



City of Peabody Conservation Commission

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MINUTES

October 13, 2021

Via Zoom ID 853 3806 6731

Pursuant to Governor Baker's March 12, 2020 Order suspending certain provisions of the Open Meeting Law, G.L. c. 30A § 18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place *as extended on June 15, 2021 with the Governor signing of Senate Bill # 2475 Suspending certain provisions of the Open Meeting Law*, allowing public bodies greater flexibility in utilizing technology in the conduct of meetings under the Open Meeting Law, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

MEMBERS PRESENT

Chairman Stewart Lazares
Bruce Comak
Arthur Athas
Travis Wojcik
Alt. RitaMarie Cavicchio

MEMBERS ABSENT

Melissa Cantin
Vice Chairman Michael Rizzo
Sec. Michael Vivaldi
Alt. Amanda Green

Also Present: Lucia DelNegro, Conservation Agent

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

In the absence of 3 commissioners Ms. Cavicchio had voting rights.

CETIFICATES OF COMPLIANCE

1. A continued request for a FULL Certificate of Compliance as made by Frederick Hostrop (Neptune Engineering) on behalf 160 Main Street Realty LLC (Nikolay Polinovskiy) for DEP File No. 55-793. The project was the redevelopment of a previously degraded site for commercial and residential use. The address is known as 166 Main Street, Map 086, Lot 150B, Peabody MA. Partial CC has been issued. Item will remain on agenda until a Full CC can be requested.

Item continued at a previous hearing until May 2022 TBD- no motion needed

REQUEST FOR DETERMINATION OF APPLICABILITY

2. A Public Hearing on a Request for Determination of Applicability submitted by Greg Hochmuth (Williams & Sparages) for Katie & Ryan Billingsly (owners). The proposed work is the construction of an in-ground swimming pool and patio within 100 feet of an IVW. The property is known as 6A Murphy Road, Map 115, Lot 311C, Peabody MA.

Present: Greg Hochmuth (Williams & Sparages), Kathryn & Ryan Billingsley

Documents:

► Plan of Land #6A Murphy Road showing IG pool and shed prepared by John J Russell with a final revision of 9.7.2021

Summary: There was a brief discussion about the proposed inground pool and stockpiling locations. There were no members of the public that wished to speak for or against the project. The commission felt a vote could be made.

Motion to close the public hearing as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted unanimously 5-0.

Motion to issue a Negative Determination with the following conditions: **1-** Notify the Conservation Commission in writing 48 hours prior to construction start-up that approved erosion and sedimentation control (ESC) are in place and ready for inspection. Erosion controls **MUST** be inspected by the Conservation Agent or Staff before any work can commence. Compost logs or strawbales without plastic meshing shall be used. Haybales are not allowed; **2-** In the event a swimming pool is placed on this lot, the following condition shall apply: The content of water in swimming pools can be detrimental to wetlands plant and animal species. To remove harmful chemicals, it is the applicant's responsibility to leave the pool water standing without the addition of chlorine for a minimum of seven (7) days before draining (per the City's Stormwater System Ordinance). In this way chlorine concentration will be significantly reduced due to volatilization. All pool water, wherever possible, shall be drained through a dry well, rather than allowed to spread over the surface of the land. The City of Peabody Conservation Commission Office shall be notified prior to draining and shall approve the method of draining. This condition is in perpetuity. If the house is sold the new owners must be made aware of this condition as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously 5-0.

3. A continued Public Hearing on a Request for Determination of Applicability submitted by Anthony Capachietti (Hayes Engineering) for Mills58 II LLC c/o Edward Greeley (applicant/owner). The proposed work is the construction of a parking area and stormwater infiltration system for rooftop runoff within 100 feet of an isolated vegetated wetland under local jurisdiction. The property is known as 58 Pulaski Street, Map 53, Lot 87, Peabody MA.

Present: Anthony Capachietti (Hayes Engineering), Edward Greeley (Mills58 II LLC), Julie Daigle (General Manager-Mills58 II LLC)

Documents:

- ▶ Plan to accompany Request for Determination of Applicability 58 Pulaski RDA1 prepared by Hayes Engineering stamped by Eric B Lane. Scale: 1" = 40' revised 10.5.21
- ▶ Plan to accompany Request for Determination of Applicability 58 Pulaski RDA2 prepared by Hayes Engineering stamped by Eric B Lane. Scale: 1" = 40' revised 10.5.21

Summary: The applicant's consultant gave an overview of the proposed project. Since the last hearing a video has surfaced showing intense runoff onto the abutting property during a significant rain event. The plans were revised since the last hearing. The item was open to members of the public.

Barry Sinewitz, 56 Pulaski (owner)

MR SINEWITZ: In early April the applicant had a landscaper in there filling the wetlands on the far left side of the building. He raised the elevation of the land. It made the flooding significantly worse. I had called the building inspector and he didn't go anywhere with it. He didn't think the elevation was that high. From what we could see the runoff was increased incredibly. I took a brief look at the plans and my concern is with the amount of water coming off, I don't know how they are going to grade the property (back, front or sides of the building). On the far left there is a concrete pad as you can see in the video there was literally a river coming off of that property. There is no way eighteen hundred (1,800) gallons of storage is going to hold all that water. I don't know if the berm will hold that water in. One of the comments is as it goes down into the storm drain it is going into a four (4) inch pipe. If I read that correctly. Four-inch pipe? Is that sufficient? Those are just my comments. We just want to stop the runoff onto our property. We had a little rainstorm the other day and the runoff continued for three days after (onto our property from their property). I want you to address the filling of the wetlands and the sheer volume of water coming off the roof, concrete path and coming from the wetlands. Thank you.

MR CAPACHIETTI: I am not aware of any wetland filling. When I was out there it was vegetated and did not look disturbed. This was late summer. I can't speak to any wetland filling. The gravel base has been there for some time if you look at the historic aerials. You are correct. There is an existing four (4) inch cast iron that is very shallow. Which I don't believe does much of anything for catching drainage. We are installing a new twelve (12) inch pipe that is deeper with deep sump catch basins. The way the drainage is designed (you can see these dark lines here) we are actually grading the lot a little bit, so you are coming down at about a five percent (5%) and then running along the gutter. You are basically going to pick up this whole area including the concrete pad. This much of the roof is going to the underground storage before it starts to runoff. In lesser storms the roof will all go underground. Then after it will overflow (inaudible). It will be collected by a series of two catch basins. This catch basin here doesn't do much as it is very shallow. In its current condition is it basically a four-inch cast iron pipe that is right up against the ground. Someone broke the top off of it. It will be a catch basin and then connect over to the main twenty-four (24) inch. I think this design will solve all of your problems as far as runoff coming across the site and over. This area is essentially impervious. It is compacted gravel. That is why you are getting so much runoff. It is basically pavement for all intents and purposes. If the board would entertain it, we could carve out a little smaller of an area. So whatever water is over here continuing onto the pavement. We are trying to stay as far away from the wetlands with out work. We have no problem carving a little channel to bring more of this runoff to our system and out to that twenty-four (24) inch.

MS DAIGLE: Thank you chairman and thank you commissioners. I am Julie Daigle the general manager of Mills 58. I have a feeling that Eddie will be saying the same thing. We have not contributed or filled in wetlands. We have not brought in any fill. Everything that we have done

has been general maintenance. There is not additional fill that has been added to the land last spring or in general. Just to clarify any concerns there but Eddie can get into that in more detail. Thank you, commissioners, for you time tonight.

MR GREELY: I wanted to briefly comment on the building that scope of work is proposed at. We call it Building D. it was around the time that Mr. Sinewitz mentioned late March or early April sometime in that timeframe that I did receive a phone call from the building commissioner. I sent him some pictures of what we were doing. We were actually bringing the grade down in the front of the building. There was a significant amount of landscape and overgrown bushes. There was a good seventy years of environmental debris that has piled up over a period of time. There was a small pile of loam on one side of the building. I wanted to clean up that one side of the building. I did have that pile moved to the very corner of the building. I did receive a phone call from the building commissioner. He asked me to send him some pictures. Captain Dowling of the Peabody Fire Department came out and we walked the site. I showed him what we had just done and that we had brought the grade down. He mentioned it was close to the conservation area. He asked we pull it back about twenty-four inches. I immediately did do that. On my end I have a video of some water runoff from the farm that I abut. I believe it is approximately within less than one hundred feet right behind. I wanted to address the dumping of the material in conservation land. I definitely did not do that and I worked with the building commissioner and the Peabody Fire Department to make sure everything was copacetic and it was.

Larry O'Keefe, 56 Pulaski (owner-O'Keefe Plumbing and Heating)

MR O'KEEFE: I am one of the owners of 56 Pulaski. My unit is at the far end of the building which faces the building in question. I will start with a couple of comments. Back at the time that Barry had mentioned the excavator that was in there started to dig and pull back some material from this area here. I went over and spoke with him and told him I didn't know if he should be doing that. That is when we ended up with that pile of material here for some time. It was covered up and then it was removed. Another section was regraded. I have been in this unit for nine (9) years. up until that time and no matter how heavy the rain was it would run down and come through and out into our catch basin. Since the regrading took place along this area, we now have a river. It just flows over from approximately here to there. the video that you have seen and someone is going to review will show that. Prior to that regrading taking place there was no runoff up here. Also, in the video if you look behind the building it is almost like a small river that turns the corner and comes down. I have been here nine years and have never seen water come across like that until that regrading took place. I have one question for Hayes regarding the tanks to receive the stormwater from the roofs. You say that is just going to permeate into the ground. That area stays pretty saturated. I know you are saying right now because of all the gravel it is not leaching through. I really question how much of that water is going to leach through. That is a sealed system correct. It just leaches into the ground. If it fills will it back up the storm system?

Discussion ensued. There were no other members of the public that wished to join the discussion.

Motion to continue until November 17 hearing as made by Mr. Athas. Seconded by Ms. Cavicchio. Adopted unanimously 5-0.

NOTICES OF INTENT

4. A Public Hearing on a Notice of Intent submitted by Weston & Sampson (Alexandra Gaspar) for Salem Country Club c/o Peter Fischl. The proposed work is the altering wetlands (2,841 SF of BVW and 1,848 IVW) and replication of wetlands (approximately 5,368) located near the 6th green/7th tee. Other site work is proposed. The property is known as 133 Forest Street, Map 70, Lot 003, Peabody MA.

Present: Mel Higgins (W&S), Dylan Erikson (W&S), Peter Fischl (Salem Country Club) and Bill Rocco (Salem Country Club)

Documents:

- ▶ Notice of Intent application
- ▶ Salem Country Club 6th and 7th Hole Cart Path Relocation & Proposed Tee Boxes- 133 Forest Street Cover Sheet dated 9.13.2021. **SHEETS: T-1:** Limited Topographic Plan dated 5.10.21 (no stamp) Scale: 1"=20'; **C100:** Site Preparation & Erosion & Sediment Control Plan final revision date 9.13.21 stamped by James I. Pearson. Scale: 1"=20'; **C101:** Site Layout & Grading Plan final revision date 9.13.21 stamped by James I Pearson. Scale: 1"=20'; **C102:** Wetland Replication Plan final revision date of 9.13.21 stamped by James I Pearson. Scale: 1"=5'. C500: Construction Details final revision date of 9.13.21 stamped by James I Pearson. Scale as shown; **C501:** Construction Details final revision date of 9.13.21 stamped by James I Pearson. Scale as shown.
- ▶ Construction Period Pollution Prevention & Erosion & Sedimentation Plan
- ▶ Appendix D (Dust Control, Env. Protection, Cleaning Up, Wetlands Protection/Replication and Planting Schedule
- ▶ Wetlands Monitoring & Invasive Species Management Plan
- ▶ Wetland Delineation Report May 2021
- ▶ US Army Corps of Engineers Mitigation Plan Checklist

Summary: The applicant explained the proposed work in detail and discussion ensued. The commission received an email an hour before the hearing. The request was regarding migrating wildlife. The Country Club stated they can wait until migratory birds have left the area before starting work. It would be their preference to not disrupt good golfing weather. The email also mentioned squirrels but that was not a determining factor in special conditions. **Discussion ensued.**

Motion to close the public hearing s made by Mr. Wojcik. Seconded by Mr. Comak. The motion passed unanimously 5-0.

Motion to issue a standard Order of Conditions 1-50 adding the following conditions: **50)** all work must be done per the NOI and all documents submitted and approved (as listed above), checklist L and condition **51)** Forty (40) trees **MUST** be planted to offset the twenty (20) trees that will be removed for the project. For every tree removed **TWO** trees must be replanted throughout the golf course as made by Mr. Wojcik. Seconded by Mr. Comak. The motion passed unanimously 5-0.

5. A continued Public Hearing on a Notice of Intent submitted by VHB for CV 13 Corwin LLC c/o Cargo Ventures (Kevin Donohue). The property owner is Stahl USA Inc. The applicant proposes development of a commercial and industrial use property. The property is known as 13 Corwin Street, Map 92, Lot 006, Peabody MA.

Item was continued at the previous meeting until November 17, 2021. No motion needed.

6. A continued Public Hearing on a Notice of Intent submitted by William Manuell (Wetlands & Land Management, Inc.) for Regency Realty Trust-Alfred Dimambro (Trustee). The proposed project is the construction of two buildings and site improvements paving, utilities etc. in riverfront to the North River. The property is known as 11-13 Wallis Street, Map 85, Lot 41A, Peabody MA.

Item was continued at the previous meeting until November 17, 2021. No motion needed.

ENFORCEMENT ORDER/VIOLATION ORDERS

7. A continued Enforcement Order issued to Pedro Polini for work 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.

Brief discussion ensued. The commission is waiting for the city solicitor to chime in.

No **motion** was made.

OTHER AND DISCUSSION ITEMS

▶ **TREE REQUESTS- NONE**

▶ **Request from Williams & Sparages RE: 0 Newbury Street (map88, lot 7)-The property owner believes that the wetlands are not state or locally protected. They do not wish to file an RDA application to memorialize their findings and want the commission to review paperwork submitted to determine if an RDA is necessary.**

Present: Chris Sparages (Williams & Sparages) and Richard Bennett (JDT Group)

Summary: A lengthy discussion ensued.

Motion to have the owner file an RDA application to verify said findings regarding wetlands jurisdiction only as made by Mr. Wojcik. Seconded by Mr. Athas. The motion passed 4-1 with Mr. Comak voting NO.

● **MINUTES- NONE**

● **Adjournment**

Motion to adjourn as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted unanimously 5-0. The meeting adjourned at 9:41PM

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares