



City of Peabody Conservation Commission

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

MINUTES

January 8, 2025

Link: <https://peabodytv.org/videos-on-demand/?vid=1397>

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
Amanda Green
Arthur Athas
Bruce Comak (arrived late-time unknown)
Alternate Brian Cassidy
Alternate Jamie Harrop

MEMBERS ABSENT

Also Present: Lucia DeINegro, Conservation Agent

CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:00 PM

-Item 4 was taken out of order-

4. 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. Meeting opened on: 4.13.22

Present: Attorney Barry Fogel (legal counsel), William Rocco (Salem Country Club) and Evin Guvendiren (peer review for city-DeRosa Environmental Consulting, Inc)

Summary: Attorney Fogel gave an update on the restoration project. The DeRosa Team agrees that everything has progressed very well. At this point it is a wait and see on a site visit once everything blooms in the Spring of 2025. **Discussion regarding** a site visit in May or June continued. Mondays are best for the club. The club's arborist will have to do a walk through before the site visit. They will return for discussion at the April hearing and decide if May or June will be best for a site visit.

Motion to continue to the April 9th meeting as made by Mr. Vivaldi. Seconded by Mr. Athas. The motion passed 7-0 with Mr. Comak not in the meeting yet)

REQUEST FOR DETERMINATION OF APPLICABILITY

1. A Public Hearing on a Request for Determination of Applicability submitted by Gina Pinto Fonte (representative) for Jose Pinto Trustee (owner/applicant). The proposed project is a 10'x10' addition to the rear of house. The property is known as 28 Chestnut Street, Map 85, Lot 194, Peabody MA.

Present: Gina Pinto Fonte (owner/applicant)

Documents:

► Plan of Land located at 28 Chestnut Street Peabody MASS Drafted by Eastern Land Survey Associates, Inc. scale: 1"=10' dated 11.13.2024.

Summary: The proposed project is a small addition on existing lawn. The house was built circa 1904. The property is raised above the river by approximately three feet. There is a 3-4 foot-tall retaining wall and a six-foot-high fence that is flush to the ground on the property. Between the backyard and the river lies a shrubby brush area, railroad tracks and an old building foundation surrounded by a fence. No members of the public wished to speak for or against the project.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mr. Cassidy. The motion passed 7-1 with Mr. Comak not voting because he was not present for the entire discussion)

Motion to issue Negative Determination with the following condition: **1)** Erosion controls should be inspected by staff (if needed) before work commences as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 7-1 with Mr. Comak not voting because he was not present for the entire discussion)

AFTER THE FACT NOTICE OF INTENT

2. A Public Hearing on a After the Fact Notice of Intent submitted by Hancock Associates (Caitlin White) for MK Peabody Investments, LLC (Michael Mei-owner/applicant). The proposed project consists of the redevelopment of a commercial building within Bordering Land Subject to Flooding (BLSF). The property is known as 2 Central Street, Map 85, Lot 59, Peabody MA.

Present: Michael Mei (owner/applicant), John R Keilty (legal counsel) Robert Lavoie (legal counsel), David Cowell (wetland Scientist), Rick Salvo (engineer)

Documents:

- ▶ Existing Conditions Plan of Land in Peabody MA prepared by Hancock Associates, stamped by Joseph M. Small with a final date of 11.13.2024.
- ▶ C-2-Proposed Site Plan- Site Layout Plan -2 Central Street- prepared by Engineering Alliance, Inc. stamped by Richard A Salvo with a final revision date of 11.13.2024. Scale is as noted.
- ▶ C-3 Proposed Site Plan -Erosion Control Plan- 2 Central Street- prepared by Engineering Alliance, Inc. stamped by Richard A Salvo with a final revision date of 11.13.2024.

Summary: The property was utilized as a bank. It is currently being remodeled into a restaurant. A building permit from the building department has been issued. The applicant/owner felt that they were all set since a permit was approved/released and work has started. The conservation agent became aware of the violation and issued an Enforcement Order. The owner filed an NOI to bring the property into compliance. There will be an elevated deck for dining. The footings in flood plain will need to meet the performance standards for BLSF. The engineer was able to design the project to meet the standards for compensatory flood storage at each lost elevation for the project deck. There are seven Cultec Chambers proposed for stormwater. There is also a grease trap for food waste. DPS did submit a memo for the project. The chambers are designed to meet the 100-year flood event. Test pits have been done according to Attorney Keilty. They are happy to work with DPS to determine the grease trap sizing. DEP has issued a file number without comments to date. **Discussion continued** regarding flooding in this area downtown. The area has flooded numerous times in past flood events. The chairman mentioned high tides and flooding. The stormwater would create extra storage for the flood waters. However, there is no guarantee that the site will not flood again. **Discussion continued** regarding flooding and development upstream and downstream. Mr. Rizzo inquired about the sheet flow runoff from the parking lot not going into the cultec chambers. The water will flow off as existing conditions into city catch basins. The new deck roof will be discharged into the cultec chambers. Vice Chairman Rizzo was also concerned with cars driving under the deck and the safety of the occupants of the restaurant. There is presently an easement with access to Mill Street. Discussion about past flood events in the area progressed. There were no comments from the public.

Motion to close the public hearing as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 8-0.

Motion to issue a Standard Order of Conditions 1-50 adding the following special condition **#51**) The O&M Plan is in perpetuity. Once the treatment train is online and functioning annual maintenance reports must be submitted to ConComm staff via email by 10.31 every year as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 8-0.

CERTIFICATE OF COMPLIANCE

3. A request for a FULL Certificate of Compliance as made by Williams & Sparages (Chris Sparages) on DEP File No. 55-934. The project was the construction of a single-family home. The address is f/k/a as 0 Pearl Street n/k/a 18 Pearl Street, Map 105, lot 85, Peabody MA. The Order of Conditions was issued on 2.28.24. First meeting date: 1.8.25

Summary: The applicant requested a continuance as they are working with the new owner on some site issues.

Motion to continue as made by Mr. Athas. Seconded by Mr. Comak. The motion passed 7-0 with Mr. Cassidy recusing himself and not voting.

ENFORCEMENT ORDERS/VIOLATION ORDERS

5. A continued Enforcement Order issued to MK Peabody Investments, LLC (Michael Mei-Resident Agent)- for the following activities: alteration of FEMA Flood Plain (BLSF) without a permit from the MASSDEP and Peabody ConComm. The property is known as 2 Central Street, Map 85, Lot 59, Peabody MA. First meeting date: 12.11.24

Motion to withdraw the Enforcement Order as made by Mr. Vivaldi. Seconded by Mr. Comak. Adopted unanimously 8-0.

6. A Violation Order issued to Haven Circle Cooperative Corp (John Hussey-President)- for the following activities: grading of land (possible fill and grade change per the jersey barriers noted on site and comparing topographic plans) and creating a stone dust parking/staging surface without filing a Notice of Intent. The property address is known as 33 Pine Street, Map 34, Lot 19, Peabody MA.

Present: John Hussey (President Haven Circle CoOp Corp)

Summary: They hired a contractor to create a parking lot. The work was done without a permit from the commission. It was noticed while city staff were on a site visit for another project. Staff believes the area altered is 100% buffer zone and possibly riverfront. There was a discussion regarding an Enforcement Order or Notice of Intent being more appropriate. If it is in riverfront the work may not be permissible under the Act. If they file an NOI for work that is not permissible, the applicant will end up paying local/state fees and other submittal fees for work that may not be allowed. The commission decided that a friendly Enforcement Order with action items is appropriate. They will have three months to submit a plan showing all resources and all alterations.

Motion to issue a friendly Enforcement Order with the action item to submit a plan for the April 9 meeting as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 8-0. (The item will be heard again at the April 9 hearing).

7. A continued Violation Order issued to Joseph and Donna Vieira. The property address is 154 Goodale Street, Map 25, Lot 64. The alleged work involves: 1) alleged possible alteration to buffer zone of intermittent stream and buffer zone to BVW (adding truckloads of fill to change the grade, performing grading/alterations and stockpiling various items such as construction debris, gravel piles, concrete blocks, ladders, wood, tarps, trash barrels, sawhorse and a storage container.) The deadline for a plot plan showing buffer zones and all activities was due on November 13, 2024. Property owner is in process of filing an RDA. They will appear at the February hearing.

Present: Joseph Vieira (owner)

Summary: Mr. Vieira said that he has lived in his house for thirty years. The land was sloping down. He wanted to level the ground off with some loam and have a flat surface. The property he altered is owned by another entity and was not aware of the violation on their property until staff called them. Mr. Vieira has been trying to get rid of the stuff behind his house ever since the VO was issued (construction debris, gravel piles, concrete blocks, ladders, wood, tarps, trash barrels, sawhorse and a storage container etc. TBD what has been removed). He stated he will do whatever the board wishes and apologized for the inconvenience. **Discussion regarding** the trespass issue was briefly discussed. A police report was filed. The owner's representative was present and wanted to hear what the commission had to say about the VO. Mr. Frankenstein stated Mr. Vieira has been working with him and his company (NFI Massachusetts). Mr. Vieira has agreed to clean it up. The plan shows that work was done in the buffer and in the outer riparian zone of the riverfront. Mr. Rizzo was concerned about the type of fill brought on to the property. Mr. Vieira claims the dirt that is there was like that when he bought the house. He stated he did minor work to level off the area. He also stated he never pushed anything in the woods. Mr. Frankenstein commented that he wants to wait and see how the permitting process goes. If the commission and DEP allow the fill to remain, he will then either sell or lease the land to Mr. Vieira. Mr. Vieira will be at the February hearing for an RDA. The commission will determine if the fill and alteration is acceptable at that meeting. An EO will be issued for cleanup. **Discussion continued** about the trespass and fill on someone else's property. There are also a few trees that have fill around their root flare and will most likely die.

Motion to issue a friendly Enforcement Order with the action item of all debris/material stored in the buffer and riverfront must be removed by **May 1** as made by Mr. Athas. Seconded by Mrs. Harrop. Adopted unanimously 8-0.

MINOR PERMIT REQUESTS

● **Minor Permit-1 Second Street.** The proposed work is ADA site improvements and in-kind parking lot work. This work falls under Minor Permit per 310CMR10.10.02(2)(b)2 p: Pavement repair, resurfacing, and reclamation of existing roadways within the right-of-

way configuration provided certain limitations are met. (Work was approved on 12.10.2024 with the conditions- See onedrive for conditions.

● **Minor Permit-7 Granite Road.** The proposed work is the installation of a deck at a single-family house. (Work was approved on 11.25.2024 with the condition- “Stockpiles must be protected as needed. Covered with weighted tarps or surrounded by erosion controls”).

Motion to approve the Minor Permits as made by Mr. Athas. Seconded by Mr. Vivaldi. Adopted unanimously 8-0.

TREE REQUESTS – (TBR= to Be Removed)

● **133 Forest Street- Salem Country Club- Arbor Tree- 4 dangerous trees TBR-** approved by ConComm staff on 11.25.24 with conditions work to be done as approved by Tree Warden Brian Grant and as approved by the Planning Board.

Motion to ratify Tree Permits as made by Mrs. Harrop. Seconded by Ms. Green. Adopted unanimously 8-0.

EMERGENCY CERTIFICATE

● **Emergency Certificate- Beaver dam breaching- dam located off Crystal Drive/Bike Path. To be drafted the week of 12.16.24, exact dates to be confirmed. The Health Department deems it an emergency. To be ratified.**

Motion to ratify the EC as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 8-0.

● **MINUTES- 9.11.24, 10.9.24 and 11.13.24 for approval**

Motion to approve the September, October and November minutes as made by Mr. Vivaldi. Seconded by Mrs. Harrop. Adopted unanimously 8-0.

● **Adjournment**

Motion to adjourn as made by Mr. Rizzo. Seconded by Mr. Cassidy. Adopted unanimously 8-0.

The meeting adjourned at 9:17 PM.

Chairman Stewart Lazares