



City of Peabody Conservation Commission

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

MINUTES

OCTOBER 16, 2019
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Secretary Stewart Lazares
Travis Wojcik
Melissa Feld-Cantin
James DiGiulio (alt.)

MEMBERS ABSENT

Bryan Howcroft
Michael Vivaldi (alt.)

Also Present: Lucia DelNegro, Conservation Agent; Brendan Callahan
Assistant Director of Planning; Honorable City Councillor
Joel D. Saslaw Ward 5

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:10 pm

PROPOSED NEXT MEETING DATES- October 16, 2019 and November 13, 2019

DPS- 50 Farm Avenue

Alternate Commissioner James DiGiulio was given voting rights in the absence of a commissioner.

VIOLATION ORDER

1. A continued 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 a 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.

2. A continued request for a Certificate of Compliance made by Emmanuel Papanickolas on DEP file No. 55-822. The project was the construction of an asphalt pad, fencing and stormwater enhancements. 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.

NOTICE OF INTENT

3. A continued 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. (DEP File No. 55-860)

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

CERTIFICATE OF COMPLIANCE

4. A request for a FULL Certificate of Compliance made by Kevin Lucey for 795 Jubilee Drive LLC on DEP file No. 55-844. The property is known as 795 Jubilee Drive, Map 90, Lot 14 & 15, Peabody MA.

Motion to issue a FULL Certificate of Compliance with the stipulation that the O&M Plan, LTPPP and any other plans are in perpetuity as made by Mr. Lazares. Seconded by Mr. DiGiulio. Adopted unanimously.

5. A request for a Certificate of Compliance made by Attorney Kerry Cucinatti for Peter Demoulias on DEP file No. 55-154 specifically releasing 20 John Road only. The property is part of a subdivision entitled Oak Hill Estates II from 1987. Map 107, Lot 183, Peabody MA.

Summary: No one was present at the hearing to request the CC. Staff explained they submitted a letter and a WPA Form 8A RCC. However, they did not submit an As Built Plan or a letter from the engineer of record. The city's GIS is not accurate. There is an open wooded lot next to this property that could be wetlands. The commission will not sign off on the CC Request until a letter from the engineer of record is submitted stating all work is in substantial compliance with the Order and list any deviations from the original plan. The commission either needs a stamped As-Built Plan or a letter from the engineer of record before they will fully sign off on 20 John Road parcel (part of the original subdivision by Oakhill Associates).

Motion to continue as made by Mrs. Feld-Cantin. Seconded by Mr. Wojcik. Adopted unanimously.

NOTICE OF INTENT CONTINUED

6. A continued public hearing on a Notice of Intent submitted by Elizabeth Wallis & Peter Ogren (Hayes Engineering) for Seven Dearborn Limited Partnership c/o Joe O'Donnell (owner). The applicant proposes to construct a parking lot with associated drainage and stormwater systems as part of site redevelopment for a new apartment building. The property is known as 7 Dearborn Avenue, Map 78, Lot 19, Peabody MA.

Present: Jack Keilty (legal counsel), Peter Ogren (Hayes Engineering) and Albert Ellis (owner)

Documents:

- Plans drafted by Hayes Engineering, Inc. stamped by Peter Ogren. Scale 1"=40' sheets 1-5
- SHEET 1** – Topographic Plan - Existing Conditions final revision date 10.3.2019
- SHEET 2** – Site Plan Proposed Conditions- final revision date 10.3.2019
- SHEET 3** - Photometric Plan-Proposed Conditions- final revision date 10.3.2019
- SHEET 4** – Detail sheet page one final revision 10.3.2019
- SHEET 5** – Detail sheet page two final revision 10.3.2019
- Existing Watershed Map and Proposed Watershed Map both dated 9.28.2018
- Stormwater Management Report drafted by Hayes Engineering, Inc.
- Checklist for Stormwater Report
- Construction Period Pollution Prevention and Erosion and Sedimentation Control Plan as submitted with original NOI filing 9.12.2018.
- Long Term Operation and Maintenance Plan as submitted with the original NOI filing 9.12.2018.

Summary: The item has been reviewed by numerous departments in the city since September 2018. Various studies have been done regarding infrastructure capacity in the city (water) as well as traffic studies etc. Most issues were not related to conservation. Numerous test pits have been done. **Discussion ensued.** There were no members of the public that wished to speak for or against the project.

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

Motion to issue a Standard Order of Conditions #1-50, changing condition #49 to read "To remove harmful chemicals, it is the applicant's responsibility to leave the pool water standing without the addition of chlorine for a minimum of TEN (10) days before draining" (instead of the typical 3 days) also adding and attaching Memorandum from Department of Public Services dated 10.16.2019 signed by William Paulitz, PE City Engineer as made Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

7. A continued Public Hearing on a Notice of Intent submitted for Bill Steinberg (13 Centennial Drive LLC) by Garret Horsfall (Kelly Engineering). The proposed work is the addition of 9 trailer parking stalls and eleven (11) car parking stalls associated with new tenant improvements. The property is known as 13 Centennial Drive, Map 92, Lot 10, Peabody MA.

Motion to continue as made by Mr. Lazares. Seconded by Mrs. Feld-Cantin. Adopted unanimously.

8. A Public Hearing on a Notice of Intent submitted for Alliance Health of Massachusetts by Attorney John R Keilty. The proposed work is the removal, reconstruction and expansion of an existing parking lot and stormwater management facility. The property is known as 22 Johnson Street, Map 34, Lot 22, Peabody MA.

Motion to continue as made by Mrs. Feld-Cantin. Seconded by Mr. Wojcik. Adopted unanimously.

VIOLATION ORDER

9. Shirat Hayam- Wetland Mitigation Report –Beth El Cemetery Lowell Street- violation is the dumping of soil and other earth refuse in buffer zone.

Summary: The erosion controls have been installed and work will commence soon.

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

10. A continued request for a PARTIAL Certificate of Compliance made by Joseph Orzel (Wetlands Preservation, Inc.) on DEP file No. 55-800. The property is known as 252 Andover Street, Map 39, Lot 25C, Peabody MA.

Motion to issue a Full Certificate of Compliance stating the following are in perpetuity: condition #48 the No Mow along the river is in perpetuity, the five (5) signs (3 granite posts; 2 steel posts) must remain in perpetuity as well as the LTPPP and the O& M Plan. Staff must hold the CC until the signs have been installed as made by Mr. Lazares. Seconded by Mr. DiGiulio. Adopted unanimously.

ENFORCEMENT ORDER

11. Enforcement Order located at 60 Warren Street Extension. The property owner has done various projects in riverfront without a permit from the commission. The most egregious issue is the failing retaining wall and the stormwater drainage pipes into Proctor Brook.

Present: Pedro and Luana Polini (owners), Viviane Alvarenga (interpreter)

Summary: The commission asked the property owner to follow the action items on page 2A of the Enforcement Order that was issued in September 2019. They have hired an engineer today. They were unaware that they needed permission from the commission or the city to perform the work. City staff believes that the property is owned by the city and not the Polini's. Mr. Polini explained that the reason why he did the work was to keep water from coming into his house. He visited numerous departments (engineering and building) in the city asking for help and was turned away. Mr Polini is very sorry and wants to fix the problems he has created. Ms. DelNegro is worried that the bank will slowly start disappearing if work is not done in a timely manner. Time is of the essence. If the work that has been done is on the city's property an agreement will need to be drafted by the city solicitor before work can commence. **Discussion ensued.** The commission will know more at the next hearing when the engineer hired by the property owner submits a plan and a Restoration Plan for the bank as required in the Enforcement Order listed on page 2A as Action Items. Mr Polini asked if he could do the work. The commission and staff were nervous about not having a licensed company doing work in such a highly environmentally sensitive area. A Restoration Plan is needed to be submitted and approved before work can start. Ms. DelNegro believes that the property owner filled the area in question with fill and built a makeshift retaining wall. The makeshift retaining wall is now failing. Staff also reminded the commission that the property owner created a catch basin on the street and through what she believes is city owned property. Currently the pipes underneath the ground are draining street runoff directly to the brook with no pretreatment.

APPROVAL OF MINUTES

12. MINUTES- September 11, 2019

Motion to approve as made by Mr. Lazares. Seconded by Mr. DiGiulio. With Mr. Wojcik voting present. Otherwise the minutes were adopted unanimously.

DISCUSSION

13. 49 Blaney Avenue- DEP File No. 55-864 as requested by David Cutler.

Present: David Cutler (property owner and developer) and his engineer George Zambouras

MR CUTLER: We have a current approved plan right now for 30' x 50' which is 1500 square feet building envelope. We are going to reduce that down. The new foundation is almost half of the size. It is 27' x 30' (810 SF). The main reason I am hear is not so much that as that falls within the buildable footprint. One thing is the plan that was originally done did not show any elevations on it. It only called out a first-floor elevation of fifty-one (51) and the garage elevation. We are not going to be having a garage. We have the first-floor elevation being slightly higher at 54.5. A basement at 46.0. I wanted to make sure you guys had no issues with that.

Summary: The property currently has an open valid Order of Conditions. The property has been sold to Mr. Cutler. Mr. Cutler has hired a new engineer than the one of record and he was also present. The new plan also shows a granite post to the rear of the lot with a no dumping sign which was not shown on the original plan. The revised plan also shows smaller house footprint with elevations etc., new granite post to rear of lot with "no dumping" sign, new driveway location with grading changes. The new proposed drawings show a basement. Ms. DelNegro was concerned that the basement could flood as groundwater is very high in this area of the city. Numerous residents on Blaney Avenue currently get water or use a submersible pump on a daily basis. Conservation staff was concerned that adding a basement could create flooding issues for the new property owner and/or other properties on the street. The commission was not concerned with any properties flooding. Nor did they require test pits. Mr. Cutler also asked for permission to remove four trees on property that were not shown on the original plan as approved earlier in the process. Ms. DelNegro reminded the commission that the removal of two 26-inch caliber pines could change the groundwater as they have massive roots that will not absorb water if they are removed from site. He was granted permission but only if he plants numerous trees on site. The commission typically asks for two trees to be planted for everyone tree that is removed. The property owner will need to plant 5 trees from a list provided by the commission. The property owner David Cutler needs to submit a planting plan after he meets with conservation staff on site. Mr. Cutler agreed to submitting a planting plan to the commission after the site visit. The five trees should be planted before the house is sold to the new potential owners. David said he would plant them and have the new owners pay for them.

Motion to approve said changes with the stipulation that the revised plan showing the (5) five trees as discussed must be submitted to commission staff before work continues as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

11.25.2019 To date a new plan has not been submitted to the commission as promised.

SUBCOMMITTEE REPORTS

- **Land Acquisition Committee- Chairman Rizzo** **NONE**

EXTENSION REQUEST:

14. A Request for an Extension Permit on DEP File No. 55-808. The request is being made by Brendan Callahan for the city of Peabody. The proposed work is the Crystal Lake Dredging Project. The property is known as Lowell Street, Map 024, Lot 077X. The Order expires on 9/25/2019. The applicant is asking for a one-year extension.

Motion to extend the Order of Conditions until 9/25/2020 as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

OTHER

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

Motion to adjourn as made by Mr. Wojcik. Seconded by Mr. DiGiulio. Adopted unanimously.

The hearing adjourned at 9:00 pm

Respectfully submitted-

Chairman Michael Rizzo