

APPROVED 7/13/22



## Conservation Commission Meeting Minutes Wednesday, May 25<sup>th</sup>, 2022

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

**Present:** Jim Franklin (Vice-Chair), Megan Hickey, Glen Duffy

**Virtual:** Vittorio 'Buz' Artiano

**Absent:** Kalina Vendetti (Chairperson), Dorothy MacFarlane

**Staff:** Matt Penella, Conservation Agent (attended virtually)

Mike Perrin, Assistant Conservation Agent

**Location:** Town Hall Offices Room 200

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

---

**Vice-Chairperson Jim Franklin:** The date is May 25<sup>th</sup>, 2022. The time is 6:32pm. Commissioners Vendetti and MacFarlane are absent. Commissioner Artiano is attending virtually.

**VOTE:** PASSES 4-0-0

**Jim:** 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**

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

**Matt Penella:** We have a bill for Environmental Partners Group for MS4 support. We have a reimbursement to me for a Lowe's purchase. A bill for Lowe's for the cement needed for gates at Camp Nekon.

## II. Action Items

### a) 54 Off Boundary RDA

**Mike:** This project was proposed to the Commission as an NOI. It was previously for expansion of an existing deck less than 10' from a coastal bank. The NOI was denied. The Commission recommended to the applicant to refile for a project for deck replacement/repair and not expansion. I recommended to the homeowner to apply for this work through an RDA first. Dimensions for the existing deck were requested and subsequently provided. The application also provided information on footings.

**Buz:** The old plan with expansion was included in this application. Please make sure the DOA has the correct plan noted. With that, I make a motion to close the meeting.

**VOTE:** Buz makes the motion, Glen seconds; PASSES 4-0-0.

**Buz:** I make a motion to issue a negative 3 determination of applicability for 54 Off Boundary St as according to the plan dated May 23, 2022.

**VOTE:** Buz makes the motion, Megan seconds; PASSES 4-0-0.

## III. Enforcement

### a) 47 Main Street

**Matt:** I conducted a site visit on Friday. The issue is regarding the keeping of animals in the yard near and in a stream that flows out to Grays Beach. They removed the animals in late fall/early winter. They also modified the resource area by creating a small pond on the stream. I let the homeowners know there would likely be restoration required. The stream crosses under Main Street towards the MBTA tracks. I do not think fecal contamination is a concern at this point. We should now look at the modification of the wetland. The stream is straight. We should be concerned about sedimentation into the bay during restoration and during large weather events before restoration. I believe a professional should have a qualified professional prepare a restoration plan. I think roughly two months would be fair.

**Fausto Goncalves, 47 Main St:** I did the work because there was always trash in the stream and the water was flowing into the yard. There was a lot of mud and it was covering the animals. The goats were never in the water.

**Jim:** I believe it was pitched as donkeys in the water, but this was not seen by the agents. Speeding up the drainage only increases the amount of contamination flowing into Kingston Bay.

**Megan:** Why was the pond created?

**Fausto:** I created the pond to put fish in it and kayak around with my son.

**Megan:** Thanks. I make a motion to require a restoration plan by July 25<sup>th</sup>, 2022.

**Matt:** This will be done through an Enforcement Order.

**VOTE:** Megan makes the motion, Glen seconds; PASSES 4-0-0.

### b) 19 Ring Rd

**Mike:** The commission requested restoration in two phases. First was removing fill from the wetland and adding erosion control. Second was presenting a restoration plan for the other issues on the property.

**Chris Luongo, 19 Ring Rd:** Phase 1 is complete. I am having trouble securing a company to prepare and commit to phase 2. Coastal Excavation Corp did come to the property this week, but I have not heard back about numbers and moving forward.

**Matt:** I think the commission should allow a month extension to allow Chris to secure a contactor and also to see if any regeneration is happening.

**Megan:** I make a motion to extend the deadline for a restoration plan to June 22<sup>nd</sup>, 2022.

**VOTE:** Megan makes the motion, Glen seconds; PASSES 4-0-0.

#### **IV. Public Hearings**

##### **Section A – Grays Beach Stormwater Improvements (Map 59 Lot 51)**

**Jim:** The time is 7:02PM. I open hearing for Grays Beach Park for a Notice of Intent received for work associated with the stormwater improvements to Grays Beach Park within 100 feet of a wetland resource area. The Applicant is the Kingston Conservation Commission.

**Matt:** This work would be done through the CZM Coastal Pollution Remediation grant. Water currently flows from the parking area to the playground and channels under the boardwalk, then scours the beach. It brings stormwater in the bay which contains many contaminants. The project will replace some pavement and grass with a bioretention swale that will help manage big storms, infiltrate water, and help the existing stormwater system there now. The proposed work is in the buffer zone of the beach. This will assist our efforts to clean the bay.

**Buz:** I make a motion to close the hearing.

**VOTE:** Buz makes the motion, Glen seconds; PASSES 4-0-0.

**Buz:** I make a motion to issue an Order of Conditions as presented.

**VOTE:** Buz makes the motion, Glen seconds; PASSES 4-0-0.

##### **Section B – Cushman Dr (multiple parcels)**

**Jim:** The time is 7:12PM. I open a hearing for 33 Cushman Dr for an ANRAD received for the delineation of resource areas. The applicant is Cushman Farms, LLC. The representative is Lori Macdonald of Coneco Engineers and Scientists.

**Lori Macdonald, Coneco:** The project involves parcels on Cushman Drive and Thomas Drive and a right of way. There is a BVW on site with an intermittent stream that flows into the MBTA right of way, then comes back out north of Cushman Drive. We are looking for approval of the delineation for the wetlands delineated on the plan submitted to the conservation department.

**Matt:** All the commission is asked to do through this filing is approve the wetlands delineation, which is typically to help a potential developer understand what they have for usable land. They requested that the application only be reviewed under state WPA, which hints towards a future 40B application. I believe First Brook stream may be perennial, and DEP may agree. We have it listed as a cold-water brook fisheries resource, so we want to investigate that. I suggest probably going peer review for this.

**Jim:** Can we still review under KWPR?

**Matt:** I checked with Town Counsel and he said we have to follow the applicant's request. We would need to make sure that any documentation would show the project was reviewed under WPA. I suggest the commission request a continuance and start seeking peer review.

**Pine duBois, Jones River Watershed Association:** The MBTA project brought the importance of First Brook to our attention. Division of Fish and Wildlife let us know it was a trout stream. First Brook is an important perennial stream for fish in the area.

**Dorothy 'Patricia' Harlow, 3 Pebble Lane:** It is irritating to me that the applicant, which the town is hosting, is telling the commission how to conduct their work. The town folk are not aware of the proposed project consisting of 166 units 3 stories (March 3<sup>rd</sup>), and 25% would be affordable housing; Mr. Lincoln spoke to the housing trust about this.

**Buz:** Please keep this to conservation topics.

**Matt:** There will be time to comment on projects when they come in front of the commission. The discussion should be kept to the approval of wetland delineation.

**Doug Dondero, 14 Copper beach Dr:** There is a tunnel and lots of discussion around the water table. Thomas St is a paper street and not a right of way, and it has no access.

**Buz:** I make a motion to request the agent to ask Town Counsel if we must only review the application under WPA and not KWPR.

**VOTE:** Buz makes the motion, Glen seconds; PASSES 4-0-0.

**Buz:** I make a motion to continue the hearing until June 22<sup>nd</sup> Section A to allow the agent to receive peer review quotes.

**VOTE:** Buz makes the motion, Megan seconds; PASSES 4-0-0.

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

**Jim:** The time is 7:47PM. I open a hearing for 79 Elm St for a Notice of Intent received for work associated with the construction of a single-family dwelling and addition to an existing single-family dwelling within 100 feet of a wetland resource area. The Applicant is Yeshayah Bust and the representative is Erik Schoumaker of McKenzie Engineering Group.

**Erik Schoumaker, McKenzie Engineering:** The site was recently divided into two parcels. There is currently a single-family dwelling on the site and a BVW on the western portion. The topography currently slopes towards the wetlands and the road. We are outside of FEMA zones of concern. An ORAD confirming the delineation of the wetlands was issued in March 2022. The proposed work consists of two new driveways, construction of a single-family home, and construction of an addition to the existing home to create a duplex. Each home will get a new septic system and the current system will be abandoned. We show compliance with the applicable Kingston zoning bylaws. The work will take place in the 100' buffer to the BVW, and the entire proposed single-family home is entirely within the buffer. We are proposing no impervious coverage within 50' of the wetlands and only site grading and landscaping will occur within 50'. Silt sock will remain in place until all areas are loamed and seeded.

**Matt:** I recommend doing a commission site visit with markers in place to show the limit of work and wetland buffers. I recommend requesting a revised plan showing that the area outside the limit of work will be naturalized.

**Jim:** Vernal pools?

**Matt:** Vernal pools are off site.

**Buz:** I think labeling the areas to be loamed and seeded is fine as opposed to a landscape plan. All the downspouts should be placed in drywells. All proposed structures should be staked for the site visit. The pipe of the septic tank into the house must be outside the 100' according to KWPR. All septic info should also be provided.

**Pine:** I am the neighbor. The area is bordering National Heritage and Endangered Species land as box turtle habitat. The wetlands are contiguous to the Jones River from here. There is an intermittent stream next to the wetlands.

**Matt:** We noted the stream in the ORAD. This needs to be shown on the plan.

**Pine:** The stream continues downhill and eventually into Jones River. My basement is regularly flooding and there is lots of water running underground, which is a concern for the septic and the river. There is already encroachment and dumping in the backyard near the wetland, and this project will only worsen these problems. You should also find out where the 4' of fill is coming from. I suggested the owner donate the remainder of the land to the town to extend Sampson Park. The new home will have no backyard which could become a problem with conservation.

**Jimmy Powell, 93 Elm St:** The parking seems inadequate for the amount of residents.

**Matt:** Noted.

**Janine Heath, 71 Elm St:** I am an abutter. The notice is confusing. It sounds like it will be two two-family homes.

**Michael O'Connell, 67 Elm St:** We are downhill neighbors. I am concerned about the wetness and the parking. It seems like the amount of work will certainly affect the wetlands. There will be no backyard, and this will likely lead to damage to the wetlands.

**Matt:** These are all valid concerns that will be investigated.

**Buz:** I make a motion to continue the hearing until July 13 Section A.

**VOTE:** Buz makes the motion, Glen seconds; PASSES 4-0-0.

#### **Section D – Off Baker Ave (Map 58 Lot 92-4)**

**Jim:** The time is 8:19PM. I open a hearing for Off Baker Ave for a Notice of Intent received for work associated with the construction of a single-family dwelling with utilities, stormwater management system, lawn, and landscaping within 100 feet of a wetland resource area. The Applicant is Joseph Mahoney and the representative is Garrett Tunison of Tunison Environmental Consultants.

**Mike:** This parcel was included in the Foundry Pond Dr application.

**Garrett Tunison, Tunison Environmental Consultants:** The proposed work is for construction of a single-family home. It is partially located within the local bylaw intermittent stream buffer area. The area is currently high disturbed and has many invasive plant species. A third of the proposed area to be disturbed is proposed for restoration with local native species. There is a crushed stone swale along the proposed paved driveway. There are two proposed drywells to catch all the roof runoff. We limited the lawn in the front to allow for more riverfront restoration. We are also proposing a conservation restriction for a large portion of the site. We are also going to increase woody debris to improve wildlife habitat. There is a steep slope so a silt sock will be installed. We are also proposed coconut matting for stabilization.

**Matt:** I have been to the site and I think it would be good for the commission to see the sight. I am impressed with the proposed restoration and mitigation.

**Buz:** I would like to see details for the conservation fencing. I would like the area staked out for the site visit showing the driveway, the house corners, and the conservation limit. I am friendly with the people across the driveway, but I do not see it as an issue.

**Commission:** Agrees not a conflict of interest.

**Garrett:** I can have it staked by the end of the week.

**Megan:** I make a motion to continue this until June 8<sup>th</sup>, 2022 Section D.

**VOTE:** Megan makes the motion, Glen seconds; PASSES 4-0-0.

**Section E – 50 Independence Rd (Map 12 Lot 2)**

**Jim:** The time is 8:41PM. I open a continued 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 June 8<sup>th</sup> meeting.

**VOTE:** Megan makes the motion to continue the hearing to June 8<sup>th</sup>, 2022 Section B, Glen seconds; PASSES 4-0-0.

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

**Jim:** The time is 8:43PM. 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 to continue this meeting until the June 8<sup>th</sup> meeting.

**VOTE:** Megan makes the motion to continue the hearing to June 8<sup>th</sup>, 2022 Section C, Glen seconds; PASSES 4-0-0.

**V. Enforcement Cont.**

c) 29-31 Main St

**Mike:** I reached out to Attorney Mehrmann and I have not heard back. No update.

d) May Ave/Post Court

**Matt:** I am going to postpone the report to next meeting.

**VI. Minutes**

**Jim:** We have the minutes from March 9, March 23, April 13, April 27, May 11, and May 14 (Town Meeting). Do I hear a motion to approve the minutes as presented?

**Matt:** We are going to revise the April 27<sup>th</sup> minutes.

**VOTE:** Megan makes the motion to approve the minutes, Glen seconds; PASSES 4-0-0.

**VII. Updates**

a) 53 Winthrop St Admin Review

**Matt:** The Department approved an Administrative Review submitted for a vegetable garden, driveway repairs, and tree work. All the work area is outside of jurisdiction or across existing roads.

**Jim:** How much height should be left?

**Matt:** 10-20'.

b) 41 East Ave

**Matt:** CZM essentially gave the OK. The commission does not need to approve this as an amendment because the plan does not detail the material of the footing.

**Mike:** I reached out to the Army Corps to learn more about the process. I have not heard back.

**Matt:** I personally think Army Corps does not need to provide input.

### **CLOSING REMARKS**

**Jim:** The next meeting will be held on June 8<sup>th</sup>, 2022 at 6:30PM. The time is 9:00PM. Will a commissioner make a motion to adjourn the meeting?

**VOTE:** Megan makes the motion to adjourn, Buz seconds; PASSES 4-0-0.

---

**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