



**Peabody Planning Board Minutes
FOR DECEMBER 5, 2024, MEETING
APPROVED JANUARY 16, 2025**

Planning Board Minutes

December 5th, 2024

Time: 7:00—8:26p.m.

Location: The Wiggin Auditorium and simulcast on Peabody Access TV.

Members Present: Mr. Thomas Bettencourt, Mr. John Ford, Attorney Peter Arvanites, Mr. Roy Simoes, Mr. Joseph Gagnon, Dr. Judith Otto, Mr. Matthew Genzale, Mr. Dennis Feld, Mr. Sean Walsh, Mr. Tom French

Others Present: Andrew Levin, Curt Bellavance, Attorney Barry Fogel, Attorney John Keilty

- ▶ Chairman of the Board Thomas Bettencourt called the meeting to order at 7:00 p.m.
- ▶ Chairman Bettencourt suspended the regular meeting for the public hearing.

PUBLIC HEARING(S):

Pursuant to M.G.L., c.40A, s.5, the **PEABODY PLANNING BOARD** will conduct a **PUBLIC HEARING** on **THURSDAY, DECEMBER 5, 2024**, at 7:00 PM, City Hall, 24 Lowell Street, Peabody, MA, and remotely via Zoom, in accordance with the provisions of MGL Ch.40A, s.5 to consider amending the Zoning Ordinance and Map to create a new Multifamily Overlay District pursuant to MGL Ch. 40A, s.3A that would allow multifamily dwellings by-right and amend the Zoning Map to include certain parcels identified within the proposed Overlay District. The following areas are being considered for inclusion in the Overlay District:

- District 1:* 0 Dearborn Road, Map 089-010X, and 7 Dearborn Road, Map 078-019
- District 2:* 1 Brooksby Village Drive, Map 027-005X

A copy of the full text of the proposed amendment and accompanying map may be reviewed at the City Clerk's Office, City Hall, 24 Lowell Street, Peabody, MA. For remote participation using the Zoom platform, please visit www.peabody.ma.gov under "Calendar" on the home page or contact the City Clerk's office.

●Mr. Curt Bellavance {Director, Community Development and Planning for the City of Peabody} and proponent, gave a detailed overview the proposal to amend the City's current Zoning Ordinance and Map, by creating a new "Multifamily Overlay District. Mr. Bellavance explained this proposal is to comply with the provisions of Mass General Law Chapter 40A, Section 3A—otherwise known as the MBTA 3A law [which requires municipalities in Massachusetts to have zoning that allows multi-family by right.]. Mr. Bellavance also noted that as part of this proposal to amend the Zoning Ordinance, the City's "Zoning Map" would need to also be amended to show the proposed "Overlay District" Mr. Bellavance explained that the Community Development and Planning office spent several months working with consultants to create a series of Zoning models as required by the state and to study and establish a "Zoning District" that complies with the requirements of Section 3A as well as fitting in with the City's land use goals. Mr. Bellavance stated that the proposed zoning language and map change are entirely new after several revisions. Mr. Bellavance explained to the Board the history of the MBTA 3A process and how the City developed the proposal in front of the Board

- In 2021, the Massachusetts Legislature passed a law requiring communities with MBTA transit infrastructure (train/bus stations, and stops) to have at least one zoning district of reasonable size that allows multi-family housing by-right. Mr. Bellavance stated that as a MBTA Community, the City of Peabody must comply.
- Mr. Bellavance continued that the City currently has three districts that allow multi-family housing by right, but that the zoning does not meet the requirements as required in the MBTA 3A law.
 - o Mr. Bellavance explained that these criteria are as follows:

- A minimum gross density of 15 units per acre,
- A zoning district must not be more than a half-mile from a transit station
- There must be no age restrictions on the type of housing allowed,
- A city must have a minimum land area of 50 acres zoned for by-right multi-family that meets the requirements of the 3A Law. A municipality can have multiple areas, but one district must be at least half of the total acreage, which Mr. Bellavance stated is 25 acres.
- The law requires a municipality to create zoning that could allow by right for the creation of 10% of the total housing units existing in the City. Mr. Bellavance explained that Peabody currently has 23,190 housing units, and that this proposal provides the language to create 2,319 units.

Mr. Bellavance continued by explaining the process in which the City was able to develop and finalize the proposal that has been submitted to the Board and City Council. Mr. Bellavance explained that the City since the creation of the law in 2021 had been working towards reaching compliance, explaining many members of the Community Development and Planning Staff as well as other City workers began attending webinars on the subject as well as meeting with the City Solicitor. Mr. Bellavance continued that as required by the Law, he presented to the City Council in May of 2022 and submitted a compliance plan to the State in June of 2022. Mr. Bellavance stated that the Department applied to and were successful in receiving grants to help fund consultants (RKG Associates) to work with the City in ensuring compliance by assisting the City in compiling and creating modeling as required by the state for compliance. Mr. Bellavance stated that in August of 2022, the State released guidelines on the law and compliance, which were then revised in October of 2022, and again in August of 2023.

Mr. Bellavance continued by explaining to the Board how the City and consultants developed the final proposal before the Board. Mr. Bellavance explained that the City began by looking at existing zoning districts in the City that allow multi-family by-right (R3, R4, R5, The Residential Overlay District within the DDD, and BC). Mr. Bellavance briefly explained to the Board that each zoning districts requirements and regulations were run through modeling to determine if they would meet the MTBA 3A law requirements. The modeling included; floor area ratio, dimensional setbacks, parking requirements, lot coverage, and height. Mr. Bellavance stated that the City needed zoning language that could allow for the creation of 2,319 units.

Mr. Bellavance stated that the City focused on the Dearborn Road Residential Overlay area of the City (which has the underlying zoning of DDD) as well as the piece of land that Brooksby Village is on. Mr. Bellavance stated that these areas were the most conducive to this type of zoning proposal.

Mr. Bellavance continued to explain that this proposal was brought before the City Council Industrial and Community Development Subcommittee for discussion. Mr. Bellavance explained that currently there are 626 residential units at Dearborn road and 1,572 units at Brooksby Village. Mr. Bellavance continued further that if the properties were to be redeveloped under the new proposed zoning, Dearborn road would gain an additional 80 units and an additional 50 units, for a total of 138 new units. Mr. Bellavance then reiterated to the Board that the law does not require the construction of these units.

Mr. Bellavance continued to explain the timeline and process, including multiple revisions before receiving favorable recommendation from the City Council Industrial and Community Development subcommittee. Mr. Bellavance explained that upon receiving favorable recommendation he submitted the proposal to the City Council for a public hearing, which requires a public hearing with the Planning Board as well. Mr. Bellavance ended the presentation by quickly recapping the proposal. Mr. Bellavance then briefly explained that the “dimensional regulation” language of the proposal was developed by combining the “DDD” regulations with the design standards of the “Residential Overlay District”. Mr. Bellavance continued to explain that the overlay district will include a 10% inclusionary zoning regulation, even though this is not required as part of the law. Mr. Bellavance then again recapped the proposal before the Board:

- Requesting to amend Section 3.2 “Description of Zoning Districts”,

- Removing Section 6.68 “Designated Development District – Residential Overlay District”
- Amending the City Zoning Map to include the new proposed Overlay District.

Mr. Bellavance explained to the Board the implications of not complying with the Law, including the loss in ability to applying to many grants. Mr. Bellavance then asked if there were any questions.

●Dr. Judith Otto asked Mr. Bellavance if the state is requiring the City to add the possibility of 138 dwelling units and if this is correct. Mr. Curt Bellavance explained that the law requires that the City zone a district which would allow 2,300 units to be built, whether they are built or not, the state does not require that construction take place. Mr. Bellavance continued to explain that these districts already have multifamily zoning, and that the net increase in potential new units would be 138 if either one of the property owners decided to build more under the proposed new Zoning language. The discussion continued between Mr. Bellavance and Dr. Otto on the subject.

●Mr. Roy Simoes commented that he generally has a distaste for what the state is trying to do to all these cities and towns—especially where our (The City of Peabody) only affiliation to the MBTA is some bus routes that traverse the city. Mr. Simoes noted that the Community Development & Planning department did wonderful work—Mr. Simoes continued to state that he felt like the state is going to look at this (proposal) and say it’s pretty disingenuous that you’re bobbing and weaving and zigging and zagging and really probably none of them are going to get built, but you met the letter of the law, I guess as it’s written right now so if enough of these communities zig and zag then the state will probably come out with harsher rules.

●Mr. John Ford thanked Mr. Bellavance for his presentation and commented that he was expecting a far more bitter pill to swallow, and this bobbing and weaving does seem to cover the gist of the problems.

●Attorney Peter Arvanites asked for clarification, and asked Mr. Bellavance what the number of “multi-family housing units currently exist in the City. Mr. Bellavance responded that he did not have that number. The discussion continued between Mr. Bellavance and Attorney Arvanites on the subject.

●Mr. Andrew Levin reminded the Board that this vote would be a recommendation to the City Council on this request by Mr. Curt Bellavance.

→**Motion:** Mr. John Ford—The Planning Board move to recommend the City Council to adopt the “Zoning Overlay District” presented to the Board this evening to cover the MBTA 3A Zoning, so moved.

→**Seconded:** Mr. Sean Walsh

Roll call: 9 to 1

●Mr. Andrew Levin also informed the Board that a Motion was needed to recommend approval of the “Zoning Map” since it’ll be changed due to the new “Overlay Districts.”

→**Motion:** Mr. John Ford— The Planning Board move to recommend acceptance of the new “Zoning Map” with the new “Zoning Overlay District.”

→**Seconded:** Mr. Sean Walsh

Roll call: 9 to 1

Notice is hereby given that under the provisions of Massachusetts General Laws, Chapter 40,

Section 15C, the Peabody Planning Board will conduct a public hearing on Thursday, December 5th, 2024, at 7:00 P.M. in the Wiggin Auditorium, City Hall, 24 Lowell Street, Peabody, MA to consider an application by Salem Country Club Inc., owner of the property located at 133 Forest Street as shown on Assessor's Map, Lot 059, Parcel 081X, for the removal of trees of along a designated scenic road.

Copy of the plan is available for viewing in the Community Development Office during normal business hours.

● Attorney Barry Fogel {Keegan Werlin LLP—Boston, MA} appearing on behalf of the Salem Country Club recapped the last time he appeared before the Board at length [and utilized plans to illustrate]. The Club rebuilt the stone wall as requested, and Attorney Fogel commented that there are currently four dead oak trees in that area and the Club is prepared to remove those trees [we communicated with the City Tree Warden, and he supports that and signed-off on the application]. Attorney Fogel continued with his presentation. He explained that they have applied with the Conservation Commission under their tree policy and got their approval for this contingent on getting approval under the scenic road statute. We're here tonight to request your approval to remove those four trees. Attorney Fogel also noted that he had a separate request regarding longer-term cooperation on tree maintenance along that section of Forest Street all the way down to the entrance of the Club but let's take one at a time.

● Mr. Andrew Levin interjected and recommended that the Board request that upon removal of the tree that's within the wall that everything gets placed back to its original position.

● Beverley Griffin-Dunne {10 Colfax Street, Peabody, MA} commented that she's not in opposition of the removal of the four trees—she's here in honor of Bill Toomey because he fought so hard to have Forest Street designated as a "Scenic Byway"—and the reason for that was because of all the trees along the road. So, I wanted to make sure that it was going to be something very targeted and small and to make sure that it's maintained as a "Scenic Byway."

● Susan Smoller {3 Lowman Circle, Peabody, MA} explained that she is interested in the city pursuing when a tree is removed another is replanted—especially people who have removed trees illegally in the past. Ms. Smoller expressed how we should be more forward thinking about the value of a tree with carbon removal.

● Attorney Barry Fogel addressed the two comments made by the constituents. Mr. Joseph Gagnon then asked if the stumps would be removed once the trees were removed... Attorney Fogel's response was that he would need to check with the Club and elaborated on the subject. The discussion continued between Attorney Fogel and Mr. Gagon.



●Attorney Peter Arvanites had a question concerning the tree that is growing in the wall [photo used]. Attorney Arvanites wanted to know if the wall was going to be dismantled to remove the tree...Attorney Barry Fogel thinks it would be a sequence...they're not going to take the wall apart to get at the tree...he thinks. Attorney Arvanites commented that he'll vote in favor of this, but he would ask if any tree removal that requires dismantling all or part of the wall in that area the wall be replaced the way it was. Attorney Fogel responded with absolutely and elaborated.



→**Motion:** Mr. John Ford—The Planning Board move to allow the Salem Country Club to remove four oak trees in a scenic road section of Forest Street—with the condition that they cut the trees down to the ground level as close as possible and restore any disturbed sections of the stone wall, so moved.

→**Seconded:** Mr. Roy Simoes

Roll call: 10 to 0

A. Approval of Minutes: None.

B. ANR/Land Court: None.

C. Site Building Permit Plan Reviews:

1. 15 NEWBURY STREET (*Map 88, Lot 6*)

- i. This is an application by GR Development, LLC—seeking a site plan review to construct a car wash to be located at 15 Newbury Street, Peabody, MA. The proposed development involves a single 69,360 s.f. Parcel. The property is located in the {BR1} Zoning District, where a car wash use is permitted by Special Permit from the City Council. The development will include a 4,765 s.f. car wash building with a 135' long single tunnel wash, an equipment room, restroom, office area, and customer service area. To review plans and corresponding documents for this agenda item, please contact Andrew Levin, andrew.levin@peabody-ma.gov, 978-538-5783.

▶CONTINUED FROM 11/7/2024

► ACTION CONTINUED TO 12/5/2024

●Mr. Andrew Levin gave a detailed update on the 15 Newbury Street project to the Board. The applicants are currently working on revising their plans and have asked for a continuance to the January 16th, 2025, meeting—there is a “late add” email in your packets from that applicant requesting such.

→**Motion:** Mr. John Ford—Move to receive a “late” communication from Christopher York in the matter of 15 Newbury Street dated December 3rd, 2024, at 10:23 a.m.—requesting a continuance until January 16th, 2025, move to receive and grant said extension of time.

→**Seconded:** Mr. Matthew Genzale

Unanimously approved.

D. Appointments:

1. Letter from Attorney David Ankeles dated November 18th, 2024—Re: Simon Properties “As Built.”
 - i. Compiled Overall Site Plan dated November 5th, 2024, for the Northshore Mall.

●Mr. Andrew Levin commented in the “Appointments” section—as part of the 2018 project over at the Northshore Mall Attorney David Ankeles agreed to submit “As-Builts” to the Planning Board once the project was completely built out—they’ve been submitted as part of your packets. Attorney Ankeles was going to attend tonight but decided that it was needed.

2. Salem Country Club “Tree Removal Request Application” packet.
3. Letter from Paul DiBiase, Manager-Peabody Living, LLC dated November 26th, 2024—Re: Stonegate Subdivision-Subdivision Completion, Full Tripartite Agreements Release Request, and Street Acceptance Request.
 - i. Stonegate Subdivision “As Built” and “Street Acceptance” plans.
 - ii. Stonegate Subdivision “Tripartite Agreement” #1 and #2.

●Mr. Andrew Levin informed the Board that the applicants and developers over at the Stonegate subdivision have submitted to the Board “As-Builts” as well as easement acceptance—they’re currently being reviewed by the Department of Public Services and Mr. Levin elaborated on the subject. The applicant also requested to be put on the Board’s next Planning Board agenda.

→**Motion:** Mr. John Ford—In the matter of the Stonegate subdivision move to defer this until the January 16th, 2025, meeting.

→**Seconded:** Mr. Sean Walsh

Unanimously approved.

E. Subdivision Board Action: None.

F. Correspondence:

1. Regional Notices.

G. City Council: None.

H. Other Matters before the Board: None.

●Mr. Andrew Levin explained to the Board that Attorney John Keilty reached out to him today regarding appearing before the Board tonight to discuss a former subdivision property that he is representing a client for—there’s a letter in your packets that would be a “late add” in regard to 27 Blackstone, which is the address that Attorney Keilty is here to discuss this evening if you choose to accept the “late add.”

→**Motion:** Mr. John Ford—Move to receive a “late add” from Attorney John Keilty dated August 28th in regard to 27 Blackstone Street [Lot 05-025].

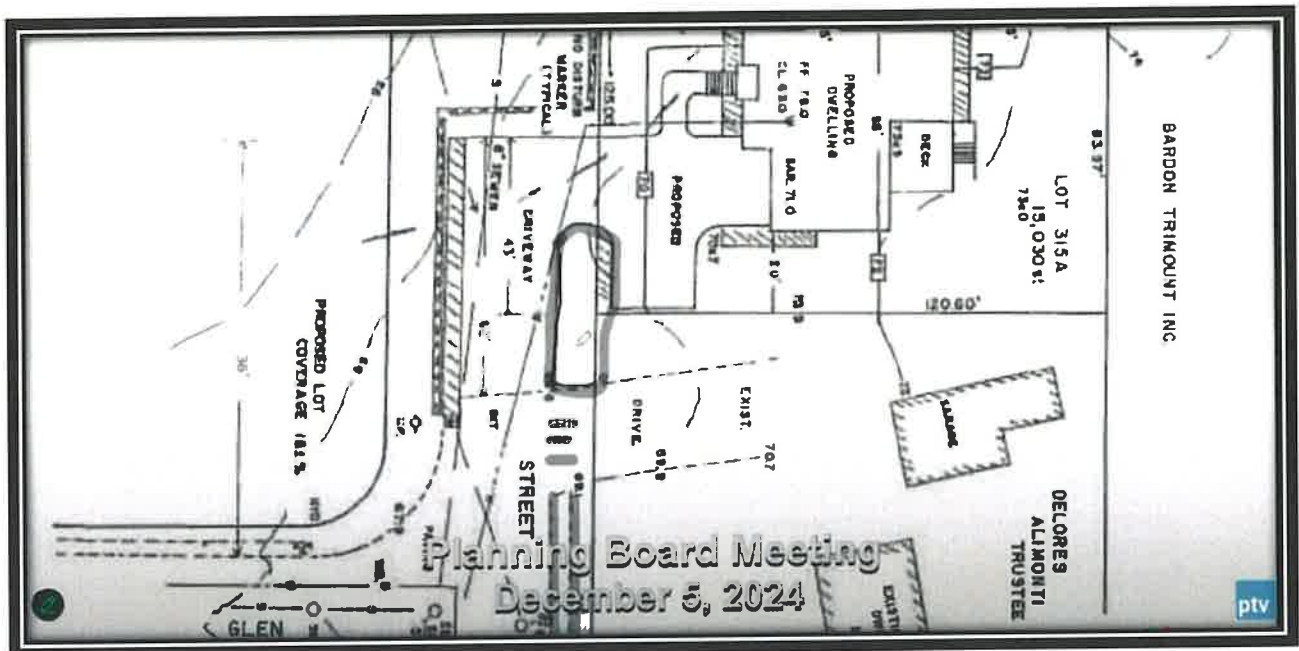
→**Seconded:** Mr. Sean Walsh

Unanimously approved.

● Attorney John Keilty {40 Lowell Street, Peabody, MA} thanked the Board for the opportunity to speak before them tonight and gave a lengthy explanation of the request [a memo dated August 28th, 2024, that Attorney Keilty developed, and thought had been forwarded over to the Building Commissioner—where a section of the law that was signed by the Governor essentially makes this lot buildable]. Attorney Keilty explained that he spoke to the Commissioner this evening and the Commissioner has referred it out to Attorney Don Conn—Attorney Keilty continued with his lengthy explanation on applying for a “Permit” to develop the lot. Attorney Keilty mentioned that he is only asking that the Planning Board comment on access to the lot [the pavement stops short of this lot]. On Attorney Keilty’s plan he shows an extension of the pavement 43 feet from the end of the existing pavement to a point beyond the driveway—beyond that point you see on the plan there are wetlands, so we’ve ended our roadway right at the driveway. Attorney Keilty noted that Mr. Paulitz requested that before he signs off on the “Permit” he asked about the recommendations, comments, notes provided by the Planning Board on the access.

● Mr. Andrew Levin interjected to provide his comments from Community Development—we just received all this information today and we’re still reviewing it. Mr. Levin mentioned that he briefly chatted with Mr. Paulitz about this a couple weeks ago before this became on his radar. Mr. Levin thinks that what Attorney Keilty is showing works if you were to build out the whole entire roadway—if you were to look at the original plan they were going to build a cul-de-sac in the end. Mr. Levin believes at this point, Mr. Paulitz is really just looking for the Planning Board to say what they want them to do—whether it’s build a roadway all the way out or not. Mr. Levin thinks this is very similar to the 18 Carell Road situation [Mr. Levin proceeded to elaborate]. Mr. Levin’s recommendation to the Board was that it be based upon the satisfaction of the Department of Engineering regarding this roadway. Attorney John Keilty interjected and commented that the Planning Board should recommend the spec., depth, pavement, etc. Discussion on the subject matter continued. Mr. Matthew Genzale then inquired on how Attorney Keilty was achieving the 125 feet of frontage on this lot if he’s only extending the road by 43 feet. Attorney Keilty’s response was that the frontage is on the original plan [it’s a 15,000 s.f. lot with 125 feet of frontage]—rather than build out the entire 125 feet the presence of the wetlands had us stopped short. The discussion between Mr. Genzale and Attorney Keilty continued on the subject. Mr. Andrew Levin mentioned that most of what this memo is referring to is going to have to be taken up with the Building Inspector when they try to file a “Building Permit” to build this house. Mr. Levin thinks that what Attorney Keilty is really just looking for this evening is what the Planning Board would like to see this roadway look like. Mr. John Ford then inquired on the Conservation Commission’s comments on snow being pushed into the wetlands. Attorney Keilty explained that’s part of the reason we left it short—we’re quite a few feet short of the actual resource area and they don’t want us pushing everything into there—there is an area right at the end of the pavement just beyond the driveway where there’s a place where Attorney Keilty’s clients snow could go. The expectation is that Attorney Keilty’s client would plow their driveway and the section of roadway that’s in front of their house, and the public vehicles would make the turn as they do today. Mr. Sean Walsh then asked Attorney Keilty when he’s referencing “Planning Board Specifications” is he referencing the “Rules & Regulations” governing the subdivision of land or if he’s referencing something else... Attorney Keilty answered the depth and specifications that are in our “Rules & Regulations” of subdivisional land, yes. Mr. Walsh’s follow-up question concerned snow removal... Mr. Walsh noted that Attorney Keilty’s expectation is dependent upon what happens here tonight—Municipal snow removal would just continue around the natural curvature of Glen Drive to Blackstone Street—and that the residents that live here at the end of this little offshoot would plow the end of that... what happens if and when they sell that property, and the next homeowners decide that the City should be plowing the end of the street... how would snow removal be dealt with... Attorney Keilty’s response was that they don’t expect to see City plows, and the eventual owner will need to connect

essentially—Attorney Keilty doesn't see the City plowing this 40 feet. Mr. Levin then utilized the plan for clarification on sidewalks. The discussion on snow removal continued on.



→**Motion:** Attorney Peter Arvanites—The Planning Board move to approve the construction of a driveway [as shown on the Plan for Delores Alimonti] provided that all roadway construction is done in accordance with the “Rules and Regulations” of the Planning Board for roads, and further that it complies with any recommendations that may be made by the Engineering Department.

→**Seconded:** Dr. Judith Otto

Roll call: 10 to 0

●Chairman Thomas Bettencourt brought up Mr. Andrew Levin’s request of canceling the Planning Board’s January 2nd, 2025, meeting. The Chairman expressed his opinion of how it doesn’t seem reasonable that right after the holiday we have a meeting so the Chairman would like to get the opinion of the Board if the meeting should be canceled. Mr. Sean Walsh asked if there was anything tentatively scheduled for the January 2nd, 2025, meeting. Mr. Levin explained that as of right now everything has been continued. Dr. Judith Otto then interjected and noted that any ANRs are subject to a tighter time frame—if an ANR plan came in we’d have to take it...we’d have to have a special meeting to deal with it within the 20 days of action. Mr. Joseph Gagnon commented if they could just leave the date alone. Mr. Levin reiterated to the Board that it’s their decision on whether or not they choose to cancel the meeting.

→**Motion:** Mr. Sean Walsh—Move that we cancel the scheduled Planning Board meeting of January 2nd, 2025.

→**Seconded:** Dr. Judith Otto

Unanimously approved.

I. Adjournment: 8:26p.m.

→**MOVE to adjourn:** Mr. Roy Simoes

→**Seconded by:** Mr. Matthew Genzale

Unanimously approved.

An audio and visual recording of the meeting is available by following the link below or copying this link into an internet browser: <https://www.youtube.com/watch?v=vNdmjAGpZfc> .