



City of Peabody Conservation Commission

City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5782

MINUTES

March 13, 2024

Link: <https://peabodytv.org/videos-on-demand/?vid=1205>

At this time the Peabody Conservation Commission hearings will continue to be held remotely. Remote participation is allowed in accordance with Section 20 of Chapter 22 of the Acts of 2021 signed into law by Governor Baker on February 12, 2022, suspending provisions of the Open Meeting Law, G.L. c. 30A, Section 18. as extended by Section 20 of Chapter 22 of the Acts of 2022 and further extended by the Final Compromise Bill enacted by the House and Senate on March 23, 2023, and signed by Governor Maura Healey on March 29, 2023.

MEMBERS PRESENT

Chairman Stewart Lazares
Vice Chairman Michael Rizzo
Sec. Michael Vivaldi
Arthur Athas
Bruce Comak (arrived@ 7:06 PM)
Amanda Green (arrived at 8:47 PM)

MEMBERS ABSENT

Ritamarie Cavicchio

Also Present: Lucia DelNegro, Conservation Agent; City Councillor Ward 6 - Michael T. Higgins; Councillor at Large - Jon Turco.

CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:01 PM

EXTENSION REQUEST

1. Request from Attorney Steven Singer for Carl Crupi (Trustee of Little's Hill Realty Trust) for an Extension to the Order of Conditions for DEP file # 55-673. The order expires on 3.15.2024. This project was a (2) lot subdivision consisting of (2) two single family homes on separate lots. The reason for ongoing extensions is due to land court issues unrelated to wetlands. He is asking for a one-year extension under Peabody's Local Ordinance. The property is known as 1 Antonio Drive, Map 106, Lot 98, Peabody MA.

Present: Attorney Steven Singer (legal counsel for applicant)

Summary: Attorney Singer explained that he has been battling Land Court for many years regarding the discontinuance of Old Lynnfield Street. The commission has not received any documentation from the land court to date to corroborate these claims. During the discussion Attorney Singer explained that the lot lines will most likely be changing because there is a boundary issue. Since the plan will be revised the commission felt that a new Notice of Intent would be necessary. The current plan will no longer be an accurate depiction of the proposed work. The wetland flags are most likely no longer accurate. A motion to approve the extension went to vote.

Motion to extend DEP File No 55-673 for one year as made by Mr. Vivaldi. Seconded by Mr. Comak. **The motion failed 3-2 (Yes votes- Mr. Lazares, Mr. Rizzo & Mr. Comak; No votes- Mr. Vivaldi & Mr. Athas).** A new NOI is necessary for any future work.

REQUEST FOR DETERMINATION OF APPLICABILITY

Item taken out of order due to technical difficulties.

4. A Public Hearing on a Request for Determination of Applicability submitted by Laura Monteiro (owner). The project is the installation of an above ground pool in buffer zone. The property is known as 7 Esquire Drive, Map 52, Lot 132, Peabody MA.

Present: Laura Monteiro (owner)

Summary: The plan needs to be revised to show the following: erosion controls, grade change/elevation change (retaining wall etc.), approximate pool location via survey, associated wetlands and associated buffer zones. The current plan shows a shed on another person's property. The commission felt they could not vote based on the plot plan submitted.

Motion to continue as made by Mr. Vivaldi. Seconded by Mr. Rizzo. Adopted unanimously 5-0 with Ms. Green not present.

CERTIFICATES OF COMPLIANCE

Item taken out of order due to technical difficulties.

2. A request for a FULL Certificate of Compliance as made by Attorney David Ankeles for Anibel Faria on DEP File No. 55-328. The project was an addition to a preexisting residential structure since converted to both residential and commercial use. The address is known as 1 Mount Pleasant Drive, Map 29, Lot 007, Peabody MA. The Order of Conditions expired on 12/17/1995.

Present: Attorney David Ankeles

Summary: The surveyor of record issued a letter stating work has been done in compliance with the approved plan. Therefore, the commission felt they could vote favorably.

Motion to issue a Full Certificate of Compliance for **DEP File No. 55-328** as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 4-1 with Mr. Vivaldi voting NO and Ms. Green not in attendance yet.

Item taken out of order due to technical difficulties.

3. A request for a FULL Certificate of Compliance as made by Attorney David Ankeles for Anibel Faria on DEP File No. 55-340. The project was additional paving service to a pre-existing residential structure since converted to commercial use. The address is known as 1 Mount Pleasant Drive, Map 29, Lot 007, Peabody MA. The Order of Conditions expired on 6/3/1996.

Present: Attorney David Ankeles

Summary: The parking lot asphalt was extended seven (7) feet closer to the wetlands than approved. **Discussion ensued.** The commission wants the property owner to remove the pavement that was illegally placed, possibly add a guardrail and/or an asphalt berm/concrete or granite curbing as well as environmental sensitive signs not allowing snow storage. Since the owner needs a permit to conduct this work, they agreed to issue a friendly Enforcement Order for said work. The commission is concerned that snowplows are dumping snow in the wetlands. There was evidence during the site visit confirming that snowplows and vehicles have been within feet of said resource area. The property has already been sold and the issuance of CC will not hold up said passing of real estate papers. The commission wants a plan to be submitted. Staff will draft an EO with Action Items.

Motion to issue a friendly Enforcement Order as discussed and made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0 with Ms. Green not in attendance yet.

Motion to continue to the April hearing as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 5-0 with Ms. Green not in attendance yet.

NOTICE OF INTENTS

5. A continued Public Hearing on a Notice of Intent submitted by Andover Consultants, Inc. (Dennis Griecci) for Levis Companies, Inc. The owner is Arthur Yiakas. The proposed work is the removal of existing pool patio, shed and concrete retaining wall. The property is known as 181 Lynnfield Street, Map 100, Lot 143, Peabody MA.

Present: Joseph Levis (Levis Companies, Inc.- receiver for city) Dennis Griecci (engineer)

Summary: Discussion ensued regarding the construction sequence for the removal of said concrete block retaining wall along the edge of the brook. Mr. Rizzo said hand work or machine work would be ok if the machine was staged securely. Fabric and rip rap will be installed along the exposed bank. Mr. Rizzo asked for soil to be introduced between the stones with seed mix to promote vegetation growth. **Discussion ensued** regarding the wall also extending on Mr. Sousa's property. The grade should be matched on both properties. Councillor Turco thanked the commission and further discussion ensued regarding Mr. Sousa's property. Discussion about the abutting lot continued. A tree and abutment will also be removed from the edge of the brook to improve the flow. There were no comments from the public.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 5-0 with Ms. Green not in attendance yet.

Motion to issue a Standard Order of Conditions 1-50 adding the follow special conditions: **51)** Removal of the concrete block wall must be done to minimize disturbance/impact to the adjacent brook. Hand removal is the preferred method. Work must stop at the abutter's property (183 Lynnfield Street) until it is determined that the section of the wall located on the abutting lot can be removed completely without causing harm to said lot; **52)** Once the wall is removed the slope must be 2 to 1 rip rap with soil and plant mix to introduce vegetation and further stabilize slope between rip rap as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 5-0 with Ms. Green not in attendance yet.

6. A continued Public Hearing on a Notice of Intent submitted by Attorney John R. Keilty for Josephine Cooke (owner). The proposed work is the construction of a single-family house with associated utilities, grading and driveway. The property is known as 29 Glendale Avenue aka 25 Glendale Avenue, Map 120, Lot 27, Peabody MA.

A brief discussion ensued regarding the subdivision of the plan. The Concomm questioned if the current ZBA members were aware of an old decision stating Lots A and B could not be further subdivided. **Discussion ensued** if the lot is even a legal lot. Attorney Keilty stated the property is land court and therefore no permission from Planning Board is required. According to Attorney Keilty, the historic land court plan allows them to adjust the lot configurations. **Discussion ensued.** Staff suggested that the matter should either go back to ZBA or send it to legal for review. The commission wants attorney Keilty to go back to ZBA. They need clarification if this is even a legal lot.

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Jack Keilty stated he would go to ZBA and see “what they give me.” He also stated he would get in touch with the city solicitor and bring documentation to the next hearing.

Motion to continue the public hearing to the April meeting as made by Mr. Athas. Seconded by Mr. Vivaldi. Adopted unanimously 6-0 with Ms. Green in attendance at 8:47 PM.

7. A continued Public Hearing on a Notice of Intent submitted by Wetlands & Land Management, Inc. (William Manuell) for JND Real Estate Solutions LLC (John Decoulos). The proposed work is the demolition of existing SFH and the redevelopment of parcel into 3 townhouse style units with access driveway, garage parking, landscaping, stormwater management facilities and new utilities. The work also includes 650 SF of filled wetlands and replication areas. The property is known as 24 ½ North Central Street, Map 64, Lot 28, Peabody MA.

Summary: Robert Langley (DPS) has sent the item to peer review. The applicant sent an email requesting a continuance, but no one was at the meeting to explain.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 6-0.

After the vote members of the public raised their hands and were upset that the item has been continued without them being aware. There were numerous people in attendance from the public that wished to speak. The commission felt obligated to let the public speak since it was a public hearing.

Kristofer Adams, 26 No. Central Street

MR ADAMS: thank you for unmuting me. I actually just moved down to North Central Street a few months ago. I have been looking at this house because it is right next to my driveway. The entire property is completely eroded. I was trying to find out who the owner was and if they were going to rent the house out because I have three children. When I found out what the plans were for this property I had to tune in tonight and see how this even got on the agenda. On top of the heavy traffic being so close to Wilson Square and the lack of buses. He owns the smallest parcel of land, and it is right on the wetlands. I don't know how it is even feasibly possible as I am standing here looking at it. It would be like a scientific miracle for him to put that property where this house is. Maybe if he was trying to buyout 26 and 24 that would make sense. I think if you were standing where I am standing this would be immediately eliminated from a discussion.

Kim and James Bates, 24 (A) No Central St

MRS BATES: Right next door to this property. We are affected already by the wetlands obviously. Part of our yard is already wet. We can't use it. It floats. My neighbor directly to 24 North Central, her yard is almost ¾ unusable already. I just don't know how; his yard is already eroded so much. Just in the two years it has eroded so much and so has mine. I just don't understand, and it is so beautiful as it is in the spring. They don't need to revamp it. It is beautiful, absolutely gorgeous and there is so much wildlife. We have enough issues with our sewers here. I don't know how they put three more units when they have twenty units over here and another three or four over there. We got sewer flooded in February (Valentine's Day) because of a (inaudible). The city wasn't able to

help us. Fifty thousand dollars in damage. We have had enough already. We are not exactly in favor of this. I feel bad for my neighbor who can barely use her yard as it is. That is all I wanted to say and we appreciate you giving us the time to speak. Thank you.

Paul Stevens, 24 North Central Street

MR STEVENS: I was never given notice of a continuance from last time to this time. I was wondering if the neighbors can get new notice for continuations and the next date that we are supposed to be here to attend? It is hard to attend if we don't know.

Discussion ensued. The chair explained that the agenda is posted online and inside/outside city hall every month. The agent chimed in and said he can either email her and she will send it to him directly or he can check the website two weeks before said meeting date. The item was continued as stated above.

8. A continued Public Hearing on a Notice of Intent submitted by Hayes Engineering, Inc. (c/o Peter Ogren) for Atlantic Coast Home (c/o Michael Becker). The owner is Hardy and Munroe, LLC (Michael Becker-manager). The proposed work is the construction of a commercial condominium with associated parking, utilities and landscaping. The property is known as 0 Hardy Street, Map 85, Lot 1, Peabody MA.

Summary: Robert Langley (DPS) has sent the item to peer review. The applicant sent an email requesting a continuance.

Motion to continue as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 6-0.

9. A continued Public Hearing on a Notice of Intent submitted by Goddard Consulting, LLC (Tom Schutz) for Trustee of 18 Carell Road Nominee Trust (Gilbert Aleixo-Filho). The proposed work is the construction of an extension to Carell Road with associated grading to be used as a snow storage area, turnaround and driveway for a single-family house within buffer zone of BVW. The property is known as 18 Carell Road, Map 57, Lot 74N, Peabody MA.

Summary: Robert Langley has sent the item to legal for review. The applicant requested a continuance in writing a few hours before the hearing.

Motion to continue as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 6-0.

After the vote members of the public raised their hands and were upset that the item has been continued without them being aware. There were numerous people in attendance from the public that wished to speak. The commission felt obligated to let the public speak since it was a public hearing. Councillor Michael Higgins was present and will have more to say at the April hearing after the item is vetted by the legal department and if the plans are revised further.

Diane Dyer, 11 Carell Road

MS DYER: The proposed snow storage area is a few houses away from me. I am concerned with all and to know more about what it actually means. It hasn't been really clearly defined to me what it meant. I am glad we are going to find out more and get it reviewed from all angles. It has been continued to April 10th and that is fine. We are anxious to hear more.

Stan Gryglik, 4503 Deerfield Circle- Huntington Wood Condominium

MR GRYGLIK: I wanted to follow up basically I submitted a letter with a lot of detail. I am hoping to be able to review that. Most of it is based on the two plans so far unless there are any new changes. One point I wanted to make was that the site visit was at a situation where we had a lot of snow cover. I don't feel that we had an adequate review of the area considering the snow cover and the type of things that were put on the plan. I want that to hopefully be something that the commission keeps in mind particularly those who were present. I think at the moment that is all I need to say. I will be reviewing and hopefully speaking thoroughly on all the details that I submitted in a previous letter. Thank you.

Board members stated they would go on a site visit on their own.

10. A continued Public Hearing on a Notice of Intent submitted by Williams & Sparages LLC (Thorsen Akerley) for Ray Falite. The proposed work is the construction of a commercial building, driveways, parking, landscaping, utilities, stormwater, public walking trail with canoe launch and riverfront area restoration. The property is known as 60 Pulaski St, Map 53, Lot 85, Peabody MA.

Present: Christ Sparages (Williams & Sparages)

Summary: The peer review is complete. Mr. Langley submitted a closeout memo the week of the meeting. There was a brief presentation. Waters River is tidal with associated marsh and land subject to coastal storm flowage up to elevation ten and associated buffers. A brief history of the site was mentioned. The site has been in use since the 1800's. The property was a water dependent use at one time. Therefore, they are asking for the Historic Mill Exemption. There are historic pictures showing a tall ship at the dock on the property. A fire in March of 1998 destroyed what was left of the building. There is an Activity Use Limitation (AUL) on the property. It has gone through the 21E process. He believes the property is a classic degraded riverfront property. They are still committed to restoring the riverfront area. There is a proposed public access trail and canoe launch. The property is part of the new Mill Overlay District. The property is zoned light industrial. They are proposing a commercial industrial building. The back portion of the building would be used for industrial use. There would be storefronts across the front of the building (4- 3,000 SF units). The project meets stormwater regulations. Two raingardens are proposed (in the front and back of the property). There are also two underground stormwater chambers to treat the parking lot runoff. The walking path is seven hundred (700) feet long and five feet wide starting at Pulaski Street and ending at the Waters River. There will be a canoe/kayak launch. There is also riverfront restoration along the path as shown on the landscaping plan. Ms. Green inquired about the possibility of kayak/canoe storage racks near the dock. Mr. Sparages said he will definitely ask the property owner and if it is included in the Order the owner

will most likely agree to install a unit. Mr. Rizzo is pleased to see the revised plans, especially the walking path with access to the ocean. Ms. Green is a horticulture college graduate and asked that the Bradford Pear be replaced on revised plans. Bradford Pear trees are susceptible to diseases and are not great to be near a sidewalk. They are banned in Ohio and will be banned in California soon. The plan will be revised to show the following: remove pear trees/replace with other species, signs/possible educational sign, kayak/canoe racks TBD. All work is outside the 25 No Disturb Zone. **Discussion ensued** regarding snow storage and signage along the walking trail. Since the peer review and DPS memo were received the day before the meeting, the commission and staff needed time to review. They felt they needed to continue the item to familiarize themselves with the new information before a vote could be held. The plan also needs to be revised as stated. Staff will meet with the applicant to discuss the kayak racks. **Discussion continued** regarding the dock, maintenance, and liability. More talks with the city need to continue regarding the walking trail, dock, and racks. No public wished to speak.

Motion to continue as made by Mr. Athas. Seconded by Mr. Vivaldi. Adopted unanimously 6-0.

11. A continued Public Hearing on a Notice of Intent submitted by LEC Environmental Consultants, Inc. (Ann Marton) for 8 Centennial Drive Owner, LLC c/o Tishman Speyer Development, LLC (Rustom Cowasjee). The proposed work is the redevelopment of the former Analogic building to include razing and removing all buildings and infrastructure. The construction of four new commercial industrial warehouse buildings with internal circulation, parking, loading facility and supporting infrastructure. Portions of the project occur in the buffer zone to BVW. No work is proposed in riverfront. The property is known as 8 Centennial Drive, Map 91, Lot 6, Peabody MA.

Present: Ann Marton (LEC), Steven Morris (Tishman Speyer), Tim Houle (BL Companies), Parker Strong (Tishman Speyer), John Pelletier (Tishman Speyer) and Attorney John Keilty (legal counsel)

Summary: Mr. Morris gave a PowerPoint presentation. Robert Langley submitted a closeout memo. **Discussion ensued** regarding the peer review. Ms. Green stated she still wants to see DarkSky lighting. Mr. Houle stated they are, and it is included in the lighting plan. The commission asked for a standalone plan for the restoration area/pollinator habitat. No members of the public spoke.

Motion to continue as made by Ms. Green. Seconded by Mr. Athas. Adopted unanimously 6-0.

12. A Public Hearing on a Notice of Intent submitted by Williams & Sparages LLC (Thorsen Akerly) for Douglas and Jacqueline Murray (owners). The proposed work is the construction of two additions and a deck at an existing single-family-home. The property is known as 321 Lowell Street, Map 61, Lot 159, Peabody MA.

Present: Chris Sparages (W&S) and Douglas Murray (owner)

Summary: No trees will be removed, and no new pavement is proposed. The property has riverfront, BVW and FEMA AE Flood Plain. The addition in the rear of the property will be elevated on a series of structural supports (10 total-16"x16" supports). Crushed stone will be under the addition. Sonotubes will support a new stairway. **Discussion ensued** regarding compensatory flood storage for said supports. The Performance Standard is 1 to 1 replacement. They are also proposing a small 70 SF riverfront mitigation area to offset the riverfront alteration. No members of the public wished to speak for or against the project.

Motion to close as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 6-0.

Motion to issue Standard Order of Conditions 1-50 adding the following special conditions: **51)**The areas shown on the approved plan labeled "proposed 70SF mitigation area" and "Proposed BLSF compensation area" must be done BEFORE or at same time as other site work commences. Both must be complete before receiving an occupancy permit and before requesting a partial or full certificate of compliance. A Certificate of Compliance will not be issued without compliance; **52)** Two reports prepared by the Wetland Specialist shall be submitted annually to the Commission by May 1st and September 1st of each year for two years. Each report shall include an observed species list, relative abundance of each species, percent cover of wetland and upland species, the visibility of the plantings and proposed remedial measures to ensure that at least 75% of the surface of the replication area be re-established with indigenous wetland plant species within two growing seasons. Said report shall include enough photographs for proper coverage of issues/points being addressed. If monitoring data indicates that this objective cannot be met, a corrective plan of action shall be submitted to the Commission for approval and implemented under the supervision of the wetland specialist. A Full Certificate of Compliance will not be granted by the Commission until such time as the replacement area has been found to meet these standards as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously.

AMENDMENT REQUESTS

13. A Public Hearing on an Amendment Request on DEP file no.55-896 submitted by Attorney Barry Fogel for the Salem Country Club (owners). The proposed changes will be reviewed by the commission to determine if a new Notice of Intent is required. The property is known as 133 Forest Street, Map 70, Lot 003, Peabody MA.

Present: Barry Fogel (legal counsel) and William Rocco (Salem Country Club)

Summary: The request is to amend an Order of Conditions that was issued in 2021 for the work on holes 6 and 7. Attorney Fogel showed the approved site plan on the screen. The original plans showed the golf cart being moved to the north, tees to be moved south, isolated wetlands and bordering wetlands being filled and a large wetlands restoration area. The wetlands replication area has been completed and one project update was submitted to the commission. They failed to submit the second required restoration update in September of 2023. The new plan shows the existing golf tees remaining in their present location with some small elevation changes. The cart path will

remain where it is located. The IVW will still be filled but instead of putting a new culvert that drains to the BVW via rip rap, the project will leave the culvert as it exists. The area will be less altered given the plan change. There will be less BVW filled. They will now fill almost half of what was originally proposed. A tree will also be removed. A drain exists but was not working. It will be fixed to work with the revised plan. The bunker will be rebuilt to its exact configuration in place. The benefit of the amendment is the reduction of BVW fill and fix drainage issues. Since they missed the Fall 2023 Progress Report regarding wetlands replication area the monitoring will be stretched out another 6 months. They submitted one in May 2023 but never followed up on the second required report. The Order will expire in November of 2024. It will need to be extended because the replication progress is ongoing. They will need a valid permit to work in said replication area.

Motion to close the public hearing as made by Mr. Vivaldi. Seconded by Mr. Comak. Adopted unanimously 6-0.

Motion to Amend Order of Conditions 55-896 revising conditions to read: sheets C100 and C101 has a revised date of March 2024, forty-two (42) trees must be replanted instead of forty (40), the progress reports will be extended until Spring 2025 and all other conditions remain the same as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 6-0.

14. A Public Hearing on an Amendment Request on DEP file no.55-910 submitted by Attorney Barry Fogel for the Salem Country Club (owners). The proposed changes will be reviewed by the commission to determine if a new Notice of Intent is required. The property is known as 133 Forest Street, Map 59, Lot 81X, Peabody MA.

Present: Barry Fogel (legal counsel) and William Rocco (Salem Country Club)

Summary: The pipe will now be permanently buried.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 6-0.

Motion to Amend Order of Conditions **55-910** allowing said pipe to be buried instead of being temporary and as long as erosion controls are installed before work commences as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 6-0.

ENFORCEMENT ORDERS/VIOLATION ORDERS

15. A continued Enforcement Order issued to the Salem Country Club- for the following activities: Removal of living trees/grinding/grubbing stumps in buffer zone/in close proximity to jurisdictional resource areas and depositing woodchips in buffer zones and along local riverfront woods. The property address is known as 133 Forest Street, Peabody MA.

No discussion. The item was continued at a previous hearing until the May 8 public hearing.

MINOR PERMITS TREES AND OTHER

- **Tree Request- 1200 Salem Street -Whitcomb Tree on behalf of Cedar Pond Village- remove 4 trees. (work approved 2.21.24)**
- **Minor Permit Request- 9 Pine Street- New roof, no staging or stockpiling allowed in rear yard (work approved on 2.5.24).**

Motion to accept as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 6-0.

OTHER ITEMS

- **MINUTES- January 10 and February 7, AND February 27, 2024**

Motion to accept the minutes as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 6-0.

- **Adjournment**

Motion to adjourn as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 6-0. The meeting adjourned at 11:31 PM.

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares