



City of Peabody
Conservation Commission

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

MINUTES

MARCH 13, 2019
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Travis Wojcik
Stewart Lazares
Michael Vivaldi (alt.)

MEMBERS ABSENT

Melissa Feld, Secretary
Craig Welton
Bryan Howcroft

Also Present: Lucia DelNegro, Conservation

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:00 pm

PROPOSED NEXT MEETING DATES- April 10 and May 8, 2019
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.**

Alternate commissioner Michael Vivaldi was given voting rights in the absence of the full commission.

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 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 made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

NOTICE OF INTENT

2. 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 with a reminder that the deadline for the items requested at the last hearing are due ten days before the April meeting (due by March 29 or April 1) if they are not submitted the applicant should ask for a continuance as made by Mr. Lazares. Seconded by Mr. Vivaldi. Adopted unanimously.

CERTIFICATE OF COMPLIANCE

3. A request for a Certificate of Compliance made by Frederic King on DEP file Numbers 55-788 and 796. The project was the construction of Higgins Middle School and athletic fields (with irrigation system), Maps 83 & 84, Lots 090, 214 & 215, Peabody MA.

Present: Frederic King (DGT Associates)

Summary: The work is complete. School has been in session for some time. The Occupancy Permit was issued years ago. The applicant did not receive a partial or full certificate yet. The commission was concerned with the way the snow was being stored. The snow was being dumped onto a very steep slope in the detention basin located on the corner of Perkins and Allens Lane. There was a concern that if snow kept being stored there the slope would erode. The Commission asked city staff to find out who oversees snow disposal. They also asked staff to pull the O&M Plan/Snow Management Plan to find out if there are guidelines for snow storage. If so it must be enforced next winter. They should not be dumping snow into the detention basin or any rain gardens. Frederic also suggested having a sit down with whomever is in charge of snow storage to remind them that there are guidelines. Ms. DelNegro will go on a site visit with Mr. King in April. There are a few items left on the punch list. The raingardens should be mowed once a year per Frederic. If they are not mowed at least once a year in five years, they will be overgrown and most likely not function correctly. Mr. King asked for a continuance until the May hearing. DPS submitted a memo stating they had no comments on the CC request.

Motion to continue item until the May 8 meeting as made by Mr. Comak. Seconded by Mr. Lazares. Adopted unanimously.

4. 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.

Summary: The As-Built needs to be corrected. A letter from the engineer explaining any deviations from the original Order must also be submitted prior to the issuance of a Certificate.

Motion to continue item 4 as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

NOTICE OF INTENT CONTINUED

5. 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.

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

6. A continued Public Hearing on a Notice of Intent submitted by Greg Hochmuth- Williams & Sparages, LLC for Patrick Coburn-AmConCorp (applicant). The proposed work is the demolition of an existing single-family home and the redevelopment of the the property to include a commercial building and parking lot. The property is known as 3 Mount Pleasant Drive, Map 29, Lot 6, Peabody MA.

Present: The applicant is presently working with the city engineer. The plans are in the process of being revised.

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

7. A continued Public Hearing on a Notice of Intent submitted by Scott Cameron (Morin-Cameron Group, Inc.) for Town Lynn, LLC (owner). The proposed work is landscape and hardscape improvements, including parking lot, renovation for handicap access, new walkways, landscaping and patio areas. The property is known as 10 Newbury Street (aka "Spinelli's"), Map 88, Lot 1, Peabody MA.

Present: Michael Laham (Morin-Cameron Group)

MR LAHAM: As you recall this is a redevelopment, landscape, hardscape improvements at Spinelli's. We had a discussion about the project and I will be happy to refresh anybody's memory. If there are any questions in general about the project. The main thing that we had discussed was that the commission was interested in stormwater improvements beyond what we had been discussing. There were a few other items as well. I would like to walk everyone through the revised plan first. Then we can go over the stormwater. The changes on this plan, are that we added conservation signs. We had talked about the proximity of Suntaug Lake and adding signs so that the patrons and employees would know that it is a protected resource area. There are five of them. There is actually one right here. Which is the existing sign that has fallen down. So, we will be restoring that existing sign. That was a City of Peabody Water Department sign. To honor what was there we put it in a location that people might be likely to try and walk down the bank here. There is one spot right here where the existing retaining wall ends. I don't know why they would want to go down there. This is a spot where they might try to get down the slope. We will restore it there. Which is kind of in the vicinity of where I found it. Otherwise we got these two granite posts mounted behind this guardrail. It is a wood guardrail. So, a couple of signs mounted to granite posts behind the guardrail. Then these signs would be mounted to the wall. I have

details on those. Here are the granite posts. Here is what we came up with for the language of the signs: "Help Protect Suntaug Lake Public Water Supply-Properly Dispose of Your Trash and Do Not Enter Beyond This Point". I think it covers what we are trying to get across.

Discussion ensued.

MR LAHAM: Regarding stormwater, we heard the commission's concerns. We understand you that you are interested in having a bit of an improvement here beyond just kind of removing the pavement, increasing the landscaping and having an infiltration trench here. We did talk about trying to regrade in here. Trying to redirect stormwater away from the wall. There are a few reasons why we didn't want to go that route. We kind of eluded to that before. We wanted to take it back to the office and talk about it. Again, the soil conditions here are unknown behind this wall. There is the potential of the presence of a historic septic system. The conditions are something that is just unknown. Given the scope of this project that is a concern. The other thing is that this is the handicap parking area. The more we looked at it. And I kind of thought of it that night. We are sloping up all the way to the door here. To try and redirect water would make it a lot more difficult to achieve handicap parking there. If you slope it down, then back up you are probably looking at six inches lower here than we are now. We can only go up at two percent there. By going down you kind of exasperate that. So that was another concern. Finally, we did have the contractor do some pavement core samples out here. There is about an average of four inches of pavement (three and a half to five), an average of four inches throughout. We weren't exactly sure what was out there. Now we know. The idea here is that we won't be doing a full depth removal. We will just be milling the top about an inch and a half and resurfacing it. We are trying to limit the scope. That lead us into what we are proposing. These gravel tree wells. Essentially there are two trees (pine and oak) and they are quite large. If you look at the parking spaces, they are right here. They extend across and then they move against this guardrail. There is pavement behind this tree. Utilizing the fact that there is unused pavement there we will rip up this pavement. Also rip up a little bit of this extra pavement over here. Dig out the sub-base and carefully dig around the roots. Get some more permeable material in there. Then put a three inch minus washed crushed stone on that surface to try to be more robust with water flow. Getting a nice permeable soil medium; the tree will be happy with more soil instead of being covered with pavement. Same thing over here. Essentially, they are tree wells, but they are existing trees. If you look at the contours; the flow path of the water is kind of in this direction.

Discussion ensued They will also install a Cape Cod berm in the area of the guardrail and saved trees. The berm will direct the water to the tree wells. There was a discussion about an old invalid Order of Conditions (55-757). Only portions of the work were finished. Mr. Laham confirmed that the two proposed additions in the rear as well as the expansion of the deck (closer to the resource) were never constructed. However, the bakery was expanded, and a refrigeration unit was constructed all on existing pavement or area of existing development. Regardless, DEP has a policy regarding file numbers. They will need to file for a Certificate of Compliance on the open invalid Order soon. Discussion continued about new signs (at least one signs shall state "No Trespassing No Boating No Fishing No Swimming". The commission accepted the revised plans. There were no comments from the public.

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

Motion to issue a standard Order of Conditions 1-47 adding condition **48**) Straw wattle shall be used with silt fence. Any existing haybales on site are ok. If erosion controls need to be refreshed during the construction process straw wattles or straw bales must be used. The commission does not allow haybales to be used in Peabody as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously.

8. A continued Public Hearing on a Notice of Intent submitted by Normandeau Associates (Sarah Allen) for Massachusetts Department of Transportation-Highway Division. The proposed work is the installation of a noise barrier along the northbound and southbound lanes of route 128 between Andover Road Interchange and Waters River. The property is known as Route 128, Map n/a, Lot n/a, Peabody MA.

Present: Benjamin Griffith (Normandeau Associates), Paul King (MASSDOT), Corinna Beckwith (MASSDOT) and Andrew Clark (WSP)

MR GRIFFITH: As part of the public comment to the bridge renovations on the bridge over the Waters River under Route 128; MASSDOT was requested to install noise barriers for mitigation.

MR CLARK: The Waters River bridge is being replaced. It is being elevated (inaudible). The community initially did not meet the criteria for a noise barrier. Under action groups and what not they had MASSDOT change their direction and install noise walls (northbound/southbound). They are there for the acoustics. The road will be widened slightly.

MR GRIFFITH: The noise barriers on the northbound side runs from Route 114. Right around where the on ramp meets the highway. On the southbound side it runs from shortly after the junction with Route 114 almost to the Waters River. There are a few wetland buffer impacts and BVW impacts. All of these are really narrow swales running in between people's houses. The noise barrier is placed entirely within the existing road fill. It is all previously developed areas. This is basically a stormwater conveyor. Except for a small patch of wetlands running along the center of it. There are additional buffer impacts on the north side of the wetland as well. Moving onward to the mainline of route 128. The noise barrier runs along the length of Route 128 up until approximately one hundred and fifty feet from the Water River Channel.

Discussion ensued. The riverfront permanent alteration will be 504 square feet total. All other work is only in the buffer zone.

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

Motion to issue standard Order of Conditions 1-47 as made by Mr. Comak. Seconded by Mr. Wojcik. Adopted unanimously.

VIOLATIONS

9. POSSIBLE VIOLATION Phil's Towing, 65 N. Central Street- email from MASS DEP. The alleged violation is someone dumping oil and other chemicals into a storm drain that has a direct connection to a resource.

Conservation staff stated she received an email from Bill Stansfield (City Environmental Engineer). The email had a plan attached showing any catch basins in the area. The city engineer stated there are no existing catch basins near the property address in question. The commission asked staff to follow up on her own after the snow melts. The property owner and property manager said they did not dump anything. They thought it might be a random person dumping in the area. No motion was made. Staff will conduct a follow up site visit soon.

APPROVAL OF MINUTES

10. MINUTES- January 16, 2019

Motion to accept the minutes as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

SUBCOMMITTEE REPORTS

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

OTHER

•**Butterfly Waystation:**

Leslie Courtemanche approached city staff regarding a butterfly waystation. The discussion is as follows:

MS COURTEMANCHE: I don't really have anything to present. I did send a letter to Lucia. I live in south Peabody near Spring Pond. I am familiar with the area. I have certified six vernal pools up in the area. I also documented species of special concern up there as well. I did give Lucia the GPS coordinates of where I think this monarch placard should be. There is a national non-profit organization that helps cities, communities and people establish in existing areas and to build monarch waystations. The criteria are that you must have milkweed plants and other nectar plants, food, water and shelter. This area that I am proposing for a monarch waystation has all those criteria. The milkweed is important for the monarch butterfly. When they lay their eggs on the milkweed plant they ingest a toxin. It is not toxic for them, but it is for the birds. Birds do not eat monarch butterflies. It is really important that their host plant is a milkweed. This area is in between Spring Pond and Lower Spring Pond. In the spring it is all milkweed plants. Then there is a transition to other nectar plants. I did send a list of the other nectar plants that are there. It is swamp milkweed, common milkweed and several other plants. Monarch butterflies are there. Other butterflies have also been seen there too. They have been documented. The owner of the property must fill out the application. I did send a draft with all that information. It should be fairly easy for the commission to complete that application. It does cost \$16.00 to send in the application. If it is certified, then they send you a metal plaque. It should be affixed to where the waystation is located. The waystation is for the life cycle of the monarch. The early stages and then for their migration. I think with people that are walking around Spring Pond, I think it will educate people. It will also create awareness of habitat protection. That is my proposal.

Discussion ensued. The city owns the land. Leslie mentioned that she needs to find out if they use pesticides in the area. One of the criteria is that no pesticides can be used. Another criterion is that it needs to get mowed down at the end of the season. That is to establish the seeds being released. The area is located under power lines. Everyone assumed National Grid or PMLP does the mowing. Leslie stated the mowing is done at the appropriate time of the season to meet the criteria. It should be mowed after the milkweed plant has bloomed and gone into a seed pod. The food, the shelter and water are also criteria that are met at this location. The commission fully supports the monarch waystation proposal. They asked city staff to follow up with appropriate departments for approval. Ms. DelNegro will conduct a site visit. The commission also thought there were other locations in the city that a butterfly waystation would be perfect (bike path etc.). Staff will follow up.

•**David Cutler-12 Arnold Avenue (f/k/a 0 Arnold Avenue)-Request to discuss partial occupancy permit from building:**

MR CUTLER: Hi my name is David Cutler I would like to introduce myself to the commission. I am the owner of 12 Arnold Avenue in Peabody. There was an open Order of Conditions from the prior owner. I purchased the property from him with the same Order of Conditions. I think there has been some confusion that I was looking for a partial Certificate of Compliance. Or that I wanted to alter the Order of Conditions (OoC) in some way. That is absolutely not the case. We have followed the OoC to a T. We plan to complete the OoC as soon as the weather permits. I wanted to make that very clear. We are not asking for a partial Certificate of Compliance. We are

asking for a temporary Occupancy Permit to be issued by the building commissioner. There was some confusion and I wanted to clear that up.

MS DELNEGRO: It seems like this was the perfect night for Dave to come. The Higgins School was just here tonight. They have had thousands of kids in that school and they do not have their Certificate of Compliance. They already have their Occupancy Permit.

MR WOJCIK: That is what I was just thinking through that entire discussion.

MR COMAK: He has been more than cooperative. As far as doing things, the has the retention area done. He has the infiltration trench done. He has the grading done. He has the downspouts hooked up. I understand the neighbors are upset. That is fine, but this is not right. He has everything done except he hasn't done the final grading as far as seeding. He has the grading done. I talked to John Karamas myself. I tried to see it from the neighbor's point of view. However, we certainly don't want to hold up a closing. He has the crushed stone already down in the driveway. It is there. They can park on crushed stone. They have not put the final pervious pavers down yet. He hasn't planted a few pepper bushes. For the neighbors to say that this project is going to detrimentally affect them. That cannot possibly be. Again, I want to make sure. You tied in the down spouts?

MR CUTLER: Absolutely.

MR COMAK: John did the grading. The trench has been done. I talked to John. He said he ripped up frost and graded it. The detention area is done. For them to not get a temporary Certificate of Occupancy is crazy.

MR WOJCIK: Base on the regulations, he isn't even required to do the detention basin. That was just an added feature we asked him to do for the neighbors.

Discussion ensued. The only proposed impervious area is the roof. The commission felt that they could allow a temporary Occupancy Permit at this time. Stormwater Standards do not apply to single family houses. However, the original applicant did agree to an infiltration trench connected to a basin to help alleviate runoff to other properties. The proposed pavers that will be installed are pervious as well. They also discussed the lot size in comparison to other lots in the neighborhood (15,000 vs 5,000). The property owner probably could have built more houses on this lot.

Motion to issue a thirty-day temporary Occupancy Permit as made by Mr. Lazares. Seconded by Mr. Comak. Adopted unanimously.

Other items for discussion: The commission discussed the stop logs at Devils Dishful. Someone from the commission will reach out to Bob Langley to discuss. They discussed hydro raking. The commission also discussed the need for tablets/chrome books or some type of device to review electronic documents. Ms. DelNegro will speak with her boss.

. **Adjournment**

Motion to adjourn as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously.
The meeting adjourned at 9:30 pm.

Respectfully submitted-

Chairman Michael Rizzo