



**Peabody Planning Board
Minutes**

FOR MARCH 16, 2023, MEETING

APPROVED ON APRIL 6, 2023

Planning Board Minutes

March 16th, 2023

Time: 7:00—8:37p.m.

Location: Lower-Level Conference Room of Peabody City Hall.

Members Present: Mr. Tom Bettencourt, Mr. John Ford, Atty. Peter Arvanites, Mr. Roy Simoes, Mr. Joseph Gagnon, Mr. Matthew Genzale, Dr. Judith Otto, Atty. Marc Perlman

Others Present: Andrew Levin, Attorney David Ankeles, Attorney John Keilty, Mr. Chris Mello

► Chairman of the Board Thomas Bettencourt called the meeting to order at 7:00 p.m.

A. Approval of Minutes: 3/2/2023

●The Chairman then addressed the Board on the approval of the minutes for the 3/2/23 meeting.

→**Motion:** Attorney Peter Arvanites move that the Board approve the minutes of the meeting of March 2nd, 2023.

→**Seconded:** Mr. John Ford

Unanimously approved.

B. ANR/Land Court:

i. Northshore Mall, 210 Andover, Street, Peabody, MA {Parcel ID: 051-008}—Applicant: PEG Companies, 145W 200N, Suite 100, Provo, UT 84601 {Name of Owner: Mall at Northshore, LLC}. To review plans and corresponding documents for this agenda item, please contact Andrew Levin, andrew.levin@peabody-ma.gov, 978-538-5783.

●Attorney David Ankeles {246 Andover Street, Suite 101, Peabody, MA 01960} representing the applicant {PEG Companies and Mall at Northshore, LLC}. This is a request for an A&R plan which shows the division of a parcel of land on-land court plan number 29296A. Attorney Ankeles explained that the two parcels contain the minimum frontage for the statute and provide vital access, which is shown on the plans before the Board tonight. Attorney Ankeles then went on to explain that therefore this plan does not require approval for Commission purposes.

●The Chairman then asked if the Board had any questions.

●Mr. John Ford asked Attorney Ankeles what's on the horizon for these two parcels.

●Attorney Ankeles answered with he believes the applicant is contemplating a hotel on one of the parcels and for the second parcel there is no proposed use.

●Mr. John Ford then responded with...then why cut it out.

●Attorney Ankeles responded that the applicant intends to use the lower parcel for development purposes and have the other parcel available for merger with the balance of the land owned by the Mall at Northshore, LLC.

- Mr. John Ford then asked, the hotel is proposed for Lot 1.
- Attorney Ankeles confirmed that it is for Lot 1.
- Attorney Ankeles and the Board then had a discussion on what would be going into proposed lots and if the proposed lots were being sold to PEG Companies.
- Mr. Roy Simoes then asked the question, so you're carving out these two parcels out of a big, huge parcel, is that right.
- Attorney Ankeles response was no. Attorney Ankeles then proceed with explaining that these two parcels, Lot 1, and Lot 2—constitute a lot of land on the registered side of the land court. The applicant is just dividing that lot of land. Attorney Ankeles then explained that Lot 1 will be developed, Lot 2 at this point-in-time we don't know what is going to happen with that part.
- Mr. Roy Simoes and Attorney Ankeles had a lengthy discussion on parking in the area.
- Mr. Roy Simoes then asked Attorney Ankeles if the Mall intends to sell Lot 1.
- Attorney Ankeles response was that he couldn't answer that question.
- Mr. John Ford then asked if there was a housing overlay on this land.
- Attorney Ankeles response was that he believes there is a zoning ordinance that was amended to provide for the old housing overlay. Attorney Ankeles further pointed out that anything to do with the housing overlay would require a special permit if it were used for residential purposes.
- Mr. Levin had questions concerning roadway access and should in the future these lots be sold will there need to be any access easements provided or created.
- Attorney Ankeles explained that if and when Lot 1 is being developed, access would be provided both from Prospect Street—and there would be a site plan for that submitted to this Board, and access as it exists now would also be maintained.
- Mr. Levin and Attorney Ankeles had further discussions about easements within the areas being discussed.
- Chairman Bettencourt expressed that at this time he would accept the motion.
- Mr. John Ford asked for clarification—does this parcel stands on its own at this time.
- Attorney Ankeles explained that this parcel is a little bit involved—and if you go to the registered land plan, you will see that it does stand on its own as far as the land court is concerned, yes.
- Attorney Ankeles, the Board and Mr. Levin continued to have further discussions on the roadways and easements in the area.
- Mr. Matthew Genzale asked Attorney Ankeles if PEG operates daycares or hotels.
- Attorney Ankeles explained that PEG develops hotels.
- There was some discussion between Attorney Ankeles and Mr. Matthew Genzale about whether or not it would be a hotel going in that lot—and who the applicant was and their ownership status of the land.

- Attorney Arvanites asked Attorney Ankeles what is PEG's interest in the land.
- Attorney Ankeles explained that PEG has an option agreement with the Mall at Northshore, LLC.
- Mr. Roy Simoes asked about the 20-foot electrical easement that runs through that lot—he wanted confirmation that whatever happens on that parcel, everybody understands that easement will be vigorously enforced, and if it needs to be relocated, it will be relocated. Is that correct.
- Attorney Ankeles response was that's the way that PMLP has always responded. PMLP has always cooperated with us.
- Chairman Bettencourt expressed that at this time he would accept the motion.

→**Motion:** Mr. John Ford move to recommend approval of an ANR Plan of land in Peabody, MA prepared by RJO'Connell & Associates of Stoneham, MA prepared for PEG Companies of Provo, UT—date on plan is February 17, 2023. The proposed plan will create 2 adjoining lots. Proposed Lot 1 will have an area of 119,474 square feet and Proposed Lot 2 will have an area of 243,258 square feet.

→**Seconded:** Mr. Roy Simoes.

Unanimously approved.

C. Site Building Permit Plan Reviews:

190R Newbury Street—Map 35, Lot 38a

- i. This is an application by Robert Denisco seeking a site plan review for the proposed construction of a 60-unit multi-family residential building over a parking deck, surface parking and access driveways. Continued from the Boards January 5th, 2023, meeting.

▶ ACTION CONTINUED TO 3/16/2023

● Attorney John Keilty {40 Lowell Street, Peabody, MA 01960} representing the applicant. Attorney Keilty is seeking approval of the site plan which was first presented to the Board about a year ago. Attorney Keilty explained that approximately 10 days ago, a close-out letter issued from the Department of Public Services brought to rest all of the issues that were of note to the Public Services Department, the principle of which was that during one of the several iterations of this plan, the ground that we were working with was intended in one of the earlier iterations to be covered by some 12 feet of fill. Attorney Keilty explained that they have a significant sewer stretch and sewer easement in which the sewer pipe is somewhere between 12 and 14 feet below the surface. The initial plan created some 25...12 existing in an added 12 or so feet—Public Services was dead set against that, and we worked with the department to try to reduce the amount of fill. The most recently approved plan, certain sections are less than a foot above the existing grade and in most instances, we are at grade. The principal impact of that with respect to the entire project is a reduction in the height of the retaining walls on the property—and the elimination of a significant number of rent walls that were being proposed at the outset. Attorney Keilty explained to the Board that he had received an Order of Conditions from the Conservation Committee—and Attorney Keilty is hopeful that the Board will approve our site plan this evening.

● The Chairman then asked if the Board had any questions.

● Mr. Levin informed the Board that they had received a memo from the Department of Public Services from Mr. William Paulitz—with three pages worth of conditions of which, we are still waiting for plans that show said things that are being asked for. So, there is no final plan set right now that shows any of these changes and there are some changes in there that will require plans. Mr. Levin then expressed to the Board that

Community Development would recommend that the Board waits until we do get a final set of plans in front of us to sign off on and recommend approval on. Mr. Levin believes that if we were to vote to condition this based upon this site plan or at least upon these conditions, that it would be the wrong thing to do. Mr. Levin thinks the plan should wait until we have a final plan that is reviewed, which Mr. Levin has been told that there is a final plan that exists—just hasn't been submitted yet. Make sure that the final plan has been vetted by the Department of Public Services—and it meets all the conditions that are lined out so that this is not something that is conditioned upon a 30 plus condition memo.

- Attorney Keilty then asked that the Board consider the conditional approval, as did the Conservation Commission, patching that memo and its conditions to their approval and dictating that we achieve compliance and certainly the Board, Attorney Keilty believes they are going to have that revised plan. Attorney Keilty thinks that it's written now but will be submitted early next week. Attorney Keilty explained that he's at the City Council next week—and this matter has been pending before them for a special permit. Attorney Keilty asked that the Board allow them to move forward with the City Council next on the basis of the additional approval—and if you would like to condition that the finalized plan be part of your record.

- Mr. Levin restated his concerns that these items being addressed are going to change the plans—and Mr. Levin professed his worry that if the Board approves a conditional plan, without seeing a final plan, what happens four weeks from now or when a final plan is submitted and there's more challenges, we're right back where we started. Mr. Levin would like to have this cleanly approved rather than attaching a 30-condition memo to it.

- Mr. Roy Simoes asked Attorney Keilty if it was true that the City Council requested that Attorney Keilty readvertise for the City Council meeting—and notification letters to all abutters sent, for them to potentially show-up next week at the meeting.

- Attorney Keilty confirmed.

- Attorney Keilty and the Board had a lengthy discussion on the conditions for this plan and the process of granting approval.

- Chairman Bettencourt expressed that at this time he would accept the motion.

→**Motion:** Mr. John Ford-In the matter of 190R Newbury Street, move to recommend *conditionally permit to issue conditions being laid out in a memo from Will Paulitz on March 6th, 2023—it's a four-page memo with 33 conditions. Additionally, the Board would like to add a 34 condition that the proponent provide to the Board a revised plan at the April 6th, 2023, meeting.

→**Seconded:** Mr. Roy Simoes

A roll-call vote was taken: {8 to 0}

Unanimously approved.

55 Pulaski Street—Map 53, Lot 029

i. This is an application by Dennis & Georgia Giannis, Trustees seeking a site plan review for the proposed redevelopment of the site for multi-family housing. The application includes the construction of eight (8) new duplex buildings, as well as the renovation of the existing building into 5 units of housing. There is a proposed 44 parking spaces, with four (4) spaces located within two (2) buildings, with the remainder throughout the site in an open-air parking lot. Continued from the Boards January 5th, 2023, meeting.

▶ ACTION CONTINUED TO 3/16/2023

→**Motion:** Mr. John Ford move to receive a written communication from Attorney John Keilty in regard to 55 Pulaski Street requesting an extension of time until April 13th, 2023.

→**Seconded:** Mr. Joseph Gagnon

Unanimously approved.

●Attorney Keilty {40 Lowell Street, Peabody, MA 01960} representing the applicant asked to speak a few words on this project. Attorney Keilty expressed to the Board that they are getting very close to final approvals by their consultants. Attorney Keilty further explained that they have received reports from Tighe & Bond, Weston & Sampson—remaining issues are somewhat minor. Attorney Keilty outlined a few of the issues. Attorney Keilty then addressed the parking situation—by supplying plans to the Board that show garages under most of the units, but not all of the units. Attorney Keilty explained that they fall short of the parking standard so Attorney Keilty will seek approval by multi-family use of the property under the pre-existing non-conforming use provisions and go to the City Council for approval of this in our site plan review. Attorney Keilty was hoping that this Board would weigh-in, since there really isn't a zoning ordinance that dictates how much we devote to parking. Attorney Keilty then briefly addressed the design/look of the units. Attorney Keilty expressed how hopeful he is that the Board would consider approving a plan that shows the two per unit parking spaces rather than three because they have applied the 2.3 saying, well, it's multifamily, but we're not multifamily. Attorney Keilty thinks that when the City Council gets the plan, they can approve a plan that shows two parking spaces and at that time we would be compliant with our special permit requirements. Attorney Keilty went on to explain that he has used the single-and two-family districts as the sort of template for how far apart should these units be...so we've applied those dimensional standards to this project.

●Attorney Keilty and the Board had a lengthy discussion about a fair and equitable resolution to the Dobbs Road pump station.

●Mr. Roy Simoes made a motion that this Board craft a letter recommending that an equitable equation be used to determine buy in to a new pump station and explain the process to make them aware—and send it to DPS and the Chairman of the ZBA. To ensure that both parties are aware of our desire to come up with an equitable solution. Mr. Simoes then championed Attorney Keilty for saying that at an absolute max it should be a third, a third and a third.

●Mr. Levin explained that he would draft the letter addressing the items mentioned, review it with the Chairman and submit it on behalf of the Planning Board.

→**Motion:** Mr. Roy Simoes made a motion to have a letter written.

→**Seconded:** Mr. Matthew Genzale.

Unanimously approved.

●Dr. Judith Otto then asked where would the sewer go for the Pioneer School.

●Attorney Keilty responded with Bishop Fenwick.

●Mr. Roy Simoes returned to the parking discussion with Attorney Keilty and Mr. Chris Mello.

D. **Appointments:** None.

E. **Subdivision Board Action:** None.

F. Correspondence: *Items with an asterisk next to it will only be available digitally.

1. Memo from Robert J. Langley, P.E., Director of Engineering—Millview 55 Pulaski Street, Peer Review Comments on Revised Plans {March 3, 2023}.
 - i. Letter from Tighe & Bond—Proposed Residential Development, 55 Pulaski Street, Review of Revised Site Plans {February 8, 2023}.
 - ii. Letter from Weston & Sampson—Millview Development, Peabody, MA, Water Service System Evaluation, Revised Plans-*2nd Revision {Dated February 8, 2023}.
2. Memo from Robert J. Langley, P.E., Director of Engineering—Millview 55 Pulaski Street, Peer Reviews Comments on Revised Plans {March 7, 2023}.
 - i. Technical Memo from Tighe & Bond—55 Pulaski Street, Downstream Sewer Capacity Peer Review {December 1, 2022, UPDATED December 23, 2022; UPDATED March 6, 2023}.
 - ii. Letter from Horsley Witten Group—Follow-up Stormwater Peer Review Revised Proposed Redevelopment at Millview 55 Pulaski Street, Peabody, MA {February 7, 2023}.
3. Memo from William Paulitz, P.E., City Engineer—190R Newbury Street {March 6, 2023}.
 - i. Letter from TK&K Services—LSP Review, RAM Completion and Class A-2 RAO Statement, RTN 3-27109 {August 19, 2022}.
 1. Attachment A—Revised Site Plan, 190R Newbury Street.
 2. Attachment B—MassDEP Level I Audit RTN 3-27109.
4. Letter from Weston & Sampson—190R Newbury Street Development, Peabody, MA, Water Service System Evaluation {October 19, 2022}.
5. Department of Environmental Protection Waterways Regulation Program—Notice of Permit Application pursuant to M.G.L. Chapter 91, Waterways Permit Application Number 23-WW01-0027-APP {Notification Date: March 10, 2023}.
 - i. Brown's Pond—2023 Hydro-Raking Work Plan.
6. City Council Vote {11/16/2017}—Re: 190R Newbury Street License to Enter/Work in Easement Area.*
7. Regional Notices.*

G. City Council: None.

H. Other Matters before the Board:

1. Review of current fees.

●Mr. Levin addressed the copying and printing needs of the Board—and what steps can be taken to decrease the printing and copying footprint.

●Mr. Levin and the Board had a discussion on how many copies the applicant is to provide to the Board for review and what items from the Board's packet will only be provided digitally. The Board then addressed changing their guidelines to reflect the copies that the applicant has to provide with their application, or it will be declined. The Board then had a lengthy discussion on how these items could be addressed and resolved.

●Mr. Levin addressed the current rate fees with the Board—and the changes. The Board and Mr. Levin arranged a subcommittee to meet at a later scheduled date to iron out all the issues with the rates—and then come back to the Board with their recommendation for a vote.

→**Motion:** Mr. John Ford made a motion to review the fees and make a recommendation to the Board to vote on.

●Mr. Roy Simoes brought to the Board's attention that he would like the Board to become a Planning Board more like other cities than the way this Planning Board functions now. Mr. Simoes then requested that someone look into that issue. Mr. Simoes explained that the Planning Boards in Salem, Beverly, and Danvers

get involved in actual planning. Mr. Simoes then used the example that within a year it is possible that a massive piece of industrial property may become vacant—and what in the world is going to happen up there. Mr. Simoes thinks this Board has a voice—and not just approving what somebody shows up with.

●The Board then had discussions amongst themselves on the guidelines of the Planning Board for addressing the concern Mr. Simoes had—being more involved as a Planning Board.

I. Adjournment: 8:37p.m.

▶ Chairman Bettencourt expressed that at this time he would accept the motion to adjourn.

Planning Board:

→**MOVE to adjourn:** Mr. Roy Simoes

→**Seconded by:** Mr. Matthew Genzale

Unanimously approved.