



City of Peabody
Conservation Commission

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

MINUTES

JULY 24, 2019
DEPARTMENT OF PUBLIC SERVICES
50 FARM AVENUE

MEMBERS PRESENT

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

MEMBERS ABSENT

Michael Vivaldi (alt.)
Craig Welton

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

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

PROPOSED NEXT MEETING DATES- September 11, 2019
NO AUGUST MEETING
DPS- 50 Farm Avenue

Alternate Commissioner James DiGiulio was given voting rights in the absence of two commissioners.

VIOLATION ORDER

Items #1 and #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 an crushed aggregate pad in the location of a proposed stormwater basin as approved by the commission under DEP file no. 55-822.

Present: Attorney John Harding, Crystal Papanickolas

ATTY HARDING: John Harding for the applicant and the subject of the Violation Order (VO). I am related to this as we filed for a Certificate of Compliance (CC) based on the work that was done. In connection to the work that was done it was learned that there are certain deviations between the As Built Plan and the Order that was issued. Back in May Mr. Mello from Eastern Land Survey submitted a letter to the commission identifying four areas of some type of deviation plan. Suggesting to the commission how we would address each of those items. We did not feel it was in our authority to proceed with any of those items pending a determination by the commission that those would be acceptable within the scope of the original Order and would be adequate enough to address the issues identified. What we are asking today is for the commission to approve those proposed items. In some cases, they require additional work. In other cases, they don't require any additional work. Mr. Karamas is prepared to do the work right away. None of these are major amounts of time required to complete them. Mr. Mello from Eastern Land Survey is here to explain each of these issues and to answer any questions.

MR MELLO: What I brought you is a copy of the As Built Plan that was submitted to the commission with some highlights and a copy of my May 19th letter. The May 19th letter outlines the deviations from the proposed plan that was constructed by Mr. Karamas. Some input from the agent, myself and getting things done. What we got is four things going on. The red is what was proposed. The green is what is there. I am going to go through the four of them and then I will answer questions. The wall that holds up the area that was proposed is what is shown here in red. The green is what was actually built. The catch basin right here is red. The green was built. The sand filter structure outlet is in red. In green the outlet is right here. We have four issues. We will take the wall first. Talking to Mr. Karamas and him telling me what he did. He met with Brendan out there several times. They made a few deviations that make sense. The existing wall is inside the proposed wall. It is further away from the resource area. It is further out of the buffer and it was built in that arrangement to allow several trees, fairly mature, to remain. By moving a few feet in either direction we saved some trees. The proposed stormwater facility and its outlet was meant to be right here. It is built in the green with its rip rap here. It is smaller and its outlet is over here. Mr. Karamas said that is where he thought it should be. In a global scheme of things, it doesn't make a difference, but it is not the right size. It is not big enough and we have gone through that. The stone outfall area was supposed to come directly out here. It was brought out to the side over here. Again, less vegetation saving a couple of trees. Whether it ended up here or there from an environmental standpoint doesn't really make a big difference. The big thing that we have is the environmental issue that we were dealing with building this facility. It is not large enough. Someone was looking for calculations today. I don't have any because I don't know what is in the ground. What we are basically asking the commission to consider is leaving the wall where it is, the catch basin where it is, the outlet where it is and rip this out. And then build the correct sized facility in that general area. Maybe ten (10) feet to the left of where it was supposed to be. Take it out. Build the correct size. Correct material with an As Built Plan and pictures as we go. So, we can come in here and say yes, we have done the As Built. It is the right size and the computation work. Everything is the way it should be. That is where I hoped to get on May 19th. We are a couple of weeks later but that is what we are asking the commission for. Leave the wall, the catch basin and the outlet and rebuild the stormwater facility.

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MR RIZZO: Is there a reason why it wasn't built per the plan that the commission approved and wrote the Order of Conditions for?

MR MELLO: Not that I have an answer for. No.

MR RIZZO: Also, there were specific elevations for the original design. I don't think those elevations match.

MR MELLO: They do not. The elevation of the catch basin is within reason. It is within a couple of tenths. Everything is within a couple of tenths of where it should be. Except the stormwater facility. That is not in the right spot and it is not big enough. Something has to be done to that. The other three things; that is up to the commission's wishes. If you want it to be put where it was planned. They'll rip it out and change it. I don't think environmentally it makes sense to do that. It was probably a better place than where I have designed it because we didn't have every tree located. When Johnny went out there with Brendan they discussed.

Summary: There was also a large boulder. Discussion ensued. The commission was concerned about one catch basin on site.

MR RIZZO: Okay. The second part of my question is that the size of the stormwater facility. You have calculations that reflect how you sized it?

MR MELLO: Correct.

MR RIZZO: You need to give us a plan showing what the new facility will look like. With elevations and calculations to support that.

MR MELLO: There are two options and that is one of them. Basically, take the material that it is built with and build that facility ten or fifteen feet to the north. The elevations are the same and the groundwater is not going to change. The fact that it is either here or here but the same size. It is going to function the same. I don't think I need to do a new set of proposed calcs. I need to do an As Built with computations that are going to reflect what is in the ground. Proving that they actually built what we proposed. I think we can take the material out and salvage it. Get to the base. Extend it over and make sure it is the right square footage at the right elevation. Then as we build it up, we will get the cubic feet.

MR WOJCIK: I see two issues here. First and foremost, it was not constructed correctly. That is the big issue here. You had a plan. The contractor, who is not here, did not do it. That is a huge issue. The next issue that I have is trust. I do not trust the contractor to go back out and just build a new structure without a plan. There is not a plan for the contractor to go back out to the site with.

MR. MELLO: I understand.

MR LAZARES: Through the chair, the area inside the green wall. The cast cement plumbing. Was the area inside the rock wall raised? Was fill brought in to raise that up? It looks that way.

MR MELLO: I believe that was the plan. I think we needed to level it out. Maybe reestablish a constant grade with material. Did they bring some in? Maybe.

MR LAZARES: They weren't supposed to bring in fill. The cast cement structure that is sticking out of the ground. Is that an overflow or catch basin?

MR MELLO: Two things. One is a catch basin and that is inside the wall there. The other one is the outfall structure. Which has not been completed because they stopped.

Discussion ensued. The commission asked for someone to explain why Mr. Karamas has not attended a single meeting after repeatedly asking for his attendance.

ATTY HARDING: I tried to reach him. This was scheduled for June. He was prepared and we had him all lined up. I guess we were taken off the agenda at the last minute. So, I don't have an answer for that, but I think what Mr. Mello is saying and what we are saying is that perhaps Mr. Karamas made mistakes. For him to be here and say he made mistakes; I am not sure how that advances things.

MR WOJCIK: Well we need to know why he made those mistakes and how he made those mistakes. What happened that led to those mistakes. That is how we will prevent the same mistakes happening in the future when he goes back to fix this. That is why we need to the contractor here.

ATTY HARDING: Well he is not. We can explore whether we need to use someone different to complete it. He knows the situation. If Mr. Mello could get to the big picture here. The functionality of what was originally designed and what you are proposing to do now. Can you address that issue?

MR MELLO: Sure. I can make that functional. Tear out what they have to and build a facility at the correct elevation and at the correct size. Square footage and volume at the right elevations. To have a stormwater facility that functions pursuant to the computations and the design we provided.

MR RIZZO: Where is the documentation? That is my question. Where is the plan? What are the grades and the elevations? We need to see that plan.

MR MELLO: I need to do that plan. Fair enough. I didn't draft the plan because I didn't know if we would be allowed to do that.

Discussion ensued. Mr. Mello stated he would draft the plans/computations the commission has requested. Chairman Rizzo asked that the BMPs are checked and refreshed where they are needed. He reminded the applicant that they have been on site for over a year. They mostly likely will need to be installed again along the perimeter of the site work. The revised plan **MUST** have elevations shown. The plan submitted was rejected by the commission. The commission asked for a revised plan. The wall and the outlet structure can remain in their location. The other items discussed must be revised. The commission reiterated that they do not want the site raised in elevation. The item was open to members of the public.

Attorney Jason Panos

ATTY PANOS: I am here with Tony Capachietti of Hayes Engineering. He will speak to the Violation Order now.

MR CAPACHIETTI: I did send an email to Brendan today. I took a look at Mr. Mello's letter regarding this matter. His requests are reasonable. I think his approach is reasonable. If the basin is moving, we would like to see a plan so we know what is being constructed. The only other issue that came up during the presentation would be time to complete. We look to the board to say this has been going on for a while. If you do move and approve it, seven to ten days might be a little ambitious. Setting a sixty-day window and to come back after the work is done might be something to consider.

Discussion ensued. The commission asked that the applicant submit a timeline of construction with the revised plan.

MR COMAK: I think at this point we are at a year. We need a timeline. If it is not completed in that timeline then we are not going to allow it. Period.

MR MELLO: No problem with that. I think it is a good idea.

Discussion ensued. Mr. Mello stated he would discuss a timeline with Mr. Karamas (the contractor). The timeline will be submitted to staff before the end of August.

Motion to continue requesting a revised plan showing elevations with revised calculations and a construction timeline to be presented at the September hearing also adding the contractor must appear at the September hearing and erosion controls must be refreshed as made by Mr. Wojcik. Seconded by Mr. Howcroft.

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 John Harding, Crystal Papanickolas

This item was discussed under item #1.

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 John Harding, Crystal Papanickolas

ATTY HARDING: We submitted a letter on July 17. Which we think addressed some of the outstanding issues that have been raised. One of the questions that has been raised is “what use is proposed”? As we indicated in our letter at this time first of all it is not being used. We do not have a proposed tenant. We do not have discussions with a proposed tenant. We are not able to provide the commission with a statement as to what use it might be put to in the future. We understand the law. If a use is proposed that requires a Special Permit and requires further action by this commission, then we will comply with it. That is really all I can say. Secondly, the commission previously wanted some type of information about the uses currently at the site.

Discussion ensued. A “use map” was submitted to the commission for review as requested. The commission questioned why the logs were left on the old Lobel Landscaping lot. Attorney Harding stated they have an open NOI and he was not aware that the request for removal was made.

Discussion ensued. Councillor Saslaw was also present. There was a brief discussion about Special Permits and uses on this property. JD Raymond presently does not have a Special Permit to conduct business on this property.

MR COMAK: I want to say for the record. I am really sick of this whole thing. I am sick of this wasting our time. I am going to recommend that DEP get involved. We shouldn't have to sit here and watch property owners fight. This has been going on for over a year now.

Discussion ensued regarding getting DEP involved if things do not progress over the next few weeks. The commission reminded all parties that the items have been on the agenda for well over a year. Ms. Papanickolas reminded the commission that the NOI has been held up because of non-compliance with the JunkHaul (55-822) lot. It was not the applicant's intention to have the NOI for 55-860 continued for a year. It was however the commission's intention to continue said item until 55-822 has been satisfactory been built. The commission asked for JD Raymond's attorney to speak on their behalf. Attorney Jack Keilty represents JD Raymond.

ATTY KEILTY: We have engaged Goldberg (inaudible) to prepare a plan. I am told as of about six days ago all of their onsite work is completed. They have elevations and points. They are in the process of preparing a plan which will be submitted to City Council for a Special Permit. And to this commission for a Notice of Intent.

Discussion ensued. Attorney Keilty stated he should be able to submit said JD Raymond plan to the commission at the September hearing. The commission was still concerned with the future use of property.

MR WOJCIK: Who are your prospective tenants? What is the land use? What is the pollutant load going to be like?

Discussion ensued. Attorney Harding stated again they do not have a future tenant in mind at this point.

CLLR SASLAW: I wholeheartedly agree with the sentiments from Commissioner Comak. I am quite surprised you have been so patient these last few months. The petitioner came here tonight and I believe, correct me if I am wrong, you asked him where his contractor was. I think he said he called him, but he couldn't make it. Or he couldn't get him touch with him. It sounded like he called him today. It befouls me. Then they want the NOI for the second piece, but the violations have not been addressed. If I was your board, there is no way you can give them any leeway. I am not sure if asking for the future use is appropriate. I do agree with one point. I can't remember but a few months ago the patriarch of the family talked about a pig farm. He threw that out there. Talk about charades. Talk about changing the story. Talking about not having the appropriate people at the meetings. You have the engineer at one meeting and the contractor at another. They are never together. I agree with you on the waste of time, effort, energy and money. It is ridiculous. Now we are coming up to September 11. That is the fall. I remember sitting here last year talking about things being done. I see no good will. I see no attempt to rectify things. I just see problems, stall tactics, misinformation, misdirection and deceit. So, it is hard to sit here. You are volunteers and I think you are asking to do things above your paygrade. I don't know what the answer is but I certainly support Vice Chair Comak's sentiments. You have new board members here who were not even here when this whole process started. For them to come here and not be fully prepared tonight. There are things that could move the process along, but I don't think those things are happening. I would support you fully in not giving them any Order of Conditions until the violation are completed for what I stated and what you stated. I want to go on record to say that.

Discussion ensued. Attorney Harding stated they were prepared to discuss items at the June meeting, but it was cancelled due to a quorum for the line item.

MR RIZZO: I am not prepared to approve this site (item #3) Because of the insincerity of the owner. Over the past year we have tried to make this thing work. I can't tell you how many times I have tried to help to make this project move forward. There is always something. We already said we are not approving this until the other stuff is done. I still hold that same sentiment. We are not happy. We have tried and believe me I want this to work. So, for you to sit here tonight and say we are holding you up. You are holding yourself up. This should have been done a long time ago. We are supposed to be good neighbors. We are supposed to be able to work together. It just hasn't happened. It is just one excuse after the other. Every month we are here until ten or eleven o'clock going through this over and over again. We cannot continue doing this anymore. I am also in agreement with Mr. Comak. I am ready to go to DEP. I am tired of this. I don't know what to do.

Discussion ensued. One commissioner asked if the culvert on the JD Raymond section has been cleaned out. It was under the commission's understanding that Mr. Papanickolas refused to clean the culvert.

MS PAPANICKOLAS: Excuse me. No! Mr. Karamas has cleaned it out and I have spoken with Brendan Callahan. He went up there on a day that Mr. Karamas had cleaned it out. He saw that he cleaned it out. He saw the rain going through it. He even said to me himself he does not believe that the problem is the culvert. He believes that the problem is that Mr. Weiss put a road through a wetland that never existed. That is your own agent.

Discussion ensued. Attorney Harding stated they cleaned it last year. He has not heard about any recent complaints about it being clogged. Mr. Callahan stated the culvert was cleaned and it was in good condition.

ATTY PANOS: I had correspondence that was submitted today. I wanted to make sure that you received it and it goes on record. I focus on two issues.

Discussion ensued. Attorney Panos stated cleaning the culvert once it not maintenance. It should be monitored and cleaned as needed on a periodic basis. **Discussion ensued** regarding other items mentioned in his letter. He said the "Use Plan" submitted this evening was unacceptable. The JD Raymond portion of the lot was inaccurate. Attorney Harding invited the commission to come on the property and take a tour of the businesses. The commission reminded the attorney that Mr. Papanickolas (property owner) has forbade them to trespass on his property. **Discussion ensued.** Attorney Harding stated they will revise the "Use Plan" before the next meeting. The revised plan will show approximate square footage and boundaries of each use on the site. Ms. Papanickolas also promised to create a better "Use Plan" to be submitted for the September hearing. Attorney Panos reminded the commission that at the May hearing they also requested a plan showing the JD Raymond culvert location. **Discussion ensued.**

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

CERTIFICATE OF COMPLIANCE

4. A request for a PARTIAL Certificate of Compliance made by Anthony Capachietti (Hayes Engineering Inc.) on DEP file No. 55-836. The property is known as 0 Farm Avenue and 0 Forest Street, Map 69, Lots 5A & 12, Peabody MA.

Present: Tony Cappachietti (Hayes Engineering) and Attorney Jason Panos.

MR CAPACHIETTI: We are substantially complete with the project and we are only requesting a partial certificate per the Order. The Order requires that we monitor it for two growing seasons. After we get our partial we will go ahead and draft our first wetland monitoring report and submit that to the board to stay on track. It is not a deviation but that is why we are seeking a partial. The

minor deviations: there was a swale that was to extend across the property line between 27 Farm Avenue and Mr. Manos's property. Mr. Manos has put up a temporary (inaudible) hut there. And he is accessing the property through the location of where the swale is. So, we discontinued the swale short of where that access is located. It still funnels to the same location that it would have. It receives the same treatment. It is a deviation from the plan. There is no change in the stormwater. Again, it is all gravel pack. The final grading outside the one-hundred-foot buffer zone area in the northeasterly portion of the site, which is again close to route 128. We had shown some additional fill in there. That now grades down and runs along to where the swale would have been. Mr. Weiss is looking at a final use for the property. We will come back to the commission for that. Rather than spending money on the fill we graded it subgrade. It is outside the one-hundred-foot buffer zone. We wanted to make you aware of that. The replication at the front of the property we brought up as a field change. What you see on Farm Avenue was originally about a foot lower. However, that was based off the water elevations that were out there when we did the design. The water elevation rose and then fell again. We made a judgement call to stay within about six to eight inches. Which is what we presented to what we thought the water table to be. The reconstructed wetlands out front are surviving, thriving and doing pretty well. I think we made the right call. I did want to call out that deviation. By raising it up it did increase the footprint a bit more. We have additional compensated wetlands in that area. Also, we had some large boulders. Instead of the three to one slope we used the boulders to make the transition. It also increased the area of the wetlands. The boulders are a nice accent. Cape Cod berm was substituted for granite curbing at the intersection. It functions the same drainage wise. We had concerns with the larger trucks and the vertical granite on that corner. We were concerned they would start rubbing tires. The Cap Code allows the trucks to ride up over it. Subsequent to our Order of Conditions we went to MASSDEP for our 401 Water Quality Certificate. They disagreed with our interpretation of the replicated wetlands for the stormwater. They asked for additional compensation. Outside the one-hundred-foot buffer zone we created two additional larger wetland replication areas. In the end we had a net positive gain of almost nine thousand square feet. Eight thousand nine hundred square feet of wetland replication. Again, it is positive, but we wanted to let you know there was a deviation.

Discussion ensued regarding use of the property and the current Special Permit for the site.

Motion to issue a partial Certificate of Compliance with the ongoing condition that the LTOMP & O&M Plan are in perpetuity also adding that the wetlands area must be monitored for two growing seasons as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

5. A request for a FULL Certificate of Compliance made by David Cutler (MA RE Holdings LLC) on DEP file No. 55-854. The property is known as 12 Arnold Avenue, Map 73, Lots 102, 103 & 104, Peabody MA.

Present: Michael Mosko

Discussion ensued. The property owner erected a fence and created a new curb cut without permission from the commission. However, the commission felt both could remain on site with no changes.

Motion to issue a Full Certificate of Compliance as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously.

6. A request for a FULL Certificate of Compliance made by Michael Solomine (426 Broadway) on DEP file No. 55-853. The property is known as 15 Tsitsinos Drive (lot 95B on subdivision plans), Map 114, Lot 143, Peabody MA.

Present: Michael Solomine (developer)

Motion to issue a Full Certificate of Compliance as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

7. A request for a FULL Certificate of Compliance made by Michael Solomine (426 Broadway) on DEP file No. 55-852. The property is known as 17 Tsitsinos Drive (lot 94B on subdivision plans), Map 114, Lot 141, Peabody MA.

Present: Michael Solomine (developer)

Motion to issue a Full Certificate of Compliance as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

8. A request for a PARTIAL (TBD) Certificate of Compliance made by Michael Solomine (426 Broadway) on DEP file No. 55-851. The property is known as 19 Tsitsinos Drive (lot 93B on subdivision plans), Map 114, Lot 140, Peabody MA.

Present: Michael Solomine (developer)

Motion to issue a Partial Certificate of Compliance as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

9. A request for a PARTIAL (TBD) Certificate of Compliance made by Michael Solomine (426 Broadway) on DEP file No. 55-851. The property is known as 21 Tsitsinos Drive (lot 92B on subdivision plans), Map 114, Lot 139, Peabody MA.

Present: Michael Solomine (developer)

Motion to issue a Partial Certificate of Compliance as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

10. A request for a FULL Certificate of Compliance made by Charles & Cheryl Kirby on DEP file No. 55-161. The property is known as 13 Tara Road (lot 36 on Oak Hill III subdivision plans), Map 107, Lot 235, Peabody MA. (Property is not in ConComm jurisdiction).

Motion to issue a Partial Certificate of Compliance releasing only 13 Tara road (lot 36 shown on Oak Hill III subdivision plan) as made by Mr. Howcroft. Seconded by Mr. Wojcik. Adopted unanimously.

11. A request for a FULL Certificate of Compliance made by Attorney John R Keilty on DEP file No. 55-511. The property is known as 24 Caller Street, Map 86, Lot 142A, Peabody MA.

Motion to issue a Full Certificate of Compliance as made by Mr. Lazares. Seconded by Mrs. Cantin. Adopted unanimously.

12. 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 continue as made by Mr. Lazares. Seconded by Mr. Howcroft. Adopted unanimously.

EXTENSION REQUESTS

13. A Request for an Extension Permit on DEP File No. 55-787. The request is being made by Joseph Salvaggio. The project is the construction of three single family homes and a stormwater feature (map 45, Lots 15&21). The Order expires on 10/28/2019. The applicant is asking for a one-year extension.

Motion to extend DEP File No 55-787 for one year (10/28/2020) as made by Mr. Lazares. Seconded by Mr. Howcroft. Adopted unanimously.

14. A Request for an Extension Permit on DEP File No. 55-810. The request is being made by Attorney John R Keilty. The project is the construction of hotel or living units (condo/apartments TBD). The Order expires on 8/24/2020. The applicant is asking for a one-year extension.

Motion to extend DEP File No. 55-810 for one year (8/24/2021) as made by Mrs. Cantin. Seconded by Mr. Howcroft. Adopted unanimously.

NOTICE OF INTENT CONTINUED

15. 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. Wojcik. Seconded by Mrs. Cantin. Adopted unanimously.

Mrs. Cantin and Mr. Howcroft recused themselves from item #16

16. A Public Hearing on a Notice of Intent submitted for Peabody LH Corp (Matthew Curtin) by Pare Corporation (Lauren Gluck, P.W.S). The proposed work is dam maintenance repairs including spillway, wall, slope repairs, tree removal and auxiliary spillway abandonment. The property is known as 18 Crowninshield Street, Map 074, Lots 065A & 456 , Peabody MA.

Present: Allen Orsi (Pare Corp), Lauren Gluck (Pare Corp), Jocelyn Mayer (VHB), Matthew Curtin (Peabody LH Corp)

Discussion ensued. There were no comments from the public.

Motion to close the public hearing as made by Mr. Lazares. Seconded by Mr. Wojcik. Adopted unanimously (with Mr. Howcroft and Mrs. Cantin recusing themselves).

Motion to issue a standard Order of Conditions 1-50 adding the following conditions **51)** Applicant/owner must supply evidence of Army Corps USACE General Permit #1 maintenance and dam repair per DCR chapter 253 Permit. If Self Verification only applicant/owner must provide evidence that the document was submitted to the appropriate parties before work commences. The applicant stated the project is a Self-Verification Activity only; **52)** Cofferdam Detail MUST be submitted to conservation staff for review BEFORE any work commences; **53)** Construction Schedule must be submitted before any work can commence; **54)** A By-Pass Plan MUST be submitted for review to commission staff BEFORE any work can commence; **55)** Work during the drawdown MUST be witnessed and monitored by a wetland specialist; **56)** The

commission prefers the proposed work to be done during low flow periods. The applicant/owner stated this might not be possible and was not concerned with water issues; **57)** An Emergency Action Plan and an Operation and Maintenance Plan shall be submitted with the Request for a Certificate of Compliance. The commission will not sign off on such a request until an EAP and O&M Plan are submitted, reviewed and approved by the commission and engineering; **58)** An “As-Built Plan” is required when requesting a Certificate of Compliance. A copy of said As-Built Plan will also be copied to the city’s engineering department for review. The city’s engineering department should sign off before the commission will act upon the CC Request as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously (with Mr. Howcroft and Mrs. Cantin recusing themselves).

17. A Public Hearing on a Notice of Intent submitted for Steven Calas (Trustee) by Attorney John R Keilty. The proposed work is the construction of a two-family home in Flood Zone A. The property is known as 10 ½ Winter Street, Map 85, Lot 126, Peabody MA.

Present: Attorney John R Keilty (legal counsel) and Christopher Mello (ELSAI)

Summary: The commission asked for a revised plan showing pervious pavers and tree plantings. Attorney Keilty stated that there is no contamination on the property that they are aware of. The item was open to members of the public.

Russell Donovan 12 Quail Road

MR DONOVAN: The city zoning prohibits residential in this area. Section 8 Flood Boundary and Wetlands Conservancy District 8.1.A. The purpose of the flood boundary and wetlands district are “to provide land subject to seasonal or periodic flooding as described in the ordinance shall not be used for residence.”

Discussion ensued. The commission stated they can only interpret Chapter 32 of the city’s local ordinance. Any issues with zoning should be followed up with the building department. They also reminded the resident that there was a house on this property in the past. The house was demolished after a fire.

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

Motion to issue standard Order of Conditions 1-50 adding the following conditions: **51)** The greenspace as shown on plan listed above is in PERPETUITY. All trees/plantings/grass MUST be planted before a PARTIAL or FINAL Certificate of Compliance will be granted. Also see ZBA decision requiring said “greenspace” (NEED REVISED PLAN); **52)** There shall be NO excavated basement on property; **53)** The pervious pavers as shown on the revised plan must be installed instead of an impervious ground cover. Documentation of said product used on site is required. A receipt or invoice will be accepted (NEED REVISED PLAN); **54)** An “As Built Plan” is required when requesting a Partial or Full Certificate of Compliance; **55)** All mechanical components must be installed above Flood Zone elevation as stated by Christopher Mello at the hearing on 7.24.2019 as made by Mr. Wojcik. Seconded by Mr. Howcroft. Adopted unanimously.

REQUEST FOR DETERMINATION OF APPLICABILITY

18. A Public Hearing on a Request for Determination of Applicability submitted by Hayes Engineering (Elizabeth Wallis) for Connolly Brothers, Inc. (Steve Connolly). The applicant requests the commission determine if the work proposed is subject to a Notice of Intent filing. The property is known as 83 Pine Street-Covenant Christian Academy, Map 045, Lots 500 &500A, Peabody MA.

Present: Tony Capachietti (Hayes Engineering)

Discussion ensued. The project consists of the construction of proposed 12,037 SF gymnasium/office building. Proposed construction activities are contained within existing impervious areas and include siltation control devices around existing catch basins and at the nearest edge of the paved parking lot to protect adjacent wetlands and drainage system from any sediments generated by the work. There were no comments from the public.

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

Motion to issue a Negative Determination with the following condition: Erosion controls must be installed and approved by conservation staff BEFORE the commencement of work as made by Mr. Wojcik. Seconded by Mr. Lazares. Adopted unanimously.

MINOR PROJECT

19. Discussion requested by Jannelyn Spratt & Michael Newton-19 Troy Street (remove ribbon driveway & install privacy fence).

Motion to allow 19 Troy Street to conduct minor work on site (remove ribbon driveway and installation of privacy fence) as stated in memo dated June 27, 2019. Erosion controls must be installed prior to any work commencing. Conservation staff must be notified via email before work starts as made by Mrs. Cantin. Seconded by Mr. Wojcik. Adopted unanimously.

VIOLATION ORDER

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

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

21. 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.

Present: Mark Whitaker (Director at Dynamic Engineering)

MR WHITAKER: I found out about this meeting at 12:30 today. When I read the email that we did not have an engineer available I dropped everything and came here to represent the applicant. Obviously we have been deficient in keeping the commission up to date with respect to the As Built and the engineering issues. I wanted to come here and let you know we will keep you apprised. The status of the As Built, we are supposed to be submitting that the first week of August. I don't know any of the technical issues associated with the application. I just wanted to make sure someone was representing the applicant. I know they went and completed the survey the second week of July. The As-Built is supposed to be completed the first week of August. We will review and make sure the issues have been addressed and then submit it back for your review.

MS DELNEGRO: It is not actually the back lot. That is under a DEP Superseding Order. It is the front lot where they moved the culvert (the stream underground). This was a massive project and we have been blown of since October. It is a little frustrating.

MR WHITAKER: It doesn't seem like we haven't done anything since October. That doesn't seem exactly accurate.

MS DELNEGRO: William Paultiz actually had to write the engineer letter for Sean Torpey because Sean Torpey couldn't do it. Our engineer did. According to the Wetlands Protection Act, if your plan is substantially different from the original plan that was approved; the engineer of record would have to submit a letter explaining the deviations. He never gave us that letter. Will Paulitz ended up basically doing Sean Torpey's job for him. Our engineer should not be doing that. That is not his job. I appreciate you coming here. I feel terrible you had to drive all this way. The only other thing is the stream that runs between Friendly's and the dealership. Last summer before they submitted the Certificate of Compliance the landscaper went and cut all the vegetation down. He was supposed to plant a bunch of blueberry bushes. Curt Young stated you would erect at least one sign along the streambed. That way the next time the landscaper goes down there he will not cut everything. I understand you need to have a sight line. I don't want anyone to get hurt pulling out of Friendly's. It is a pretty incised stream. The vegetation doesn't have to come up too high. This was a DEP comment. They want to see that stream vegetated at least along the edges. We would like to see vegetation at least on the banks. At least one sign. Group One needs to understand that. If someone can get that sign up?

Discussion ensued.

MR WHITAKER: We have to submit a revised As Built. I think we have done it twice and it hasn't addressed the issues. I don't know what the technical issues are. I am going to look into those. So, when we go to submit it again it addresses whatever the issues were.

MS DELNEGRO: I can't say it enough. This is one file that we need Will Paulitz to sign off on. Please get in touch with Will and try to figure it out. Please don't send us stuff September 10th. If you need more time you need more time. We felt that we have been getting blown off.

Discussion ensued.

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

APPROVAL OF MINUTES

22. MINUTES- June 12, 2019

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

SUBCOMMITTEE REPORTS

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

NOMINATIONS

Nominating Committee- Commissioner Bryan Howcroft

Chairman Michael Rizzo
Vice Chairman Bruce Comak
Secretary Stewart Lazares

Motion to accept nominations as made by Mr. Wojcik. Seconded by Mrs. Cantin. Adopted.

OTHER

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

Devils Dishful- Richard and Pat Watt

Discussion ensued regarding the water level at Devils Dishful. Chairman Lazares will follow up with SOLitude regarding the water level etc. Ms. DeINegro will email the Watt's the treatment schedule from SOLitude once the schedule is ready. Commissioner Lazares stated the SOLitude schedule should probably be posted on the city's website or a ward blog. There was a discussion about hydro-raking and mechanical harvesting. Ms. DeINegro stated she supports mechanical harvesting/hydro-raking in lieu of chemical applications. Discussion ensued regarding the wells in the city. **Discussion ensued** about Devils Dishful and the water level.

- **Adjournment**

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

Chairman Michael Rizzo