

Finalized 8/24/22



Conservation Commission Meeting Minutes Wednesday, June 8th, 2022

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

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

Virtual: Vittorio 'Buz' Artiano

Absent: Kalina Vendetti (Chairperson)

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 June 8th, 2022. The time is 6:32pm.
Commissioner Vendetti is absent. Commissioner Artiano is attending virtually.

VOTE: PASSES 5-0-0

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 bills for Forestry Suppliers, WB Mason, and Gatehouse Media, as well as the DOA for 54 Off Boundary St.

II. Action Items

- a) 10 Adams Ave COC

Mike: We received a request for a Certificate of Compliance for work at 10 Adams Ave, which included the construction of two small additions. I completed the site visit, and everything looked according to plan. I recommend issuing the COC.

Buz: I make a motion to issue the COCs.

VOTE: Buz makes the motion, Dot seconds; PASSES 5-0-0.

b) Winthrop St Parking Lot RDA

Matt: An abutting neighbor has generously donated an easement to the town to allow for the construction of a small parking area to access the newly acquired Blackwater Memorial Forest off Winthrop St. A parking lot is also required to be reimbursed from the LAND grant. The project is proposed near a perennial stream and an old cranberry bog. The stream is already compromised from the existing bog road, which will be used as part of the parking area. We are clearing a few trees and some hazard trees. We are proposing a fire gate as well. The parking area will be for 5 spaces and 1 handicap space, a walking trail to access the conservation area, and a kiosk. The lot will be entirely pervious surface.

Megan: I would like to see the gate as soon as possible.

Buz: I make a motion to issue a Negative 3 Determination of Applicability.

VOTE: Buz makes the motion, Dot seconds; PASSES 5-0-0

III. Enforcement

a) 29 Ring Road

Matt: We noticed disturbance from the street. Looking at satellite imagery, there was/is clearing and filling going on near cranberry bogs. I believe this is the same contractor from 19 Ring Rd. We issued a Notice of Violation, and the homeowners are here to speak about the issue.

Deborah & Ricardo Maduro, 29 Ring Rd: We did not knowingly break any rules or regulations. The work we contracted included tree removal and dirt redistribution. Many of the trees proposed a risk to our home and other existing structures. We had some trees removed to expand our yard for our 4-year-old to play. There was also an existing pile of dirt in the side yard, so we wanted to move some of this dirt to level out the yard. We contracted Wesley James who was doing work at 19 Ring Rd. He told us that rocks might fall down the hill during the process, but he could clean this up after. Ricardo reached out to Pat Kelleher about this, Pat was agreeable, and we gave Wes the green light. We were not aware of the extent of the erosion into the Kelleher property because the contractor hid a pile of rocks until Mr. Kelleher contacted us. We spoke with and are continuing to discuss with Mr. Kelleher about resolving the issues, which included holding Wes accountable. We did not know we needed a permit. We have already contacted Pierce Construction to correct the mistakes and complete this work, which would include measures to prevent further erosion and expand the lawn area.

Mike: The satellite imagery shows clearing in the southwest corner.

Ricardo: The work we discussed is in the northwest corner.

Matt: The resource area is the bog. We need stabilization as soon as possible. We also should require a restoration plan. We would also need a filing for the expansion of the lawn.

Ricardo: We put down silt sock along the edge of the slope to stabilize the bank and prevent more erosion. We would like to plant trees on the hill to further stabilize it.

Matt: It does not appear to be egregious. I would recommend requiring a site visit and agree upon a date for restoration.

Buz: Why would we not issue an Enforcement Order?

Matt: You can.

Buz: I would like to have documentation. I would like to see a professional involved, stabilization, and a restoration plan prepared by the professional.

Dot: I agree.

Jim: I agree. It would be best to have professional input.

Buz: I make a motion to issue an Enforcement Order requiring a site visit with the agents to see the site and view existing erosion control, and to hire a design professional to provide a restoration plan detailing wetland delineation, stormwater control, and mitigation actions. I would like to see this within 45 days.

VOTE: Buz makes the motion, Glen seconds; PASSES 5-0-0.

IV. Public Hearings

Section A – 64 – 70 Summer St (Map 36 Lot 9, 10-2)

Jim: The time is 7:19PM. I open hearing for 64-70 Summer St for a Notice of Intent received for work associated with parking lot and stormwater management improvements within 200 feet of Stoney Brook and within 100' of a wetlands resource area. The Applicant is the Sean Dormady and the representative is Darren Grady of Grady Consulting LLC.

Darren Grady, Grady Consulting: We have filed a Notice of Intent after receiving the Enforcement Order, which also called for stabilization and stopping work. The NOI documents the existing conditions, erosion control, proposed rain garden, and contours.

Matt: Is there a BVW by the proposed rain garden?

Darren: No, but I can take another look.

Matt: I would recommend a commission site visit as well.

Mike: Can you please go through proposed work and completed work?

Darren: The plan shows paving and proposed contours and tree line. There were some trees planted along with paving of parking lot and sidewalks. The stormwater calculations meet standards and the basin/garden will be planted. We are also proposing a stormwater separator to assist with stormwater management into the brook.

Matt: I would like to see infiltration with the separator.

Buz: Was the previously discussed fence installed to prevent litter running into the brook?

Darren: I am not sure. I know there is a silt sock there.

Buz: I make a motion to continue the hearing to allow for a site visit.

VOTE: Buz makes the motion, Dot seconds; PASSES 5-0-0.

Buz: I would like to amend my motion to include the continuance date to June 22nd, 2022.

VOTE: PASSES 5-0-0.

Megan: I make a motion to reopen the hearing.

VOTE: Megan makes the motion, Buz seconds; PASSES 5-0-0.

Ilene Mill, 82 Summer St: We abut the rain garden. I would like to know about the visual impact that we may experience.

Darren: We proposed some tree planting that should block the view.

Fred Mill, 82 Summer St: I do not see trees planted along our property to block our view.

Buz: I would like the office to extend the invite to these homeowners.

VOTE: Buz makes a motion to continue to June 22 Section B, Dot seconds; PASSES 5-0-0.

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

Jim: The time is 7:41PM. 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.

Freeman Boynton, Trustee of Bassett Brook Realty Trust: We have an existing drainage basin which handles a 100-year storm. The parking spaces would be for the lumber yard. We reran the stormwater calculations, and the existing basin would adequately handle the resulting runoff from the proposed work. It is 81.3' from the wetland.

Mike: The Planning Board has already approved the plan with parking spaces facing either direction. The proposed work adds less than 1% of impervious surface within jurisdiction. There are already stormwater in place that would catch runoff. I was wondering why no erosion control was proposed along the northern boundary of Independence Road.

Freeman: The road is pitched to direct water to the basin and away from that wetland., so it would be redundant.

Buz: I make a motion to close the hearing.

VOTE: Buz makes the motion, Dot seconds; PASSES 5-0-0.

Buz: I make a motion to approve the application and issue Orders of Conditions according to the plans dated March 29, 2022.

VOTE: Buz makes the motion, glen seconds; PASSES 5-0-0.

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

Jim: The time is 7:48PM. 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.

Joe Webby, Webby Engineering Associates: Brad Holmes has been working with Matt on the restoration plan and replication area.

Brad Holmes, Environmental Consulting and Restoration: Joe and Matt did some test pits to inform the work. The restoration plan includes replication of the BVW, buffer zone restoration and wetland meadow expanding the buffer restoration.

Matt: I would recommend markers between lawn and meadow.

Mike: I have administrative comments. We need to see a revised Plan of Land which reflects both the restoration activities and the proposed work. I would recommend having Mr. Holmes stamp the plan. Revision dates also need to be cleaned up. I am also missing the DEP number so please provide that; apologies if you already have. I would also recommend revising the plan to show dimensions for the garage, the addition, and the retaining wall. I would also recommend adding mitigation measures in the northeast section of the property to protect the potential vernal pool across the street and plantings along the east side of the garage to protect the B series wetland.

Glen: I would like to see erosion control repaired and stockpiled material removed at the end of the construction.

Buz: There is a proposed infiltration structure in the back. I would like to see more details about the roof drains. I agree with the plantings near the garage. I do not think we need mitigation for the potential vernal pool due to the high activity the road experiences.

Jim: Does this meet septic standards?

Mike: Yes.

Buz: I make a motion to continue the hearing to June 22, 2022 Section C to allow for these revisions.

VOTE: Buz makes the motion, Megan seconds; PASSES 5-0-0.

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

Jim: The time is 8:07PM. I open a continued 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.

Garrett Tunison, Tunison Environmental Consultants, LLC: We made some revisions after our site walk. We will propose a terraced retaining wall to alleviate concern over the existing slope. We also will denote where the trees to be cleared area. We also will propose an invasive treatment plan.

Buz: I am concerned about the driveway runoff meeting the abutting house.

Garrett: The driveway will be pitched towards an infiltration swale along the driveway and drywells will be installed to handle runoff from the house. There are details from the driveway BMP.

Buz: I would like to see calculations from Principe's design of the swale.

Matt: We need to see the date of wetland flagging as well. Since the slope is within WPA jurisdiction, I recommend filing an RDA for the work involving the slope.

Jeff Ponte, 15 Baker Ave: I am concerned about the slope and driveway. Is there any detail on the proposed plan for the slope?

Garrett: We will get the calculations from Principe for the driveway. We will provide details with the application for the work regarding the slope.

Jim: I would like research into the existing pipe found during the site visit.

Garrett: We will look into it. July 13th should work for a continuance.

Buz: I make the motion to continue the hearing to July 13th Section B.

VOTE: Buz makes the motion, Megan seconds; PASSES 5-0-0.

V. Enforcement Cont.

b) 29-31 Main St

Mike: I reached out to Attorney Mehrmann. There has been no progress due to contractor unreliability.

c) May Ave/Post Court

Matt: I read over the report and the work seems to be going as planned. I reminded the representative to contact the Conservation Department before conducting anymore work there.

d) 164 Pembroke St

Matt: This is a complex issue regarding Orders of Conditions and recording of the OOCs. There was a filing from 2002 for the construction for the pool that were not recorded and no Certificate of Compliance was issued. We require valid OOC and COC to ensure everything was done correctly and clear the deed. While discussing that, Mr. Casna asked about a swing set, which Mike informed him he would need to file for. Mrs. Casna insists that I told her she did not need to file, which I do not remember. We gave them instruction to file an RDA if they were going to dig, and if not, we suggested an Administrative Review form. Mr. Casna filed an Admin Review, but I did not feel comfortable approving the work without dealing with the OOC issue first because the OOCs are expired, and we do not know if the work followed the plan. I found out recently that the swing set. After finding this out, I decided it was best to bring this to the commission instead of dealing with it internally.

Joseph Casna, 164 Pembroke St: We bought the property 20 years ago and it came with a Superseding Order of Conditions. The work was inspected periodically by multiple agents and no changes were made. The pool was part of the original OOCs. We filed the Admin Review so Matt could come out to look at the placement of the swing set. During dealing with the extensive flood issues we experienced, the former commission instructed us to delineate the backyard from wetland buffer, which we did. The swing set is not near the posts and there was no disturbance, and I do not understand the concern. I do not feel the issue regarding the OOCs should delay the installation of the swing set. There was concern about the extent of lawn by the house near the vernal pool, but the grass has been there for 20 years and there has never been a problem besides complains by the abutting neighbor, who used to be on this commission.

Matt: The superseding OOC from DEP was in 1989. It was for the septic, the foundation of the house, and the pool. These are valid for 3 years, and the house construction was not done within that timeframe. The septic was installed during this time. The Casna's then came back to the commission in 1999 to construct the house and the pool. The commission issued the OOCs with special conditions that the pool could not be built under this filing and stabilization must be adequate before the pool could be installed. These OOCs was recorded and the COC was issued in 2013. In 2002, the Casna's filed an NOI for the construction of the pool. There was an OOC issued to construct the pool, which was never recorded and no COC was issued. I have been trying to work with the Casna's to get what the commission needs, which is a set plan that shows structures on the property, wetlands, and setbacks. There are special conditions that state that there should be in-kind plantings near the house, and we do not have a plan that shows this. We do not know if lawn, plantings, and structures are where they are supposed to be.

Jim: Do we have any plans?

Matt: We have the plan for the OOC to construct the house which includes wetland delineation. We do not have a plan that shows landscaping. The plan we have is pencil sketched. We need to see that things were done as stated.

Joe: When we completed construction on that property, the agents at the times inspected the yard.

Jim: The responsibility to record is yours.

Joe: We have the recording receipt. It references the swimming pool. There have been no changes since.

Matt: We do not see proof that this specific OOC was recorded. Not in our office, not on other OOCs, and not at the registry. We do not have any evidence that agents approved the project, and instead we have enforcement actions and discrepancies documented.

Buz: I disagree with the statement that no work has been done since 2018. I have been on site and seen filing. I ask the applicant to provide us with the evidence of recording and the

associated plan. If there is no plan, I recommend the commission requires an updated plan reflecting the property as it exists today so we can have a benchmark if future problems arise.

Jim: I agree with that.

Joe: That leaves the opportunity for you people to request changes to the property that has existed for 20 years. The work Buz referenced was due to the floods and resulting hazard trees.

Buz: I disagree. The cause of the flood was out of his control. I want a plan displaying existing condition. I am not interested in changing anything.

Matt: It would be a good idea to get an existing conditions plan. It is also just as easy to have someone go through the documents and find what was permitted. Regardless of the flooding, there was always wetlands surrounding the house, including a vernal pool, which is reflected in the plan.

Joe: We live with the conditions the flooding created. I do not think you should delay the filing for the swing set because you want me to do something else first. I would not do that.

Mike: You are referring to permits as the chairperson of the Board of Health. Is it fair to say that you understand that there is a process to get permits properly passed?

Joe: I am the chairman, yes.

Glen: If we get an existing conditions plan, then we would see that it followed the plans?

Matt: That is their belief, but I have found discrepancies, so I do not believe this is the case. We need to determine what was permitted and what is currently there. This is likely just some small areas of lawn that do not follow the plans and OOCs. One option is we could just document the current conditions and call it. We could also take this plan and see if any conditions were unpermitted. An RDA can be used to resolve any discrepancies.

Joe: The lawn is in the same condition as it has been for 20 years. You guys made me remove some of it and we did.

Mike: For clarification, just because something has been in the same condition for 20 years, does not mean it was permitted. A COC would prove that no work was unpermitted, but we do not have that.

Buz: We are not holding you upon the swing set because you already installed it. I ask the commission to require the Casna's to provide proof of recording of the OOCs for the pool as well as the associated plan. If that exists, we can go to the property and assess if the work was done according to the plan and a COC could be issued. If this does not exist, then I suggest the commission require the Casna's to get an existing condition plan so that we can document the current conditions. I am not interested in small issues, but I want a benchmark showing was exists to prevent future issues. I make a motion to require the Casna's to provide proof of recording for the OOCs for the pool and the associated plan within 30 days, July 13, 2022. Once we do or do not receive that, we can figure out next steps.

Matt: For clarification, that is file number SE 37-543, issued March 11, 2002.

VOTE: Buz makes the motion, Glen seconds; PASSES 5-0-0

Joe: I did not say there were multiple filings. I think Buz has this mixed up.

Buz: I am clear. We have a OOCs in 2002 that was not recorded, and we need to see that.

Joe: That is not enough time.

Jim: You said you have a photo showing the OOCs for the pool were recorded.

Joe: Then I am confused.

Jim: We want to see the proof of recording for the OOCs regarding SE 37-543 as well as the associated plan.

Matt: The plan that we have for the pool, SE 37-543, is not a full plan. The plan for 1999 for the construction of the house, not the pool, shows the pool area.

Buz: Please provide us the proof of recording for the OOCs for 37-543 and the associated plan. We will work from there once we receive that. I make a motion to add this issue to the July 13, 2022 meeting under enforcement.

VOTE: Buz makes the motion, Megan seconds; PASSES 5-0-0.

VI. Minutes

Jim: We have the minutes from April 27th meeting.

Megan: I make a motion to approve.

VOTE: Megan makes the motion, Dot seconds; PASSES 5-0-0.

VII. Updates

a) Indian Pond Parcel

Matt: This is regarding Parcel 96-7. There was a petition at town meeting to deem this parcel as excess and put it out to auction. We spoke against that because the commission wanted time to assess the parcel as part of this forested network. It was recently declassified from priority habitat. I reached out to Natural Heritage. It was deemed priority habitat for box turtles, but since this is private land, no observations have been reported recently, so after 25 years, it goes away. I was told that Natural Heritage would not assess the land in search of box turtles. The priority habitat hugs close to Indian Pond. The parcel is in the middle of the 40-acre parcel that will likely be cleared and mined to construct a cranberry bog. We could protect these 4-acres as forest, or it could get auctioned by the town as surplus.

Dana Duperre, & Erin Path: I would think swapping this land, if you take over the deed, with land along the pond would be more beneficial to wildlife.

Matt: I would agree. I have to look into if this is legal and make sure such a deal would go as planned.

Ian Norrie, Plympton resident: 96-7 is landlocked. I would be open to a swap and would provide access.

Buz: I believe we should talk to Town Counsel about the legality and possibility of it all. Then, I would ask Mr. Norrie to present a proposal outlining the swap. I would be in favor of a swap.

Jim: Me too. Matt can you look into that?

CLOSING REMARKS

Jim: The next meeting will be held on June 22th, 2022 at 6:30PM. The time is 9:19PM. Will a commissioner make a motion to adjourn the meeting?

VOTE: Megan makes the motion to adjourn, Dot seconds; PASSES 5-0-0.

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