



City of Peabody Conservation Commission

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MINUTES

July 31, 2024

Link: <https://peabodytv.org/videos-on-demand/?vid=1303>

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
Amanda Green
Alternate Brian Cassidy
Alternate Jamie Harrop

MEMBERS ABSENT

Ritamarie Cavicchio

Also Present: Lucia DeINegro, Conservation Agent; Brendan Callahan, Assistant Director of Planning; City Councillor Ward 6 - Michael T. Higgins

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

NOTICE OF INTENTS

1. A Public Hearing on a Notice of Intent submitted by John R Keilty (legal counsel) for Jenel Avola (applicant). The property owners are Anthony and Janet Avola. The proposed project is the construction of a single-family home, driveway, utilities and grading. The property is known as 59 R Pine Street, Map 4, Lot 46, Peabody MA. First meeting date: 7.31.24

Present: John R Keilty, Esquire (legal counsel), Jenel Anthony and Janet Avola (owners)

Summary: Attorney Keilty gave a brief introduction to the project. There are two mutually owned contiguous parcels. The proposed footprint is 43' x 28' and will be accessed via a driveway from the front lot (the easement is already existing). The Avola family owns both lots. A single-family house is on one lot. They would like to build an accessible house for their daughter, Jenel. Jenel is disabled and this house would enable her to live a more independent lifestyle. She can still be close to her family but be able to live independently. Attorney Keilty has met with the neighbors at 61 Pine Street (the Merchants). They have a full-size copy of the plan. The Agent has completed a site visit and checked the wetland flags. Attorney Keilty mentioned the wetland indicators and hydrology on site. **Discussion ensued** regarding the easement and access to the rear lot. Attorney Keilty stated a variance, revised lot lines or removal of said structure encroaching would be done before the new house is constructed. The commission felt that revising the lot lines would make more sense in case the lots are ever sold in the future. Ms. DelNegro spoke to the building commissioner. From what she understood, you cannot have two houses on one lot. She felt the lot lines needed to be reconfigured. Attorney Keilty opined that maybe they will tear the pool section of the existing house down. The chairman asked if he could speak to the building inspector. Attorney Keilty was upset that zoning issues were being discussed. Mr. Rizzo explained that departments should be talking to each other and sharing information.

The revised plan must show the following:

- Three (3) granite posts with conservation signs as discussed
- Post and rail fence around the rear of the property
- Revise to show basement
- Label resource area and distance to post and rail fence

Motion to close the public hearing as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 7-0.

Motion to issue a standard Order of Conditions 1-50 to be held until a revised plan mentioned above is submitted as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 7-0.

2. 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.

Meeting opened on: 12.13.23

Present: John Keilty, Esquire (legal counsel), Gilbert Aleixo-Filho (owner), Richard Salvo (engineer), Tom Schutz (Goddard Consulting, LLC)

Motion to close as made by Mr. Rizzo. Seconded by Mr. Vivaldi. The motion passed with 5 votes. (Ms. Green voting Present. Alternates did not vote).

Motion to issue a standard Order of Conditions 1-50 adding the following special conditions: **51)** Erosion controls must be refreshed and reviewed by staff before work can commence, **52)** the Conservation Easement MUST be reviewed and approved by the city solicitor. It must be recorded at the Registry of Deeds (ROD) either BEFORE or at the same time the OOC is recorded at the ROD, **53)** The License Agreement shall be executed before work commences, **54)** The granite posts with signs and boulders along the edge of the No Disturb Zone shall remain in perpetuity, **55)** Snow shall never be pushed towards the resource area. It must be stockpiled as shown on approved plan (plan to be revised) as made by Mr. Rizzo. Seconded by Mr. Vivaldi. The motion passed with 5 votes. (Ms. Green voting Present. Alternates did not vote).

3. 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.

Meeting opened on: 2.7.24

Present: John R Keilty (legal counsel) and Christopher Mello (ELSAI)

Summary: The units have now been downsized to two (2) units instead of the original three (3) units proposed. Legal counsel felt that all outstanding issues had been addressed. The item was open to the members of the public. Revised plans and documents have been submitted for review. Mr. Rizzo had issues with the constructability of the project. Attorney Keilty felt that the issue has been resolved. The item was open to members of the public.

Paul Stevens, 24 North Central Street

MR STEVENS: I am two houses over from the proposed site. I will start off with the conclusion, my only issue is the alteration of the buffer zone. The imprint of the structure proposed is pretty much the same size as the existing house. No problem there. The alteration of just the buffer zone. Some issues that I see are going to be

a problem not in the dry months but in any of the wet seasons. Our storms are getting worse. Water builds up really quickly. The retaining wall is blocking an approximate 1,860 square feet of what was buffer zone. With the drain system they are proposing, it is only going to act as a one-way valve. Water will be able to enter the wetland but when water levels rise it is not going to be able to go back into that system. When the water levels rise, when it hits the bottom of the retaining wall, from the pictures that I see, is an estimated four (4) to six (6) inches below the current grade. When water levels get to that six-inches once it hits that wall, it is not going to pass through the wall at that property. It is going to get diverted into somebody else's property. I had a couple questions. It didn't really specify in the plans. The impervious barrier, is that a one-piece barrier that is going to go around four sides and possibly the top of the proposed drainage structure? Or is that going to be overlapping fabrics I guess you would call it? If it overlaps, water is going to find its way through those seams. It is realistically act as an open drain. That open drain is never going to go onto their own property. It is going to flow right into the neighbor's property.

Discussion continued regarding flaws with the proposed plans and the possibility of causing flooding to the abutting lots. Mr. Stevens would like the retaining wall to be eliminated, and the plans revised. He is not opposed to them developing the land. He is opposed to the alteration of the land and the installation of retaining wall, adding fill and grading. Mr. Stevens does not think the system is going to work as planned. He feels it is not being implemented correctly in the plan. They are supposed to be subsurface, but they are placed on top of the existing grade and then covered with fill. **Discussion continued.** The commission felt that Mr. Stevens raised a good question. The commission entertained the idea of removing the subsurface infiltration units. Mr. Mello confirmed that it is a one-way system. **Discussion continued** regarding flooding in the neighborhood and that the system might only benefit the new property owners. **Discussion** continued regarding the height of groundwater. They cannot put the stormwater unit under the existing grade as it would be in groundwater. Mr. Stevens feels that if the project is approved as it is, they will end up in litigation in the future due to flooding abutting lots. **Kim Bates of 24A North Central was also present.** She agrees with everything Mr. Stevens stated. She has issues with flooding on her property. She stated people are losing land to water in the neighborhood. She appreciates what the applicant is trying to do but she also does not want future litigation if the stormwater design does not function as they are hoping. Mr. Stevens mentioned there has been issues with sewer backup in the neighborhood. It happened two times in the last few years. The applicant was not aware of any issues with utilities regarding their new structure. Some commission members felt the plan still needed to be revised to be less intrusive. The commission asked the engineer to look at the plans again and decide if leaving the grade as existing and eliminating the subsurface units would make sense. Mr. Mell (surveyor) stated he would be amendable to remove the said unit. The commission would like a new plan submitted for review. The applicants' consultants didn't feel comfortable revising the plans again without confirmation that they would get a favorable vote. The commission cannot vote without a plan before them. **Discussion continued.**

Motion to continue as made by Mr. Athas. Seconded by Mr. Rizzo. Motion passed 6-0 with the alternates not voting.

4. 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. Meeting opened on: 3.8.2023

Present: Attorney John R. Keilty

Motion to continue to the October hearing as made by Mr. Athas. Seconded by Ms. Green. The motion passed 6-0 with the alternates not voting.

5. 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. Meeting opened on: 2.7.24

Motion to continue to the September hearing as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 6-0 with the alternates not voting.

6. A continued Public Hearing on a Notice of Intent submitted by Hayes Engineering, Inc. (Peter Ogren) for Tan-Rite Realty LLC (Nicholas Ambeliotis-applicant/owner). The proposed project is the redevelopment of property to accommodate 40B mixed use development with two buildings, associated walkways, utilities, drives, parking areas, stormwater and flood management BMPs, landscaping and other amenities. The property is known as 39 Wallis Street, Map 85, Lots 09, 10 and 11, Peabody MA. Meeting opened on: 6.12.24

Present: Anthony Capachietti (engineer on behalf of Hayes Engineering) and Jason Panos, Esquire (legal counsel)

Summary: The applicants gave a presentation. This is a 40B project. It is also a redevelopment project. There is a small portion of degraded riverfront on the property. The site also has BLSF. There are proposed pocket parks and stormwater features. It is a retrofit project due to almost all the property being impervious. The area is prone to flooding but they are providing extra flood storage beyond the requirements. The item has gone through the Zoning Board of Appeals and has been reviewed by city departments with an extensive peer review completed. A quick discussion regarding the 40B process ensued. They have a Comprehensive Permit already which has been disclosed to the board. **Discussion continued.** Mr. Rizzo was concerned with the demo portion of the project. Attorney Jason Panos stated they have extensive conditions under the Comprehensive Permit. Attorney Panos also stated there were no 21E issues on the site. **Discussion continued** regarding the peer review and stormwater in the chambers. The chambers will be lined and are solely for flood storage. They are incorporating pervious sidewalks on the private portions of the walkways. **There were no members of the public that wished to speak.** They will need to revise the LTPPP.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 7-0 (with Mrs. Harrop not voting).

Motion to issue a standard Order of Conditions 1-50 adding special conditions: **51)** Contractor should at a minimum submit the inspection reports on a monthly basis (due on the first of the month) to the ConComm staff per the Construction Period Pollution Prevention Plan (CPPPP), **52)** Car washing is not allowed on site per the revised LTPPP, **53)** Clamshell buckets shall not be used to clean hooded catch basins. Vacuum trucks remove more sediment and supernatant (denoting the liquid lying above a solid residue after crystallization, precipitation, centrifugation, or other process) and are less likely to snap the hood within the deep sump basin, **54)** The O&M Plan (LTPPP) is in perpetuity. Once the treatment train is online and functioning annual reports are due starting October 31 and due annually on said date. The maintenance reports must be emailed to ConComm support staff. There is a distinction between the private and public stormwater features. The applicant is only responsible for private features. OTHER CONDITIONS **55)** Conditions set forth in DPS memo dated 8.31.2023- Robert Langley. **56)** Decision -city of Peabody-Zoning Board of Appeals- Comprehensive Permit dated 9.11.23 as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 7-0 (with Mrs. Harrop not voting).

7. A Public Hearing on a Notice of Intent submitted by Williams & Sparages LLC (Thorsen Akerley) for 10 Munroe Realty LLC (Joseph Salvaggio). The proposed project is the construction of a multi-family residential building within BLSF and Riverfront. The property is known as 10 & 12 Munroe Street, Map 85, Lot 2H and 2L, Peabody MA. First meeting date: 7.31.24

Present: Chris Sparages (Williams & Sparages LLC)

Summary: The item is in peer review.

Motion to continue as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 7-0.

AMENDMENT REQUEST

8. A Public Hearing on an Amendment to an Existing Order of Conditions DEP File No. 55-928 submitted by Williams & Sparages (Chris Sparages) for Ray Falite (applicant and owner). The proponent is requesting the commission to consider an Amendment to an existing Order of Conditions and determine if it falls under the guidelines of the MASSDEP's Amendment Policy. The property is known as 60 Pulaski Street, Map 53, Lot 85, Peabody MA. First meeting date: 7.31.24

Present: Chris Sparges (Williams & Sparages)

Summary: After they obtained the OOC they spoke to their attorney regarding the filled tidelands. MASSGIS has a layer entitled Historic High Water. This layer is synonymous with filled tidelands. The request is due to filled tidelands on the property and the need for a Chapter 91 Permit. The proposed building (in the tidelands) is also large enough

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that it would trigger a MEPA filing. The property owner does not want to trigger either threshold. There are now two smaller buildings and other changes. The stormwater features are still the same. The walking path was reduced and revised. **A brief discussion ensued.**

Motion to continue the public hearing as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 7-0.

Amanda Green left the hearing. Ms. Harrop was allowed to vote in the absence of Ms. Green.

REQUEST FOR DETERMINATION OF APPLICABILITY

9. A Public Hearing on a Request for Determination of Applicability submitted by Ambassador Pools for Donna Solano (owner). The proposed project is the installation of above ground pool in riverfront and buffer zone. The property is known as 27 Nancy Avenue, Map 48, Lot 63, Peabody MA. First meeting date: 7.31.24

Present: Debi Gregor (Ambassador Pools) and Donna Solano (owner)

Summary: The proposed project is an above ground pool installation. The Board informed the applicant of the drawdown condition. There were no members of the public that wished to speak.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mrs. Harrop. Adopted unanimously 7-0 (Ms. Green no longer present).

Motion to issue a Negative Determination with the following special conditions: **1)** Erosion controls should be inspected before work commences. Pictures sent via email is allowed; **2)** The content of water in swimming pools can be detrimental to wetlands plant and animal species. To remove harmful chemicals, it is the applicant's responsibility to leave the pool water standing without the addition of chlorine or any additives for a minimum of SEVEN (7) days before draining. All pool water, wherever possible, shall be drained through a dry well, rather than allowed to spread over the surface of the land. The City of Peabody Conservation Commission Office shall be notified prior to draining and shall approve the method of draining. This condition is in perpetuity for the life of the pool as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 7-0 (with Ms. Green no longer present).

ENFORCEMENT ORDERS/VIOLATION ORDERS

10. 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

The item will be heard at the September 11 hearing.

Motion to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted 5-0 with the alternates not voting and Ms. Green no longer present.

CERTIFICATE OF COMPLIANCE

11. A continued request for a PARTIAL Certificate of Compliance as made by Peter Ogren (Hayes Engineering, Inc.) for Seven Dearborn Limited Partnership DEP File No. 55-861. The project was a 180-unit apartment building, parking lot with associated drainage and stormwater systems. The address is known as 7 Dearborn Road, Map 78, Lot 19, Peabody MA. The Order of Conditions expired on 1/21/2024 after being tolled. Meeting opened on: 4.10.24

Present: Elizabeth Wallis (Hayes Engineering, Inc.)

Summary: An As Built Plan has been submitted. During the review city staff noted that the Stormceptor(s) were not labeled correctly. Ms. Wallis confirmed that the STC900 was installed and not a different model. The plan will be revised to show the STC900 units. The level spreader near wetland flag 20 was never installed. Staff will meet Hayes on site regarding the level spreader. **Discussion ensued.** The board felt they could vote contingent on a full CC and let ConComm staff and the DPS Director decide about the level spreader installation. Hayes agreed with the contingency.

Motion to issue a Full Certificate of Compliance on DEP file No. 55-861 contingent on a revised plan (showing STC900) being submitted and a site walk regarding the level spreader. After the site visit city staff will determine if further work is necessary (level spreader). The CC will be held until all issues with the plan are finalized and approved by DPS Director and the ConComm Agent as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted 5-0 with the alternates not voting and Ms. Green no longer present.

MINOR PERMITS TREES AND OTHER

•Minor Permit Requests- NONE

Tree Requests: (TBR= to be removed)

•8 Robin Road-Kelly Tree Services- 1 dead dangerous tree TBR-approved on 6.26.24 with conditions.

•9 Nancy Avenue- Edin and Sons Landscaping- 5 dangerous trees TBR- approved on 6.25.24 with conditions.

•52 Warren Street- Iron Tree- 2 dead/dangerous trees TBR- approved on 6.17.24 with conditions.

•801 Jubilee Drive- Bartlett Tree Experts- vista pruning of encroaching branches as needed. Approved with conditions on 6.3.24

Motion to accept as made by Mr. Rizzo. Seconded by Mrs. Harrop. Adopted unanimously 7-0.

10 Lowell Street/Brodies Pub- REQUEST for two trees in riverfront TBR. For the ConComm to discuss and approve tonight. Discussion is necessary. No permission granted to date.

Present: Michael Votto (owner) and Ryan Toomey (MIG Construction Management)

Discussion ensued. The property owner is concerned with how close the trees will be to the new structure. They also believe the trees are dangerous. The trees can be removed with the following conditions: 1) Work cannot start until Mid-November to December 2024 (after they drop leaves and go dormant). 2) NO grinding/grubbing of stumps is allowed. 3) The tree stumps shall be left at a minimum of 1.5 feet tall. The roots must remain so that the bank is not compromised. 4) One year after stumps sprouts, the sprouts should be observed to determine which is the best and most robust to remain.

Motion to allow tree removal subject to discussion above as made by Mr. Rizzo. Seconded by Mr. Comak. The motion passed 6-1 with Mr. Vivaldi voting NO and Ms. Green no longer in the meeting.

Other:

► **National Grid-Notice of vegetation maintenance along power lines in 2301E R-O-W. This work will consist of removing and pruning trees or shrub species that are within said R-O-W. These species are capable of causing interruptions to power when they fail or impede access to R-O-W.**

Motion to accept as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 7-0.

► **Northeast Mosquito Control and Wetlands Management District- 400' ditch maintenance project at 4 Jason Lane. The goal is to restore the ditch to its original dimensions to provide adequate water flow. This will help prevent flooding in the area which creates mosquito breeding habitats. Some shrubs may be removed so that the excavator can access the ditch. For more information see notice.**

Motion to accept as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 7-0.

► **Emergency Certificate- 15 Walnut Street- Oil release in FEMA Flood plain and portion of outer riparian zone of Proctor Brook. Must be ratified by Commission.**

Motion to ratify the EC as made by Mr. Rizzo. Second by Mr. Comak. Adopted unanimously 7-0.

Addendum item/Amendment Request:

► **A Public Hearing on Wednesday July 31, 2024 at 7 p.m. on an Amendment to an Order of Conditions DEP 55-939 submitted by Green International Affiliates, Inc. (Danielle Spicer) for the City of Peabody (Brendan Callahan). The project proposes to extend the existing Independence Greenway from its eastern terminus at Essex Center Drive to Endicott Street for a total project length of approximately 1.3 miles. The work area is located along a former railroad right-of-way. The proponent is requesting the commission to consider an Amendment to an existing Order of Conditions and determine if it falls under the guidelines of the MASSDEP's Amendment Policy. The property is known as Former B&M railroad easement, Northshore Road, Essex Center Drive, Endicott Street, Map N/A , Lot N/A, Peabody MA.**

Present: Danielle Spicer (Green International) and Brendan Callahan (Assistant Director of Planning)

Summary: The meeting was closed last month. An Order of Conditions was issued. Certain segments of the project do not meet the limited project provision. Therefore, DEP appealed the existing Order. Ongoing discussions with the state and other agencies helped facilitate the revised plan that was presented at the meeting tonight. The compensatory flood storage location has been revised. Ms. Spicer went over the new cut and fill chart. There is a net cut at every foot-by-foot elevation. They felt the revised changes would be enough for DEP to lift their appeal and allow the local commission to remain the issuing authority. There was a site visit and a virtual meeting with MASSDEP and MASSDOT. DEP has seen the revised plan but has yet to approve said changes. The item was open to members of the public. Tracy Letourneau of 129 Lowell Street spoke. Her driveway abuts the proposed bike path. She wanted the ConComm to be aware that this area currently has flooding issues. She is concerned about not being able to get out of her driveway in a flooding event. Ms. Spicer feels the work will help with the flooding because the compensatory flood storage has been enlarged. She is also worried that people will start parking on their property and the tree removal will invade her privacy and enjoyment of her outside deck. She feels most people in her condominium are also against the project. She thinks they already left the meeting because it is past 11 on a work night. The resident does not support the project.

Motion to close the public hearing as made by Mr. Rizzo. Seconded by Mr. Athas. The motion passed 7-0 with Ms. Green no longer present.

Motion to accept the amended plans and issue an Amendment to the existing Order of Conditions (keeping original conditions) as made by Mr. Rizzo. Seconded by Mr. Comak. The motion passed 7-0 with Ms. Green no longer present.

• **Adjournment**

Motion to adjourn as made by Mr. Vivaldi. Seconded by Mr. Cassidy. Adopted unanimously 7-0 with Ms. Green no longer present. The meeting adjourned at 11:24 PM

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares