~~

THIS HEARING WAS CLOSED AT THE APRIL 13 MEETING, SEE 'SIGNING DOCUMENTS'

NEXT MEETING: May 11, 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 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: 4/27/22

NAME	INTEREST	ADDRESS
Nathan Hedberg	May Ave/Post Ct	5 Post Ct
Trevor Kuhrich	"	"
Darren Grady	70 Summer St	71 Evergreen St
Karen Henderson	48 Howlands	Howlands Ln
Elizabeth Sun	1 Shore Dr.	Howlands Ln
William Huser	48 Howlands	Cook's Ave
Mark Gurdoboni	1-15 BUS ORCHARD CANE.	15 OLD ORCHARD C
Karen Beightley	48 Howlands Ln.	48 "
Walter Sullivan	810 Wash St	Norwell

