



City of Peabody Conservation Commission

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

MINUTES

February 7, 2024

Link: <https://peabodytv.org/videos-on-demand/?vid=1182>

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 (arrived@ 7:07pm)
Amanda Green
Bruce Comak

MEMBERS ABSENT

Arthur Athas
Ritamarie Cavicchio

Also Present: Lucia DelNegro, Conservation Agent

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

EXTENSION REQUEST

1. Request for an Extension Permit on DEP File No. 55-769. The request is being made by Abigail Manzi of DeRosa Environmental Consulting, Inc. The project is Long Term Operations & Maintenance and Pollution Prevention Plan for existing stormwater system, BMPS, vegetation control and landscaping installed under previous expired 1998 Order (55-482). This Order expires on 2/9/2024. The address is known as 100 Brooksby Village Drive, Map 27, lot 5x. The applicant is asking for a 3-year extension.

Present: Michael DeRosa (DeRosa Environmental Consulting, Inc.)

Motion to extend DEP File No 55-769 for three years (expires on February 4, 2027) as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 4-0 with Mr. Vivaldi not part of the discussion yet.

EMERGENCY CERTIFICATE (taken out of order)

2. To be ratified: Request for an Emergency Certificate made by William Paulitz, director of DPS, Reason: Sewer main break where Johnon Street intersects with Peabody bike Path. Work must be done during the following timeframe: 2.2.24 to 3.3.2024.

Motion to ratify as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 4-0 with Mr. Vivaldi voting present as he was not part of the discussion yet (arrived at 7:07 pm).

CERTIFICATE OF COMPLIANCE

2. A request for a PARTIAL Certificate of Compliance as made by Jason Stockard, Sarah Paone and Marc Millard for DEP file 55-226. The project was Greenwood Estates Subdivision. The address is known as 7 Christopher Terrace, Map 108, Lot 360, Peabody MA. They are requesting a partial release for 7 Christopher Terrace only.

Present: Marc Millard (seller)

Motion to issue a Partial Certificate of Compliance on **7 Christopher Terrace** only as made by Mr. Vivaldi. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

NOTICE OF INTENT

3. A 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 Sr and Joseph Levis Jr. (Levis Companies, Inc.)

Page 3- 2.7.24

Summary: The proposed work is the removal of the existing pool patio, shed, stump hindering water flow, concrete abutment, and makeshift concrete retaining wall. The project also includes the construction of a new deck. The inground pool was filled already under an Emergency Certificate. **Discussion ensued** regarding the anticipated timeline. They hope to start as soon as they have a valid wetlands permit. The work should be done in one month from the start date. The item was open to members of the public.

John Sousa- 183 Lynnfield Street

MR SOUSA: I am the abutter of 181. I have been here since 1979. My property has been subject to erosion because of the creek and the retaining wall that they are taking down. I want to know what I can do to match the grade of what they are going to do here so the erosion of my property will diminish.

Summary: The commission was confused with the question. He claims the small makeshift retaining wall has caused significant damage to his property. He asked to put up a retaining wall and do other work on his property. The commission and agent explained he would need to file a Notice of intent. **Discussion ensued.** The resident would need to hire an engineer and apply for a wetland permit. Mr. Sousa believes the removal of the wall will also cause damage to his property. He feels he shouldn't have to file an NOI because his blueberry bushes died after he was required to plant them when he illegally removed trees on his property years ago. Regardless, he will need to file an NOI for any work in FEMA Flood Plain and riverfront.

Anthony Sacramone- 5 Quail Road

MR SACAMONE: I am also an abutter and happen to be sitting next to John here. At a minimum, what we are all looking for is that when they do the grading on that property, on both sides of the brook. As you know that property has land on both sides of the brook. We just want to make sure that the grading is a smooth transition. If John's land is lower, taking out the wall is one thing but if it goes up hill you still have a chokepoint. At the bare minimum we want to make sure that the transition from my property on one side of the brook and John on the other side of the brook flows naturally through there. That is at a bare minimum that we would like to see if that can be accommodated.

Discussion ensued. The commission explained that grading on abutting lots is not before the commission this evening. The abutters feel they will be negatively impacted upstream from the concrete block being removed downstream. **Discussion ensued** regarding the abutting lots and grading changes. The commission took it as a consideration, but no decisions can be made without plans. Considering the new information the commission felt they could not close the hearing without a site visit.

Russell Donovan-12 Quail Road

MR DONOVAN: I have been at this house since December 1st, 1976, when the development was first built. The property in question that we are talking about as my neighbors have mentioned that retaining wall was full of fill back in the eighties when they built the house. They added about three feet of fill to put in the pool. That land that it is on has a forty-foot drainage easement deeded in the development back in 1975. The backyard has a drainage easement. When the initial owner built the house, filled in for the pool and built that retaining wall, which is probably about three feet high. You have

Page 4- 2.7.24

about three feet of fill. Their land does go across the brook, and you have a dilapidated fence on the other side (Quail Road side). It was supposed to be taken down also. For the record there is a forty-foot drainage easement on that property. They should never have put that pool in. They did and that caused drainage and flooding problems on Quail Road. That's the bottleneck that causes everything to back up.

Discussion ensued.

There will be a site visit on **2.8.24 at 3pm**. Neighbors are welcome.

Motion to continue the item to the March meeting as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 5-0.

4. A 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.

Item is peer review.

Motion to continue as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 5-0.

5. A 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.

Item is in peer review.

Motion to continue as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 5-0.

6. 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.

Motion to continue as made by Mr. Vivaldi. Seconded by Mr. Comak. Adopted unanimously 5-0.

7. A continued Public Hearing on a Notice of Intent submitted by Williams & Sparages LLC (Thorsen Akerly) for Peabody Living LLC (applicant-Paul DiBiase). The owner is The Laurel Co. Inc. The proposed work is the construction of a single-family home, paved driveway and associated grading within 100-foot buffer to bordering vegetated wetlands. The property is known as 0 Pearl Street, Map 105, Lot 85, Peabody MA.

Present: Christ Sparages (Williams & Sparages LLC)

Summary: The plan was revised since the last hearing. **Discussion ensued** regarding the revised plan. Stormwater is not required for a single-family-home. Staff preferred the original plan. Ms. Green wanted to know why the ConComm was no longer requiring trees to remain or be planted. **Discussion continued** regarding the construction sequence and utility connections. There were no comments from the public.

Motion to close the public hearing as made by Mr. Comak. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

Motion to issue a Standard Order of Conditions 1-50 adding the following special conditions: **51)** The TWENTY-FIVE (25) foot No Disturb Zone with three (3) granite markers is in perpetuity. The signs on top of the granite posts shall have wording similar to the following: *Environmentally Sensitive Area-No Disturb Zone-No Dumping landscape material/No Altering*; **52)** Erosion control matting (erosion fabric) must be installed on all 3 to 1 side slopes (or greater). SEE DETAIL on plan labeled "Slope Installation-Erosion Control Blanket" (*need revised plan showing this*); **53)** The rip rap slope MUST have soil installed between the stones and New England Wildflower soil mix spread. See note on plan; **54)** During site construction activities, the owner/applicant shall sweep the access drive and roadway daily at the end of each workday or more frequently if necessary; **55)** Erosion control methods must comply with those outlined in plan as mentioned above. Any erosion controls shall be in place 48 hours prior to any work on site and be inspected by DPS and ConComm Agent. Inspections shall be arranged with the contractor at least 48 hours prior. **Non Jurisdictional Conditions from DPS memo:** **56)** Any sewer utilities/water utilities that are run outside the house and any tie-ins to the sewer mains/water mains must be inspected by the engineering department. Inspections should be arranged with the city by the applicant/owner at least 48 hours prior to the need for one with the pipe exposed and NOT backfilled; **57)** The applicant/owner shall provide a final set of construction drawings to the Director of Engineering that resolves all outstanding conditions and conforms substantially to the plans referenced above. Minor Modifications that result in no substantive changes to the project design may be approved in writing by the Director of Engineering. *The plan needs to be revised and the Order will be held until received* as made by Mr. Vivaldi. Seconded by Mr. Rizzo. The motion passed 4-1 with Ms. Green voting NO.

Item 9 taken out of order.

9. 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.

Motion to continue as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 5-0.

8. 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.

Present: John R Keilty (legal counsel), James McDowell (Eastern Land Survey Assoc. Inc.) other names were mentioned. They were not on camera, and they did not speak.

Summary: There was a site visit many months ago. The plan has been revised a few times. The project does not require the applicant to meet stormwater standards. However, they felt it was needed given the nature of flooding in the surrounding neighborhood. Attorney Keilty received a variance from the Zoning Board of Appeals in June 2023.

MR MCDOWELL: I will just give you a short summary of what we propose for stormwater management on the site. We did do several test holes out there. There were loamy sands as I recall present. The water tables were fairly high as would be expected in that area. What we have proposed to do is put drip edges on the front and rear of the proposed house to take the roof runoff and recharge that into the drip edges. Details of that are provided on sheet two of the plan. In addition, we are proposing to put four (4) cultec recharge chambers under the driveway. It calls for a catch basin at the back right rear corner of the driveway. That will direct the driveway runoff into those cultec chambers. The system is effective in the two (2) and ten (10) year storms. In a twenty-five (25) and hundred (100) there are slight increases. They are very very small. That is because the lot is small, and the area being developed is less than the total lot area of ten thousand (10,000) feet. In addition, we call for a couple of posts and markers on the other wetlands side of the erosion controls barrier. We have several buffer plantings proposed between the proposed work and the erosion control barrier. If there are any questions, we would be glad to try and field them for you.

Discussion ensued about drip edges in lieu of downspouts. Chairman Lazares inquired if the property has been officially subdivided into two lots yet.

ATTY KEILTY: Yes. We received a variance under the date of June 7, 2023. That granted by the Board of Appeal "previously divided into subdivided lots A and B." That was a variance that had previously been granted on November 10th, 2022. We were given the permission to create lot A & B. This newer variance that I just recited June 7, 2023, that allowed us to the move the dwellings forward. So yes.

MR VIVALDI: I wish you would put that on the plan then John. I don't see it on the plan. Any reason why it is not on the plan?

ATTY KEILTY: It is not necessary for a filing with the DEP and the Wetlands Protection Act. It is something we are happy to add if you would like. (It will be added to the plan).

Page 7- 2.7.24

MR LAZARES: Has the subdivision been recorded someplace so it shows up on the assessor's map?

ATTY KEILTY: The subdivision plan does not show in the assessor's map because...it is a Land Court plan. At the end of the day, we would arrange these by rearranging lots but in order to put a Land Court plan on record we wanted to be able to build with the issuance of an Order of Conditions. Rather than spend the money for a land court plan that might have no use. I have not recorded any land court plan reflecting the subdivision. If we get an Order we will record the Order and the plan and the variance. It will all go on together.

MR LAZARES: According to my notes there was a variance from 2003 that does not allow further subdivision of this lot. Can you address that?

ATTY KEILTY: That is correct. There was such however, the board subsequently did allow the subdivision by a subsequent variance. I am happy to provide a memorandum of law which indicates that the subsequent action under the board overturns the earlier action.

MR RIZZO: With regard to that Jack, with regard to that action, were they (ZBA) aware that the original plan said that site shall not be subdivided?

ATTY KEILTY: I am not certain of that. There was no discussion of that at the meeting but many of the members were the same members.

MR RIZZO: Hmm I am surprised. All right.

Discussion ensued regarding whether the house would be on a slab or basement. The plan is not supposed to show a basement. The building is about 8 feet higher than the street elevation currently. It is like a split-level home. A site visit took place last year. No one has been on site to check wetland flags since the last site visit. The details show a small basement. The footing for the building is currently in the water table. Dewatering may be required. A dewatering plan needs to be provided before the Commission can vote. Mr. Rizzo opined about the large driveway and the retaining wall. **Discussion ensued.** The applicant's engineer thinks the driveway and the wall are not overly done. The conversation went on to discuss the cultec chambers and the roof drip line. The commission felt that they have still not answered all the questions from the city's engineering department. There was an in-person meeting with Mr. Langley and the applicant. The ConComm staff was not invited to that meeting and not certain what was discussed. Attorney Keilty felt that they answered all the questions but concomm could not confirm. Attorney Keilty stated he felt Mr. Langley would not give a close out memo for this project. The applicant is not willing to make the project footprint any smaller. Mr. Rizzo mentioned MASSDEP's initial comments regarding the project. **DEP'S original comments: Original DEP COMMENTS:** *"Based on the proximity of the erosion control (limit of work) to the adjacent Bank associated with the intermittent stream, it is MassDEP's opinion that there may be an immediate or inadvertent alteration to this wetland resource area (310 CMR 10.53(1)). Additionally, the clearing of mature trees is likely to adversely affect the function of the Bank through the loss of shading, changes in*

temperature, as well as changes in the plant community characteristics. Therefore, it is MassDEP's opinion that the proposed erosion control line (and limit of lawn) be reconfigured to create a wider buffer to the Bank."

They believe they designed the project to eliminate that original concern from MASSDEP. MASSDEP will not review the revised documents until the Order has been issued. The applicant did not think it was a stream and the conservation agent chimed in to remind them of the stream behind the house on Troy Street.

Mr. Lazares mentioned the historic flooding in the neighborhood. Recently pumpkins were clogging the stream and backing water up onto neighborhood properties. He is concerned the new house will most likely flood or cause flooding on other properties. Attorney Keilty mentioned something about a pending mosquito control plan that has not been approved yet. He mentioned that *might* alleviate flooding in this area if it ever is undertaken. **Discussion ensued** regarding the existing neighborhood flooding on Troy, Granite and Glendale etc.

MS GREEN: It is that type of property where you are scratching your head wondering why anyone would want to build on it. This is going to be like Pine Street. When people build a house that abuts wetlands and then their land gets flooded, they demand the city to do something about it. Mark my words, this will come back to haunt the city.

The item was open to members of the public.

William Delp, 13 Granite Road

MR DELP: One of my major concerns is I have lived in this house since 1966. I have seen the flooding that we have had with this wetland area ever since I have lived here. I have seen the water in that wetland pretty much out as far as the sidewalk on that particular lot. I am concerned down the road that if Miss Cook moves out of that house, somebody else buys it then we get one of these heavy rainstorms. The water is just about out to that sidewalk they are going to be screaming and hollering at the city to correct the problem. She is probably willing to accept the fact that it may get flooded at times but the next person that owns that property won't accept that.

Discussion ensued. There were no other members of the public that wished to comment. The commission continued the conversation with the applicant about possibly trying to revise the plan again. Mr. Rizzo felt that the garage could be removed. Mr. Comak mentioned pervious asphalt or pervious pavers on top of the cultec chambers.

The Commission asked for a new plan showing the following and revised docs as stated below:

- Revised O&M Plan
- dewatering detail
- granite posts (not wooden)
- porous pavement
- sign on driveway that states "This is porous driveway-must be maintained" wording TBD
- revised plan saying no pool allowed -written on plan (no above or inground pool in perpetuity)

Page 9- 2.7.24

Motion to continue as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

10. A continued Public Hearing on a Notice of Intent submitted by Allen & Major Associates, Inc. (Jacqui Trainer). The proposed work is the construction of an addition to the building encompassing 82,760SF of the west side of the existing building. The existing detention basin will be enlarged to accommodate the increased impervious surface. The property is known as 140 Summit Street, Map 093, Lot 008, Peabody MA.

Present: David Robinson (Allen & Major Associates, Inc.)

Discussion ensued regarding the revised plan and the peer review. No members of the public wished to speak. DPS gave their close out memo with various DPS conditional requests.

Motion to close the public hearing as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

Motion to issue a standard Order of Conditions 1-50 adding the following special conditions: **51)** A Partial Certificate of Compliance cannot be issued until the restoration area has been constructed. A Full Certificate of Compliance cannot be issued until after the riverfront restoration area has been finished and two growing seasons have passed with 75% survivorship of plants. This restoration area shall remain in perpetuity; **52)** DPS close out memo from Robert Langley dated 2.5.2024 with following conditions:

1-During site activities the applicant shall sweep the access drive and roadway daily at the end of each workday and more frequently if necessary.

2-The applicant shall conduct a test pit in the footprint of the infiltration system to verify the soil type and to determine the separation of the bottom of the system from the estimated seasonal high ground water elevation. The applicant is required to provide a minimum of two feet separation.

3-The applicant shall provide a signed copy of the SWPPP to the city engineering department fourteen days prior to any land disturbance.

4-Any drainage utilities that are run outside the buildings must be inspected by the engineering department. Inspections shall be arranged at least 48 hours prior to the need for one and with the pipe exposed and not backfilled.

5-Any infiltration systems that are to be installed must have a bed bottom inspection by the engineering department prior to installation of units and backfilling. Installed infiltration and buried control structures must also be inspected by the engineering department prior to backfill. Inspections shall be arranged at last 48 hours prior to the need for one and with the pipe exposed and not backfilled.

6-Applicant shall supply an Illicit Discharge Compliance Statement to the city engineering department signed by the property owner PRIOR to any land disturbance.

7-If any future development is proposed for this site, any further increase in volume of runoff to Wetland A will be restricted to levels no greater than those proposed for this project. Other conditions in the memo mentioned above will be incorporated by Planning Board conditions as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 5-0.

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.

Item is in peer review. (Ann Marton requested a continuance via email)

Motion to continue as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

ENFORCEMENT ORDERS/VIOLATION ORDERS

12. 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.

Motion to continue item until a special public hearing on February 27th at 6pm as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

MINOR PERMITS TREES AND OTHER

●**Discussion item- John R Keilty, Esquire requests a discussion on 55-912 and 55-682.**

Motion to allow the chairman to sign the Declaration of Restrictive Covenant and Easement for 190R Newbury Street as made by Mr. Rizzo. Seconded by Ms. Green. The motion passed 4-1 with Mr. Vivaldi voting present.

OTHER ITEMS

●**MINUTES- December 13, 2023**

Motion to accept the December minutes as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 5-0.

●**Adjournment**

Motion to adjourn as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 5-0. The meeting adjourned at 10:01 PM

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares