

SEPTEMBER 21, 2020
REGULAR
ZBA



City of Peabody
Zoning Board of Appeals

City Hall • 24 Lowell Street • Peabody, Massachusetts 01960 • Tel. 978-538-5900

SEPTEMBER 21, 2020 ZBA AGENDA
LEGAL NOTICE

NOTICE IS HEREBY GIVEN THAT THERE WILL BE A REMOTE PARTICIPATION MEETING
OF THE ZONING BOARD OF APPEALS ON
MONDAY, SEPTEMBER 21, 2020, AT 7:00 PM

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A § 18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the Peabody Zoning Board will be conducted via remote participation to the greatest extent possible. No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public adequately access the proceedings in real time, via technological means. Individuals may participate remotely in the meeting via a participation platform called Zoom.

Members of the public and/or parties with a right and/or requirement to attend this meeting may access the remote participation through any one of the following ways:

- Enter this link into your web browser to join the meeting: <https://us02web.zoom.us/j/82665895817>
- Enter this link into your web browser to open the Zoom website: <https://zoom.us/join>. Enter the meeting/webinar ID# **826 6589 5817** as directed on the webpage and click "Join". Follow the on-screen instructions to join the meeting.
- Participants can dial a toll-free number +1 301 715 8592 to join the meeting. When prompted, enter meeting/webinar ID# **826 6589 5817** and follow the instructions to join the meeting.

THE AGENDA FOR THIS MEETING IS POSTED ON THE CITY OF PEABODY WEBSITE.

PEABODY ACCESS TELEVISION WILL BE AIRING THIS MEETING LIVE ON CHANNEL 9, AS WELL AS STREAMING ON THEIR FACEBOOK AND YOUTUBE PLATFORMS.

IF YOU WISH TO COMMENT ON OR REVIEW ANY PLANS OR DOCUMENTS RELATED TO ITEMS ON THIS AGENDA PLEASE CONTACT CARLA MCGRATH VIA PHONE, E-MAIL OR WRITTEN LETTER. ANY E-MAIL OR WRITTEN COMMENTS MUST BE RECEIVED BEFORE SEPTEMBER 16, 2020.

ZONING BOARD OF APPEALS
C/O CARLA MCGRATH, CLERK
LOWELL STREET
PEABODY, MA 01960
carla.mcgrath@peabody-ma.gov
978-538-5792

7. Application of **Scott Dixon**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.1.5**, as it applies to the premise known as **346 Lowell St., Peabody, MA, Map 061, Lot 001D**. Petitioner seeks a variance for a shed/barn and requires relief to **Accessory Structure Size 5% of Rear Setback Area** where 0 (zero) sf is allowed, and 448 sf is proposed. The property is in an **R1B Zoning District**.
Accessory structure shed/barn 448sf

8. Application of **SFC David Mathews** for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.5.2**, as it applies to the premise known **257 Andover St., Peabody, MA, Map 029, Lot 011**. Petitioner seeks a variance for window coverings where 30% is allowed and 100% is proposed. The property is located in an **BR Zoning District**.
Window coverings

9. Application of **Stephen Miraglia** for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known **12 Bristol Rd., Peabody, MA, Map 015, Lot 014**. Petitioner seeks a variance for and requires relief to **Front Yard Setback** where 25' are required and 18.1' are proposed. The property is located in an **R1 Zoning District**.
Front landing 13'x 4'

10. Application of **David Cohen** for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known **29 Raymond Circle, Peabody, MA, Map 083, Lot 112**. Petitioner seeks a variance for and requires relief to **Rear Yard Setback** where 35' are required and 34' are proposed; **Side Yard** where 15' are required and 8' are proposed. The property is located in an **R1A Zoning District**.
2-car garage 24'x24'



CITY OF PEABODY

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SEPTEMBER 21, 2020 ZBA MEETING MINUTES

CITY CLERK

A virtual meeting of the Peabody Zoning Board of Appeals was held on Monday, September 21, 2020 at 7:00 p.m. via Zoom.

MEMBERS PRESENT	MEMBERS ABSENT
Frances Bisazza-Gallugi, Chairperson	
Stephen Zolotas, Vice-Chairperson	
Daniel Sencabaugh, Secretary	
Julie Picardi	
Barry Osborne	
Ed Colbert (alt)	
Keith Slattery (alt)	

NEXT REGULAR MEETING OCTOBER 19, 2020

(Ms. Gallugi read the opening statement according to Chapter 40A)

(Ms. Gallugi read opening statement in regard to how the virtual meeting will be run)

REGULAR MEETING

1. Application of **John and Janet Pickels c/o Brian Lawler**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2**, as it applies to the premise known as **22(R) Hourihan Street, Peabody, MA, Map 103, Lot 037**. Petitioner seeks a variance to **allow for an addition and requires relief to Rear Yard Setback where 35' are required and 12' are proposed**. The property is located in an **R1 Zoning District**. Addition to include a bathroom and bedroom with handicap ramp to living area.
(Secretary read Legal Notice)

Discussion ensued. **Brian Lawler** representing John and Janet Pickels spoke about the proposed addition. John Pickels has a neurological condition and will be in a wheelchair as the condition progresses. The addition of the bedroom and handicapped bath on the first floor will accommodate his needs.

Fran Gallugi: Read a memo from the Conservation Commission in regard to an easement.
(Memo was made part of these minutes)

Applicant/homeowner was advised to reach out to DPW in regard to the location of the easement

Fran Gallugi: Any other questions by the Board? Anybody here to speak in favor?

Bryan Woodbury, 20(R) Hourihan St. spoke in favor of the project.

Fran Gallugi: Anybody else to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Dan Sencabaugh: Second

Dan Sencabaugh: Motion to approve with condition the applicant must reach out to the Engineering Department in regard to the location of the easement.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted with condition.

2. Application of Mark Allain, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.1.5 and 7.2, as it applies to the premise known as 75 Ellsworth Rd., Peabody, MA, Map 073, Lot 282. Petitioner seeks a variance to allow for a metal garage and requires relief to Left Side Setback where 10' are required and 9' are proposed; Lot Coverage where 30% is allowed and 32% is proposed; Rear Yard Setback where 10' are required and 6' are pro-posed; Lot coverage Accessory Structure Size where zero is allowed and 616sf are proposed . The property is located in an R1A Zoning District. Accessory structure 616 sf metal garage – previous variance granted in 2006 (Secretary read Legal Notice)

Discussion ensued: Mark Allain, homeowner spoke about the proposed additional accessory structure metal garage to be used to work on and house 3 cars, 2 motorcycles and other recreational vehicles. The Board had concerns with the size of the structure and asked Mr. Allain to reduce the size and remove the existing shed when the new garage is completed. The Board also cautioned Mr. Allain that a business may not be run out of the garage. Ed Colbert felt the garage did not fit in with the neighborhood, being it metal. Fran Gallugi felt the garage was too big and did not see the hardship. Stephen Zolotas also felt the garage was too big as proposed and should be reduced.

Fran Gallugi: Anybody here to speak in favor?

Jack Keilty: 84 Ellsworth Rd. spoke in favor of the project.

Fran Gallugi: Anybody else to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Julie Picardi: Second

Dan Sencabaugh: Motion to approve with condition the applicant must resize accessory structure to 22' x 24' and remove existing 15' x 12' accessory structure upon completion of project and the applicant may not run a business out of the garage.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(4-1) Motion approved. Variance is granted with condition.

3. Application of James Lawler, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known as 15 Blair Terrace, Peabody, MA, Map 100, Lot 012. Petitioner seeks a variance for an addition and requires relief to Front Setback where 25' are required and 20.7' are proposed; Left Side Setback where 20' are required and 9.6' are proposed. The property is located in an R1 Zoning District. Addition is 16' x 28' family room (Secretary read Legal Notice)

(Stephen Zolotas recused himself from this agenda item because of technical difficulties Ed Colbert will vote in his place.)

Discussion ensued: William Penny, designer and builder, spoke about the project consisting of a one-story family room addition. The land slopes and the odd shape lot and how it narrows making this the only location to put the addition. Mr. and Mrs. Lawler were also in attendance.

Fran Gallugi: Any other questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Ed Colbert: Second

Barry Osborne: Motion to approve.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

4. Application of Joseph Leggett, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.1.5, as it applies to the premise known as 41 Nancy Ave, Peabody, MA, Map 048, Lot 056. Petitioner seeks a variance for an Accessory Structure and requires relief to Accessory Structure Size 5% of Rear Setback Area where 140 sf is allowed, and 480 sf is proposed; Left Side Yard where 10' is required and 4' is proposed. The property is located in an R1B Zoning District. Accessory Structure 2 car garage.

(Secretary read Legal Notice)

Discussion ensued: Tina and Joe Leggett spoke in regard to the proposed 480 sf detached 2-car garage with storage above not to be used for business purposes and not to have any living space. The existing shed will be removed, and the proposed shed may not be used for commercial reasons.

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Dan Sencabaugh: Motion to close the public hearing.

Barry Osborne: Second

Dan Sencabaugh: Motion to approve with condition the existing shed be removed and no business may be run from the accessory structure.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(4-1) Motion approved. Variance is granted with condition.

5. Application of Derek Lojko, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known as 19 Martha Terrace, Peabody, MA, Map 073, Lot 290. Petitioner seeks a variance for Front Yard Setback where 20' is required and 18.5+/- is proposed. The property is in an R1A Zoning District. Farmer's Porch 6' x 26'

(Secretary read Legal Notice)

(Stephen Zolotas was able to fix the technical issue and will vote. Ed Colbert will regain his alternate status.)

Discussion ensued: Derek Lojko, homeowner spoke about the proposed farmer's porch to replace corroding front steps.

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Dan Sencabaugh: Motion to close the public hearing.

Stephen Zolotas: Second

Dan Sencabaugh: Motion to approve.

Barry Osborne: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

6. Application of Edward Dalton, for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Sections 7.1, 7.2. 10.5.1, as it applies to the premise known as 18 and 18.5 Dalton Court, Peabody, MA, Map 095, Lot 392. Petitioner seeks a variance to tear down existing two single family homes on the same lot and replace with a single duplex structure. The property is located in an BN Zoning District. Petitioner requires relief to...

Setbacks for	Required	Proposed
Lot Frontage	50'	39.50'
Min. Buildable Lot Area	7,500 sf	2,152 sf
Rear Setback	35'	7'
Left Side Yard Setback	10'	3'
Lot Coverage	35%	47%
Street Trees	2 per lot	0 (none)

(Secretary read Legal Notice)

Discussion ensued: Attorney Keilty representing potential buyers, Merrimack Valley Builders owned by Mr. Litchfield, spoke in regard to the project. It was clarified that the lot housed 2 structures pre-existing and non-conforming. Both structures would be torn down and a two-family single structure is proposed with one driveway parking and one garage in the front of each unit as shown on the conceptual rendering labeled “Drake Way”. Ed Colbert asked Attorney Keilty to clarify the height and levels. Attorney Keilty responded it would be a 3-story building and the height would not be over the 30- foot requirement. Dan Sencabaugh commented that the project would be an improvement to the neighborhood and would not impact traffic.

Nancy Maynard, 12 Dalton Court voiced concerns with the building height and construction vehicles parking on the street. She also wanted clarification on the side yard setbacks which were all addressed to her satisfaction by Attorney Keilty and the Board

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Dan Sencabaugh: Second

Dan Sencabaugh: Motion to approve with condition no construction vehicles be allowed to park on Dalton Court.

Stephen Zolotas: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted with condition.

7. Application of **Scott Dixon**, for a **Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.1.5**, as it applies to the premise known as **346 Lowell St., Peabody, MA, Map 061, Lot 001D**. Petitioner seeks a variance for a shed/barn and requires relief to **Accessory Structure Size 5% of Rear Setback Area** where 0 (zero) sf is allowed, and 448 sf is proposed. The property is in an **R1B Zoning District**.

Accessory structure shed/barn 448sf

(Secretary read Legal Ad)

Discussion ensued: **Scott Dixon**, homeowner, spoke in regard to the proposed shed. It was previously permitted when the house was built some 20 years ago, but, was never built. The lot itself is odd in shape and has 12 sides. More storage space is needed as to house snowblower, tools barrels etc. A wetland scientist was hired and signed off on the project, as the property is in wetlands and a flood zone.

(Memo from Conservation and the wetland scientist made part of these minutes)

Fran Gallugi: Reiterated the importance of following the conditions set forth by Conservation Commission.

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor?

Mark Brancinforte: 12 Trask Road, spoke in favor of the project.

Fran Gallugi: Anybody else here to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Dan Sencabaugh: Second

Dan Sencabaugh: Motion to approve with the condition the applicant follow all conservation commission conditions.

Barry Osborne: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted with condition

8. Application of SFC David Mathews for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 11.5.2, as it applies to the premise known 257 Andover St., Peabody, MA, Map 029, Lot 011. Petitioner seeks a variance for window coverings where 30% is allowed and 100% is proposed. The property is located in an **BR Zoning District.**

(Secretary read Legal Ad)

Fran Gallugi: Explained to SFC Mathews the application would be continued until payment was received for both the Legal Ad and Application Fee.

Stephen Zolotas: Motion to continue the public hearing until October 19, 2020.

Barry Osborne: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

9. Application of Stephen Miraglia for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known 12 Bristol Rd., Peabody, MA, Map 015, Lot 014. Petitioner seeks a variance for and requires relief to Front Yard Setback where 25' are required and 18.1' are proposed. The property is located in an R1 Zoning District.

Front landing 13'x 4'

(Secretary read Legal Ad)

Discussion ensued: Stephen Miraglia, homeowner, explained the proposed front landing replacing the existing concrete with a wooden porch and roof. The only change would be the width as the depth would remain the same.

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Barry Osborne: Motion to close the public hearing.

Julie Picardi: Second

Barry Osborne: Motion to approve.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

9. Application of David Cohen for a Variance from the Provision of the Zoning Ordinance 2019, as amended, Section 7.2, as it applies to the premise known 29 Raymond Circle, Peabody, MA, Map 083, Lot 112. Petitioner seeks a variance for and requires relief to Rear Yard Setback where 35' are required and 34' are proposed; Side Yard where 15' are required and 8' are proposed. The property is located in an R1A Zoning District.

2-car garage 24'x24'

(Secretary read Legal Ad)

Discussion ensued: David and Marci Cohen, homeowners explained there proposed 2 car garage addition for personal use. No business would be run from the garage. It would be used for the cars and extra storage.

Ms. Gallugi: Read in the memo from Conservation Commission dated September 1, 2020 and asked Carla McGrath to send them a copy of said memo. Applicant was told to follow the conditions set forth by the conservation Commission.

(The memo has been made part of these minutes.)

Fran Gallugi: Any questions by the Board? Anybody here to speak in favor? In opposition? Hearing none the matter is before the Board.

Stephen Zolotas: Motion to close the public hearing.

Barry Osborne: Second

Stephen Zolotas: Motion to approve with condition the applicant comply with Conservation Commission conditions.

Julie Picardi: Second

Fran Gallugi: Roll call vote.

(5-0) Motion approved. Variance is granted.

Meeting Minutes were approved and seconded by Dan Sencabaugh and Barry Osborne

Next Special Meeting scheduled for October 5, 2020 (King St)

Next Regular Meeting scheduled for October 19, 2020

Next Special Meeting scheduled for October 26, 2020 (27 R Farm Ave and Oak St)

Meeting adjourned.

John Dick – 48 Hathorne Street – Salem, Massachusetts 01970

05 August 2020

**Lucia DelNegro
Peabody Conservation Commission**

**Re: Minor Project provisions
346 Lowell Street**

Dear Lucia;

I have reference to 310 CMR 10.02 (2) (b) 2. e., which exempts from regulatory jurisdiction the conversion of lawn to uses accessory to a residence under the following conditions:

- 1. The applicant must demonstrate that proposed work is located at least fifty (50) feet from Mean Annual High Water or from Bank or Bordering Vegetated Wetlands;**
- 2. Erosion and siltation control must be provided if and as necessary;**
- 3. And the work area shall be restored to a stable condition upon completion of the work.**

The first of these conditions is met (as shown on the attached Proposed Plot Plan) and the second and third may be implemented prior to and following the proposed construction.

The Wetlands Protection Regulations do not define accessory buildings or structures in terms of area or dimension, except as relates to distance from the resource.

Section 32-33 of the Bylaw Regulations describes No-Disturb provisions within both Riverfront Area and the buffer zone to Bordering Vegetated Wetlands. (In this case, both conditions prevail; there is no location on the subject property that would provide alternative siting.) Paragraph H allows the construction of accessory structures associated with an existing single-family dwelling with the following conditions:

- 1. The applicant must demonstrate that alternatives outside the buffer (and RA) are not available (see referenced Plot Plan);**

2. The size and impacts of the activity are minimized (a previously issued Order of Conditions included siting of a larger structure located significantly closer to the BVW) and;
3. The proposed structure be located as far as possible from the resource area(s).



site of proposed structure looking northwesterly

I have attached a Proposed Plot Plan that clearly demonstrates compliance with all of the above specifications, as well as an as-built drawing showing the proposed structure described in item 2..

In summary, the proposed accessory building meets all applicable provisions of both the state and local regulations. The state regulations clearly exempt such activities from jurisdiction. The local regulations vest regulatory discretion in the Commission, and impose three specified conditions. Each of these conditions is satisfied, as is the broader consideration that a densely vegetated buffer is present. In the case of the Riverfront Area to the northeast, the existing vegetated buffer exceeds one hundred feet. The shed shown in the second photograph is located within a densely vegetated buffer approximately 50 feet in width.



site of proposed structure looking southerly

I have visited the property, and believe that the proposed location is the best available site, and that it imposes minimal disturbance of the local buffers. Please contact me if you have any questions.

Thank you for your attention to this matter.

Respectfully;


John Dick
Wetland Scientist

Carla McGrath

From: Lucia DelNegro
Sent: Friday, August 07, 2020 10:10 AM
To: Toni Dixon
Cc: John Dick; Dan Terenzoni; Mark Menard; Carla McGrath
Subject: RE: [External] Re: 345 Lowell Street "minor work" approval

Good morning

Pleas revise the paperwork sent over and then upload to ViewPermit please. I know which house is yours. Sorry for the confusion. The narrative submitted stated 345 not 346. I did not double check the address.

Lucia DelNegro/Conservation Agent/Peabody MASS/978-538-5782

From: Toni Dixon <TSBDIXON@msn.com>
Sent: Thursday, August 6, 2020 3:16 PM
To: Lucia DelNegro <lucia.delnegro@peabody-ma.gov>
Cc: John Dick <jdick48@comcast.net>; Dan Terenzoni <dan.terenzoni@peabody-ma.gov>; Mark Menard <mark.menard@peabody-ma.gov>; Carla McGrath <carla.mcgrath@peabody-ma.gov>
Subject: [External] Re: 345 Lowell Street "minor work" approval

WARNING

This email originated from outside the City of Peabody. Do not click on links or open attachments unless you trust the sender.

I just want to clarify the address is 346 Lowell St not 345 Lowell.

Thank you for the commission approval.

Best regards,
Scott Dixon

Sent from my iPhone

On Aug 6, 2020, at 1:59 PM, Lucia DelNegro <lucia.delnegro@peabody-ma.gov> wrote:

Hello John and Scott

I have reviewed the attached documents: Project Narrative for 345 Lowell Street, the proposed plan for a shed/barn type structure as well as an old approved plan showing a larger structure closer to the wetlands. At this time I believe your wetland scientist has convinced me this project can move forward as a "Minor Project" under the ACT specifically 310CMR10.02(2)(b)2e.

The following are conditions for said minor project:

- 1- Erosion controls must be installed before work can commence as discussed with John Dick (Wetland Scientist) on 8.6.2020 at approximately 1:50 pm.
- 2- The two documents attached to this email MUST be uploaded to the city's permitting software ViewPermit before I will sign off on the permit.



City of Peabody
Conservation Commission

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

MEMORANDUM

To: Honorable Members of Zoning Board of Appeals
From: Lucia DelNegro, Conservation Commission
Subject: 29 Raymond Circle
Date: September 1, 2020 Hearing date: September 21, 2020

- ▶ There are wetlands on city land abutting the rear of the parcel. The applicant must submit a plan showing that all work (including staging, dumpsters, stockpiling etc. are over 100+ feet away from the resource areas). This area of the city has had issues with flooding in the past. GIS should be used as desktop analysis only. At this time the commission cannot confirm that the proposed project is outside of their jurisdiction.



City of Peabody
Conservation Commission

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

MEMORANDUM

To: Honorable Members of Zoning Board of Appeals

From: Lucia DelNegro, Conservation Commission

Subject: 22R Hourihan Street

Date: September 1, 2020

Hearing date: September 21, 2020

- ▶ The proposed work appears to be out of Conservation Commission jurisdiction. However, there is a drainage easement that runs along the property line. It might be advantageous for the property owner to reach out to the engineering department at DPS before starting construction. Engineering stated that the easement shown on the city's website is incorrect. See easement aerial attached. The orange line is the actual easement and not the red lines. Please follow up with the city's engineering department if there are further questions regarding the easement.