



City of Peabody
Conservation Commission

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

MINUTES

NOVEMBER 13, 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
Michael Vivaldi (alt.)

MEMBERS ABSENT

Bryan Howcroft
James DiGiulio (alt.)

Also Present: Lucia DelNegro, Conservation Agent; Brendan Callahan
Assistant Director of Planning; Honorable City Councillor
Mark J. O'Neill Ward 6

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

PROPOSED NEXT MEETING DATES- December 11, 2019 and January 15, 2020

DPS- 50 Farm Avenue

Alternate Commissioner Michael Vivaldi was given voting rights in the absence of a commissioner.

VIOLATION ORDER

Item #1 and Item #2 were discussed together

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.

Item #1 and Item #2 were discussed together

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.

Present: Attorney Harding (legal counsel) Rose Papanickolas (owner) and Crystal Papanickolas (owner)

Summary: At the September hearing the commission approved a revised plan with all deviations in the field. Mr. Karamas performed all the work under the supervision of Christopher Mello (ELSA) and William Stansfield (Environmental Engineer City of Peabody). Mr. Mello submitted a revised As Built Plan. The survey engineer believes the work has been done in substantial compliance with the revised approved plans. The property owner is respectfully asking for a Full Certificate of Compliance on DEP file no. 55-822. Mr. Callahan (Acting Agent for file) stated he was in agreement the work was done appropriately. Mr. Callahan stated that Bill Stansfield confirmed that the stormwater report was in compliance with field work. **Discussion ensued.** The item was open to the public. Anthony Capachetti from Hayes Engineering was present and spoke on behalf of the abutter Michael Weiss. Hayes engineering did not believe the "use" plan satisfied the wish of the commission. Anthony also stated he never saw a letter from the PE stating all work was in compliance with the spirit of the Order. Mr. Mello stated he did send the letter himself. Mr. Callahan stated that the clerk for the commission must have misplaced it and agreed he did see a letter at some point in time signed by the PE. The letter was not located at the meeting or after the meeting. Regardless the commission felt they had enough information to sign off on the project as the city environmental engineer stated all work was done correctly. The commission stated if any "uses" change on site the property owner needs to let their tenants be aware they must file an RDA with the commission beforehand. They also need to request a Special Permit if one is needed for the use. Legal counsel and the property owners agreed to this condition.

Motion to lift the Violation Order as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

Motion to issue a Full Certificate of Compliance with the following ongoing conditions:1-Any change in tenant/use/special permit for site will trigger at a minimum an RDA before new tenant/new "use" can occupy and conduct work on site; 2-The tenants of 25 Farm Avenue cannot change the site without permission from the property owner and commission. The owner is responsible for all activities on the parcel. (letter shall be submitted to commission before release of CC); 3-Any O&M plan is in perpetuity also including the Certificate of Compliance shall be held until a letter from the property owner stating condition #2 is understood. This letter shall be filed in the project folder at city hall as made by Mr. Wojcik. Seconded by (inaudible-clerk not in meeting). Adopted unanimously.

The Violation Order has been withdrawn.

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).

Present: Attorney Harding (legal counsel) Rose Papanickolas (owner) and Crystal Papanickolas (owner)

Summary: The commission did not have any plans or documents to review. The applicant and property owner must resubmit documents for review if they anticipate going forward with the project. There is not a tenant yet for the site. The commission did not feel like a discussion on the item was appropriate at this point (i.e. no future tenant lined up and no plans to discuss). Mr. Callahan stated he has not reviewed any documents recently. The site is presently vacant. There was a brief discussion of the “use plan” already submitted. Attorney Harding stated he would submit a revised “use plan” as requested to the commission the Monday after Thanksgiving (12/2/2019). Eastern Land Survey said that a surveyed use plan could be finished the first week of January. Attorney Harding agreed to having a surveyed Use Plan created by ELSA.

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

4. 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.

Present: David Mackwell (Kelly Engineering)

Documents: Site Improvement Plans for 13 Centennial Drive dated 7/19/2019, sheet 1 revised 11/1/2019, sheets 2-4 revised 9/30/2019, sheet 5 revised 11/1/2019, sheets 6-7 revised 9/30/2019; Stormwater Management Report for 13 Centennial drive with a final revision 10/9/2019.

Summary: The project is locally jurisdictional only. A new tenant needs site work done per the description in the legal ad. Work is in buffer zone only. City engineering has signed off on the project. **Discussion ensued.** There were no members of the public that wished to be heard on this item.

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 adding the following conditions: **51)** The engineer of record MUST submit a DETAIL of the guardrail (custom drawing crash tested) BEFORE any work can commence on site; **52)** An inspection of the excavation of the leaching system shall be conducted by the engineer of record AND a representative from the city’s engineering department PRIOR to placement of any material chamber SEE SHEET 6 as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

Hold until revised documents are submitted and approved.

5. 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. Lazares. Adopted unanimously.

VIOLATION ORDER

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

Summary: All soil has been removed from the buffer zone. One tree had to be removed as it would most likely not survive. The only work left is for the plantings to be installed. The plantings may need to wait until spring or the summer of 2020. Staff will get in touch with the wetland scientist to confirm.

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

ENFORCEMENT ORDER

7. Continued 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: Christopher Mello (ELSA-surveyor) Pedro Polini (property owner)

Summary: Mr. Mello brought a survey plan to the hearing. The plan did not show any remediation for the failing retaining wall/river bank. **Discussion ensued.**

MR MELLO: The city of Peabody owns two parcels of land. They own the remaining piece of Essex Trap Rock, the quarry that they actually owned when PMLP was built there. In 1960 or so Warren Street Extension got laid out from Endicott Street to Route 128. That bifurcated the property. They own a piece between Warren Street and Proctor Brook. That is this piece here. The triangle going that way. They own the land behind it by way of an acquisition from the railroad (Salem and Lowell RR). That lies between these lots on Warren Street. We will call it the RR right of way. So, the city is the abutter and the city are the owner of the watercourse.

Discussion ensued. The plan submitted at the hearing presently does not show any remediation for the collapsing bank. Mr. Polini also built a portion of a deck on city property. There is also a fence that has been historically placed on city owned property. Staff has evidence that the fence was installed prior to Mr. Polini purchasing the property in March 2019. Ms. DelNegro stated that the deck and fence are not causing any issues with the bank. That should be an item taken up with the building department if necessary. At this time the commission was concerned with remediating the area of the fallen bank and the removal of the storm drains (street runoff directly into the brook). **Discussion ensued.** Chairman Rizzo asked Mr. Mello to have Bill Manuel (the wetland scientist) weigh in on how to repair the bank with the least amount of intrusion to the resource. The chairman also reminded everyone that the city needs to give permission for any future work to be done on said city property. **Discussion ensued** regarding purchasing the city owned property. Mr. Polini apologized to the commission. At this point the commission had

nothing to vote on or discuss. They asked Mr. Mello to discuss the remediation with Bill Manuel and then forward appropriate details to the commission for review. Chairman Rizzo was hopeful that perhaps the DPS could remove the drainage structures on city property.

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

AMENDMENT REQUEST

8. Public hearing on an Amendment Request for an Existing Order of Conditions DEP File. No 55-857 submitted by Joseph Salvaggio. The proposed work is the construction of a single-family house with driveway, utilities and lawn. The new property owner wishes to increase the footprint of the structure. The property is known as 73 Lake Street, Map 45, Lot 62, Peabody MA.

Present: Joseph Salvaggio (owner/developer)

Summary: The property owner wants to enlarge the proposed approved building footprint and change other approved features. Numerous abutters were present. The new proposed house will be 170 feet long. Some members of the commission felt that the proposed changes should trigger a new Notice of Intent and not just an amendment to the current open Order. The original house and proposed impervious was about 2,500SF. The new house and paved areas are just under 9,000SF according to quick math done at the hearing by Chairman Rizzo. The amount of paved areas will significantly affect recharge. Presently the revised plan does not show any raingardens, buffer enhancement or dry well features. Soil samples have not been done on site to date. The depth level of groundwater is uncertain currently. **Discussion ensued.** The item was open to members of the public for discussion and comments.

Rose McCorry-Correale- Lake Street

MS MCCORRY-CORREALE: As far as I am concerned all I heard tonight was being good neighbors and protecting wet zones. This lot used to have all sorts of restrictions on it. Where you could build a house where you couldn't build a house. There are pipes under this land that everyone seems to have lost track of. This house is suburban sprawl. There is no reason that this size house should be built in this neighborhood. There is a water problem. I would like to know the results of his test pits. Has he had any test pits done?

MR SALVAGGIO: I haven't done any test pits and we haven't done any excavation.

MR RIZZO: He is here to show us that he wants to change the house.

MS MCCORRY-CORREALE: How does it go from being a small house to this suburban sprawl near wetlands?

Discussion ensued. Ms. DeINegro reminded the commission that the size of the house is in fact under their jurisdiction as it will be in buffer zone and riverfront. The neighbors believe that the water table is very high. Ms. DeINegro stated she has asked for test pits/soil logs numerous times. Presently the revised plan shows dry wells on site. The Agent felt that buffer plantings might be a better approach. Ms. DeINegro felt it was important to understand where the water table falls on the site before any further drawings are done.

Walter Youraski, 5 Mead Street

MR YOURASKI: I don't know how water works. What I do know is that I had some hydrostatic pressure that pushed up on my tiles. It was in my basement. I have a split entry. My main concern and anyone that lives in my house should be hydrostatic pressure that pushed up my tiles and I

had water coming into my basement. Underground water just comes in. I have sump pumps in all my corners. I had to put some more in. What is going to happen when this is built? Is this going to affect the water table even more? I am a jeweler, so I don't know. I don't know if the foundation will disrupt it. If someone else was in my position they would probably ask that same question. I have to live here. I have been a resident for 34 years. I had one major water problem (when the tiles popped). Now I get it every now and then. It comes up through the ground.

Discussion ensued.

Debbie Delvecchio, 3 Mead Street.

MS DELVECCHIO: I would say that we will be the most impacted by this. Our concern is the same as Walter's. As far as the water table goes that lot behind us does get very wet. When you remove all the plants and the trees and everything that was catching the water. Now you are going to hot top over it. I can't imagine how that is not going to affect the water table. We have a pool too. Water in general is a huge concern for us.

Discussion ensued. Numerous people started talking at the same time.

MR RIZZO: We had a great plan before. The site is far more developed now. I wish it was something a little smaller.

Discussion ensued. Residents reminded the commission that they currently have water issues in their neighborhood. The residents felt a development of such a large house and impervious surface could negatively impact their quality of life. The commission asked the owner to revise the plans so there is less environmental impacts to the pond and abutters. An unnamed resident felt that the changes triggered a new NOI and just an amendment request. However, the decision is ultimately up to the commission. The residents can appeal the Amendment approval to DEP if necessary, in the future.

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

APPROVAL OF MINUTES

9. MINUTES- NONE

SUBCOMMITTEE REPORTS

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

OTHER

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

Hayes Engineering- discussion about a potential Muslim cemetery on 530 Lowell Street.

Present: Tony Capachetti (Hayes Engineering)

Summary: A potential applicant/property owner wanted to have a preliminary meeting regarding a proposed Muslim cemetery at 530 Lowell Street. Muslims do not use any chemicals in the body. The coffin is a simple wooden box. The commission listened to their proposal and offered ideas. The commission would like to see the project scaled down a bit. They would also like to see a buffer from the edge of the wetlands (25-30 feet no disturb). The commission was open to the idea but will need to see actual plans to make a final decision. They asked the potential applicant/owner to file a Notice of Intent if they are serious about the project. **Discussion**

ensued. The commission was concerned with body fluids etc. near the resource area. When a cow decomposes, they only alter about ten (10) feet of area surrounding the burial location. They would propose a gravel parking area not asphalt. The commission was concerned with traffic on Lowell Street. The property is currently owned by the abutting Jewish cemetery. Staff was concerned with soil being dumped in resource. The applicants explained it is same day burial and they typically use all the soil. They are not anticipating needing to dispose of soil on site. The commission told the engineer to make sure the property is outside the Conservancy District (CD). If it is in the CD it may be difficult to develop the site. However, the site was permitted before and the discussion of the CD never came up. The commission thanked them for coming to discuss the project before submitting a formal filing.

- **Adjournment**

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

The hearing adjourned at 10:00 PM

Respectfully submitted-

Chairman Michael Rizzo