



City of Peabody
Conservation Commission

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

MINUTES

SEPTEMBER 12, 2018
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Travis Wojcik
Stewart Lazares
Bryan Howcroft

MEMBERS ABSENT

Melissa Feld, Secretary
Craig Welton
Gerry Kruczkowski

Also Present: Lucia DelNegro, Conservation Agent; Ward Councillor Mark J. O'Neill;

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:03 pm

PROPOSED NEXT MEETING DATES- October 10, 2018 AND November 14, 2018
DPS- 50 Farm Avenue

****Please note meeting location has changed- The Commission will meet at the Department of Public Services located at 50 Farm Avenue, Peabody MA until further notice.**

VIOLATION ORDER

1. A Violation Order issued to Emmanuel Papanickolas for DEP File No. 55-822. The property location is 25 Farm Avenue. The alleged violation is adding fill and an crushed aggregate pad in the location of a proposed stormwater basin as approved by the commission under DEP file no. 55-822.

Motion to continue as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

NOTICE OF INTENT

2. A Public Hearing on a Notice of Intent submitted by Emmanuel Papanickolas. This is an “after the fact” filing. The property owner is requesting the commission to allow existing filled pad to remain in buffer zone. No stormwater components are proposed at this time. The property is known as 25 Farm Avenue, Map 69, Lot 6, Peabody MA.

Motion to continue as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously. (Applicant did not submit required documents to be heard at a public hearing).

3. A continued Public Hearing on a Notice of Intent submitted by The Botto Realty Trust. The proposed work is the construction of a single-family house with driveway, utilities and lawn. The property is known as 73 Lake Street, Map 45, Lot 62, Peabody MA.

Present: Joseph Salvaggio (proposed buyer) and Christopher R Mello (ELSAI)

Summary: At the last hearing the commission made a finding that the riverfront across the street was not as valuable as the buffer zone to Devils Dishful on said parcel. The commission requested that the plan be revised showing the house closer to Lake Street. They also requested that the applicant reach out to the city engineering and the water department to find out if there is any record of a culvert running through said lot. The applicant provided a revised plan with the house approximately seventy feet off Lake Street. The city engineering and water department have no knowledge of a culvert or pipe running through 73 Lake Street. Ms. DelNegro showed the commission and audience the plans submitted by city engineering staff. City engineering also submitted a memorandum stating they have no knowledge of a culvert on said land. **Discussion ensued.** Christopher Mello stated he spoke to everyone with institutional knowledge regarding the site. He spoke to Davis Schribner, Peter Smyrnius, John and Louis Karamas. There is not any record of a culvert. A culvert contingency plan will be a condition for any development.

Robert Correale, 74 Lake Street

MR CORREALE: Excuse me. Why go through all that trouble? When there is a pipe there. Did anybody physically go walk the woods up in the back. You can access that through the road. The hot top road. You don't have to walk alongside the railroad tracks. There is a big huge beaver dam built up back there. I don't know if anybody has seen that. Those pipes were put in place over there so when that breaches; that water has to go somewhere. A- it comes to my property with a concrete pipe. And it goes to the other lake across from 70 Lake Street with another big huge pipe. So, there is a reason for that in Devils Dishful Pond. So why let him go through all this aggravation? I know he is going to hit that pipe. I blocked that pipe up with a piece of plywood myself. It comes right to Lake Street. I can show you exactly where it is. I marked it with all orange ribbon up there. If anybody goes up there looking for it, they would have seen it.

MR COMAK: We know there is a pipe there. It comes from over here.

MR CORREALE: That is not the pipe. That is what Pat is telling us.

Discussion ensued. The city's water department and public service department have both scoured their plans/records and cannot find any information to confirm a pipe exists as stated by the neighbors. The plans that were submitted by DPS/Water Dept. were at the meeting. Mr. Correale was adamant that a pipe existed on said lot. However, the neighbors could not point out on a plan where they believe the pipe is located. **Discussion ensued.**

MR RIZZO: If you are saying you know where the outlet is?

MR CORREALE: I do.

MR RIZZO: Where is the outlet? It is not on this plan (in reference to plans DPS submitted to ConComm for review)?

MR CORREALE: This is the city of Peabody good luck with that.

Discussion ensued regarding the pipe.

MR CORREALE: There is nothing for me to lie about. I am just trying to help him out.

Discussion ensued.

MR SALVAGGIO: If you are trying to help me; we have had every professional in the city tell me there is nothing there.

MR CORREALE: But Joe you know how these people are.

MR SALVAGGIO: Hold on. I am not done talking. What do you mean I know how these people are? That is there job. You are trying to help me. I am agreeing to do whatever I have to do. If we encounter a pipe; I have already written a letter saying what I would do. If I dig in one spot and we find a pipe I am not going to change anything to the pipe. I am not going to add to the pipe. I am not going to do anything unless we have to divert. In no way is it going to affect anything. I think you are bringing up a point that is irrelevant.

MR RIZZO: We all agreed that if there is a pipe there; we are going to take care of it. Let's do this. We are going to have a condition for test pits.

Discussion ensued regarding test pits.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

Motion to issue an Order of Conditions 1-47 adding the following finding and conditions: **Finding:** At the July 25, 2018 meeting the commission discussed buffer zone vs riverfront area on said parcel. The commission was in agreement that since a majority of the riverfront across a paved street is enclosed in a culvert underground that the buffer zone to Devil's Dishfull Pond on said site was more important to protect. Therefore, the commission requested the applicant move the proposed dwelling closer to Lake Street and into the riverfront area. The commission understands that the regulations state this is in fact riverfront. They felt that the culverted portion of the river was less valuable compared to the buffer zone of Devils Dishfull. **And the following conditions: 48)** Although there is no record or knowledge of a pipe/culvert/infrastructure under the existing lot; If a culvert/pipe or any obstruction is encountered below the surface while doing soil borings; work will stop immediately. The General Contractor or whomever is on site will cease and desist all work. They will contact the Department of Public Services at 978-536-0600 and conservation

staff at 978-538-5782 immediately to come up with a remediation plan; **49)** The developer must do test pits in the location of the proposed dwelling, and any other area that will be excavated (proposed trench areas for utilities, sono-tubes etc.). The reason for test pits is to confirm the existence or nonexistence of a culvert running through said parcel; **50)** In the event the plan must be changed due to finding a culvert or any other reason; the applicant/property owner must file an Amendment request for any changes. The owner/applicant can discuss beforehand with the agent for a determination as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

(Mr Howcroft recused himself from Item #4)

4. A Public Hearing on a Notice of Intent submitted by John R Keilty for Sawyer Street Associates. The proposed work is the construction of a new parking lot and stormwater management facilities. The property is known as 12 Crowninshield Street, Map 75, Lot 275, Peabody MA.

Present: Attorney Keilty and Christopher R Mello (ELSAI)

Summary: Attorney Keilty went over a memorandum from conservation staff and the city's engineering department.

MR MELLO: The system is designed to be a storage system under the proposed parking area.

Summary: There was confusion about the plan and how the treatment train would function. Mr. Mello stated he would revise the plans, so they are easier to read. **Discussion ensued.** There was a discussion about the proposed retaining wall. A detail was not submitted with the NOI application. The proposed wall will be over four feet tall and will require a permit from the building department. **Discussion ensued** regarding FEMA Flood Zone.

MS DELNEGRO: I guess that is my question. What is flood zone here? You have it pointing at thirty-five (35) but in the application it says it varies.

MR MELLO: It does. It moves.

MS DELNEGRO: But you say thirty-five but then you have all these other elevations and you are not pointing saying those are.

MR MELLO: Oh no they are. If you take the FEMA flood plans they move through the site. We have interpolated them the best we can. It is thirty-five here. Thirty-one here and it moves down. We have taken the worst impact (thirty-five) but we are cutting below that. We are providing flood storage.

MS DELNEGRO: Thirty-one is the lowest elevation on this site?

MR MELLO: Yes.

Discussion ensued regarding test pits. Per DPS memorandum the applicant agreed to conduct further test pits in the company of a city engineer. Ms. DelNegro stated she was still looking for the test pit documentation that has already occurred. It was not included in the NOI application. They stated they would forward that information as soon as possible.

MS DELNEGRO: DPS is asking to be present. They typically like to always be present. I will say I know of one file that I was on site for and DPS was not asked to witness the test pits. You guys have to remember if the commission is adding conditions that DPS is requesting you have to remind the people that you are working with.

Discussion ensued regarding DPS being present for test pits. The commission requested a detail of the proposed retaining wall and proposed rain garden. The stormwater report must also be signed and stamped by an engineer. There were no members of the public that wished to comment.

Motion to continue as made by Mr. Comak. Second by Mr. Wojcik. Adopted unanimously with Mr. Howcroft recusing himself.

REQUEST FOR DETERMINATION OF APPLICABILITY

5. A Public Hearing on a Request for Determination of Applicability submitted by Tighe & Bond for Boston Gas Company c/o Andrew Shelby. The proposed work consists of installing a residential gas service line from the existing gas main within Lake Street for approximately 220 linear feet to the single-family residence located at 90 Winona Street. The property is known as 90 Winona Street, Map 45, Lot 26A, Peabody MA.

Present: Dana Vesty from Tighe & Bond

Summary: Ms. Vesty explained the project. The commission requested a revised plan that shows the easement the gas line will be constructed in. The proposed gas line will be a one (1) inch residential line. Ms. DelNegro's only concern was the work being done close to an existing water culvert. **Discussion ensued** regarding a culvert contingency plan in the event the existing culvert is damaged during construction. The project is minor in nature and the commission felt they could close the hearing for a vote. The project will be finished in less than a week. There were no members of the public that wished to comment on the project.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Howcroft. Adopted unanimously.

Motion to issue a Negative Determination adding the following conditions: **1-Once the erosion controls are in place conservation staff must be notified 48 hours in advance to conduct a site visit. Work can not commence until staff approves said erosion controls; 2-Culvert contingency plan must be submitted and approved by staff and made part of the Determination as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.**

6. A Public Hearing on a Request for Determination of Applicability submitted by 194 Turnpike LLC (Arthur Pimental). The proposed work consists of repaving the existing parking lot and repair existing sidewalks (more details in scope of work). The property is known as 190 Newbury Street (a/k/a 194 Newbury Street), Map 035, Lot 038X, Peabody MA.

Present: Arthur Pimental (owner)

Summary: The entire parking lot and sidewalks for Latitudes are in serious disrepair. The proposed project is a minor repaving project. The grade will not be changed. Erosion controls will be installed and inspected by city staff before any work commences. There were no members of the public that wished to comment on the project.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

Motion to issue a Negative Determination with the following conditions: **1-There will be no change in grade; 2-Erosion controls must be inspected by the Agent prior to work commencement as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.**

CERTIFICATE OF COMPLIANCE

(Mr Comak recused himself from Item #7)

7. A request for a PARTIAL Certificate of Compliance made by Paula Vadala fon DEP File No. 55-843. The property is known as 5 Danforth Street, Map 26, Lot 1, Peabody MA.

Motion to issue a FULL Certificate of Compliance as made by Lazares. Seconded by Mr. Howcroft. Adopted unanimously with Mr. Comak recusing himself.

8. A continued request for a FULL Certificate of Compliance made by David Kelly (Kelly Engineering Group Inc.) for Centercorp Retail Properties (Richard Newburg) and Nicholas Decoulos on DEP File No. 316-43 (the Order of Conditions was issued on 1/10/1979). The property is known as 250 Andover Street, Map 30, lot 13, Peabody MA.

Present: David Mackwell (Kelly Engineering)

Summary: Mr. Rizzo questioned two blue PVC pipes that were in the video. The commission would like DPS engineering to confirm the blue pipes are not connected to anything.

Motion to issue a Full Certificate of Compliance checking off the following boxes: invalid box- stating CC is for administrative reasons only, complete certification box- noting that the file is missing, and it cannot be confirmed if the work was done in complete compliance also checking off the ongoing condition box stating the O&M is in perpetuity to be held until DPS signs off as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

APPROVAL OF MINUTES

9. MINUTES- July 25, 2018

Motion to approve as made by Mr. Howcroft. Seconded by Mr. Wojcik. Adopted unanimously.

SUBCOMMITTEE REPORTS

•**Land Acquisition Committee- Chairman Rizzo**

EXTENSION REQUESTS

● **A Request for an Extension Permit on DEP File No. 55-788. The request is being made by Frederic W. King of Schofield Brothers for the City of Peabody. The project is the construction of the J Henry Higgins Middle School located at 1 King Street Ext. The Order expires on 9/19/2018. The applicant is asking for a one-year extension.**

Motion to extend one year until 9/19/2019 as made by Mr. Wojcik. Seconded by Mr. Howcroft. Adopted unanimously.

● **A Request for an Extension Permit on DEP File No. 55-796. The request is being made by Frederic W. King of Schofield Brothers for the City of Peabody. The project is the irrigation system for the J Henry Higgins Middle School located at 1 King Street Ext. The Order expires on 9/25/2018. The applicant is asking for a one-year extension.**

Motion to extend one year until 9/25/2019 as made by Mr. Wojcik. Seconded by Mr. Howcroft. Adopted unanimously.

OTHER

- Any other matter presented to the commission at this time.

Beaver Deceiver located near Bike Path/Crystal Lake: The commission stated if anyone wishes to breach said dam they must appear before the commission to discuss before an Emergency Permit can be issued. However, this stipulation can be waived if the director of the city's Health Department deems it a threat to human health and safety.

Motion to adjourn as made by

The meeting adjourned at 9:20 pm

Respectfully submitted-

Chairman Michael Rizzo