



## City of Peabody Conservation Commission

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

### MINUTES

**October 11, 2023**

**Link:** <https://peabodytv.org/videos-on-demand/?vid=1097>

At this time the Peabody Conservation Commission hearings will continue to be held remotely. Remote participation is allowed in accordance with Section 20 of Chapter 22 of the Acts of 2021 signed into law by Governor Baker on February 12, 2022, suspending provisions of the Open Meeting Law, G.L. c. 30A, Section 18. as extended by Section 20 of Chapter 22 of the Acts of 2022 and further extended by the Final Compromise Bill enacted by the House and Senate on March 23, 2023, and signed by Governor Maura Healey on March 29, 2023.

#### MEMBERS PRESENT

Chairman Stewart Lazares  
Vice Chairman Michael Rizzo  
Sec. Michael Vivaldi  
Bruce Comak  
Arthur Athas  
Amanda Green

#### MEMBERS ABSENT

Ritamarie Cavicchio

**2 alternate member openings**  
(Please forward resume to Mayor's  
office if interested in being appointed)

**Also Present:** Lucia DelNegro, Conservation Agent

CHAIRMAN LAZARES CALLED THE MEETING TO ORDER at 7:04 PM

**CERTIFICATES OF COMPLIANCE**

**1. A request for a FULL Certificate of Compliance as made by Attorney John R Keilty on DEP File No. 55-660. The project was the construction of a commercial and indoor sports complex. The address was known as 190-194 Newbury Street, Map 35, Lot 37, 37A, 38A, 38X, Peabody MA. The above Order of Conditions has lapsed and is no longer valid. Work on the front lot was completed and an Occupancy Permit issued.**

**Present:** Attorney John R Keilty (legal counsel)

**Summary:** The applicant's attorney requested the item be withdrawn from the agenda.

**Motion** to accept the withdrawal as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 6-0.

**2. A request for a FULL Certificate of Compliance as made by Attorney John R Keilty on DEP File No. 55-810. The project was the construction of a commercial building, but. The address is known as 190 Newbury Street, Map 35, Lot 37, 37A, 38A, 38X, Peabody MA. The above Order of Conditions has lapsed and is no longer valid. A new Order has since been issued. This request is for admin purposes.**

**Present:** Attorney John R Keilty (legal counsel)

**Motion** to issue a Full Certificate of Compliance checking off the invalid box stating that the order has expired and work never commenced. Work will be done under DEP File No. 55-912 as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 6-0.

**NOTICES OF INTENT**

**3. A continued Public Hearing on a Notice of Intent submitted by Attorney John R. Keilty for Josephine Cooke (owner). The proposed work is the construction of a single-family house with associated utilities, grading and driveway. The property is known as 29 Glendale Avenue a/k/a 25 Glendale Avenue, Map 120, Lot 27 (portion), Peabody MA.**

**Present:** Attorney John R Keilty (legal counsel)

**Summary:** Attorney Keilty stated it is still in review with the city's engineering department. The proposed stormwater is located very close to the resource area. He wanted to know if the commission was comfortable with the stormwater components proposed.

MR RIZZO: I think it was made at the site visit and public services has also weighed in on this. I know it is a single-family home, but it is somewhat a large project for a small area. It is so close to the wetland. It is hard to say that there won't be impacts to the resource area as a result of the project. I think it was asked that the project be

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downsized. We have seen some variations of the project, but I don't think it has been downsized. It is a small spot to put a home so close to the wetlands. I understand and appreciate the effort to address stormwater issues. I still think it is a fairly large footprint and quite a bit of disturbance on the lot for the site and the close proximity of the wetlands. I will just leave it at that.

ATTNY KEILTY: What I am hearing is that while the general suggestion is that we should be downsizing. We at the same time should be providing as much stormwater management and protection to the wetlands as we can.

MR RIZZO: Providing that it can operate properly given the high groundwater elevation. As well as proper separation from the bottom of the drainage system and the impacts associated with trying to provide that. I am certainly not saying not to provide stormwater.

**Discussion ensued.**

MR VIVALDI: Has the lot been subdivided?

ATTNY KEILTY: Yes, the lot sits by itself. It has been subdivided and we got a variance for the setbacks months ago.

MR VIVALDI: Lucia, can you make a note to your coworkers that when I looked up 29 Glendale it doesn't exist in the city's property search GIS system. It actually comes up in the system under 25 Glendale.

MS DELNEGRO: Jack, when did you guys subdivide? Has it been recorded and does Susan the assessor know?

ATTNY KEILTY: Oh yeah.

MS DELNEGRO: Sometimes it is just a slow lag.

MR RIZZO: When was that subdivided? Was it years ago?

ATTNY KEILTY: Yeah yeah. I think to Mike's comment I think the fact that it is the same owner puts it in a category where there is seemingly no urgency in changing ownership and numbers. And without applying for a building permit, we probably don't have separate street numbers for this lot yet.

MR VIVALDI: Maybe on the agenda going forward label it as also known as 25 Glendale or something. No other comments at the moment.

MR RIZZO: I have one comment. It may not apply but one thing that jumps out at me when you have one piece of property and then you subdivide it. The criteria that might fall under this is segmentation. You can't subdivide a piece of property and then claim a hardship. When you subdivide and create your own hardship. When you are trying to meet setback requirements and buffer zones and those kinds of things.

ATTY KEILTY: These were all land court plans. They were small, 2,500 square foot and the subdivision actually was able to be accomplished by deed. Let's say there were seven lots. Give four to one and three to the other. At one time they were all 7 known and numbered 25 Glendale. We provided deeds that took four of the 2,500 square foot lots and ascribed them to one lot and the remaining land court land lots. So, we didn't really need to go before any board, planning board or otherwise in order to reallocate these lots. Got a variance for not the subdivision because the lots do both, lots where the existing home is and this particular lot have the requisite area in a general public way. There was really no plan presented for ANR. That could be another reason that if the you know assessors. I can take it up with them. Just showing them that there is two different lots.

**Summary:** The agent wanted to make sure that the commission read MASSDEP's comments. "It is MASSDEP's opinion that there may be an immediate or inadvertent alteration to this wetland resource." DEP cited 310CMR10.53(1). She believes that it has to do with the amount of alteration. The agent was also concerned with the type of stormwater infrastructure used on the site. They are not typically used on single home lots. High maintenance fees may be required with the chambers. She stated she did not see an alternative analysis included with the NOI. She noted that if there was an appeal, DEP would most likely accept the appeal and intervene. The commission is okay with them proposing stormwater. However, ConComm also feels the plan needs to be scaled down. The commission has concerns about the project as proposed. Attorney Keilty stated that they have made changes to the plan. **Discussion ensued.** A cut and fill has been prepared and will be submitted for review. There is a potential for further changes. Attorney Keilty stated that a landscaper can clean out the cultec chambers under the driveway. **Discussion ensued** regarding a proposed O&M Plan. The commission will wait to hear from Robert Langley and wait for his review. **Discussion ensued** about the flags needing to be replenished and the grade change. No members of the public wished to speak.

**Motion** to continue to the November hearing as made by Mr. Rizzo. Seconded by Mr. Comak. Adopted unanimously 6-0.

**4. A continued Public Hearing on a Notice of Intent submitted by LEC Environmental Consultants, Inc. (Andrea Kendall) for DeOliver Estates, LLC (Daniela DeOliver-owner). The proposed work is the construction of a 360SF single-story addition to the existing commercial building within the riverfront of Strongwater Brook. The property is known as 168 Main Street, Map 86, Lot 159, Peabody MA.**

**Present:** Attorney John R Keilty (legal counsel) and Daniela DeOliver (owner)

**Summary:** They are still investigating the current conditions of stormwater features on the abutting lot. Attorney Keilty is working on the easement with the abutter. **Discussion ensued.**

**Motion** to continue until November as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 6-0.

**5. A continued Public Hearing on a Notice of Intent submitted by NativeTEC (Robert Marini) for Escarylyn Crisotomo (property owner). The proposed work is the construction of a three-car garage, earth work and the extension of the bituminous concrete driveway within the buffer zone. The property is known as 163 Lowell Street, Map 74, Lot 14, Peabody MA.**

**Present:** Robert Marini (NativeTEC) and Escarylyn Crisotomo (property owner)

**Documents:**

Existing and Proposed NOI Plan Prepared by NATIVetec stamped by Robert Marini with a final revision date of 9/29/23. Scale: 1"=30'.

**Summary:** The plans have been revised as requested by the commission. Mr. Marini gave a presentation of the new plan. **Discussion ensued** regarding the new plan. There were no members of the public that wished to speak. The commission felt they could now vote favorably on the project.

**Motion** to close the public hearing as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 6-0.

**Motion** to issue standard Order of Conditions 1-50 adding conditions **51)** Erosion controls to be inspected prior to commencement of work. See also condition #27B above; **52)** As built is required when requesting the Certificate of Compliance partial or full; **53)** All debris stored in the riverfront and buffer zone must be removed by November 15, 2023. The RV and bobcat cannot be stored in the buffer zone or riverfront. The existing grassy area can be maintained; **54)** The gravel/stone swale along the perimeter of the driveway/garage must be maintained. At a minimum of twice a year (spring and fall-more if needed). The owner of record must make sure leaf debris and other litter is not compromising said swale. All leaf and other debris can be raked, handpicked, or blown out of the stone/gravel swale. Landscape debris shall NOT be placed or stored in the buffer or the riverfront area. The city offers streetside pickup of landscaping debris as made by Mr. Rizzo. Seconded by Ms. Green. Adopted unanimously 6-0.

**6. A continued Public Hearing on a Notice of Intent submitted by Attorney John R Keilty for The Farhat Group (owner) and the applicant AGA Foster LLC. The proposed work is the redevelopment of a former leather factory for a commercial storage building. The property is known as 47 Tremont Street, Map 75, Lot 165, Peabody MA.**

**Motion** to continue until the November hearing as made by Mr. Vivaldi. Seconded by Ms. Green Adopted unanimously 6-0.

**7. A continued Public Hearing on a Notice of Intent submitted by Williams & Sparages LLC (Thorsen Akerley) for Ray Falite. The proposed work is the construction of a commercial building, driveways, parking, landscaping, utilities, stormwater, public walking trail with canoe launch and riverfront area restoration. The property is known as 60 Pulaski St, Map 53, Lot 85, Peabody MA.**

No motion was necessary for item 7 as it was continued until the November hearing previously. The project is in peer review.

**ENFORCEMENT ORDERS/VIOLATION ORDERS**

**8. A continued Enforcement Order issued to the Salem Country Club- for the following activities: Removal of living trees/grinding/grubbing stumps in buffer zone/in close proximity to jurisdictional resource areas and depositing woodchips in buffer zones and along local riverfront woods. The property address is known as 133 Forest Street, Peabody MA.**

**Motion** to continue until the December hearing as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 6-0.

**MINOR PERMITS AND TREES**

● **Minor Permit- 15 Winter Street** (rebuild decks in same footprint as existing decks). Approved on 9.14.23.

● **Minor Permit- 12 Sylvan Street** (remove existing front entry landing, install frost wall, build retaining wall, handicap ramp and covered entryway all over 150 feet from river. All work is on existing pavement and no new impervious will be created. No stormwater features will be changed). Approved on 9.6.23.

● **Minor Permit- 300 Andover Street** (remove Bank of America ATM kiosk and pave the area to match existing). Approved on 9.8.2023.

**Motion** to accept the Minor Permit applications as made by Ms. Green. Seconded by Mr. Athas. Adopted unanimously 6-0.

**OTHER ITEMS**

● **MINUTES- September 13, 2023**

**Motion** to approve the minutes as made by Ms. Green. Seconded by Mr. Rizzo. Adopted unanimously 6-0.

● **Adjournment**

**Motion** to adjourn as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 6-0.

**The meeting adjourned at 8:20 PM**

**Respectfully submitted, (To be signed electronically)**

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**Chairman Stewart Lazares**