



## City of Peabody Conservation Commission

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

### MINUTES

**April 12, 2023**

**Link:** <https://www.youtube.com/watch?v=incjlm8yKHc>

The Peabody Conservation Commission hearings will be held remotely until March 31, 2023. 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 certain 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. Individuals may participate remotely in the meeting via a remote participation platform called Zoom.

#### **MEMBERS PRESENT**

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

#### **MEMBERS ABSENT**

Alt. Ritamarie Cavicchio  
Amanda Green

**1 alternate member opening and 1 full time commissioner opening**  
(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 7:00 PM

**NOMINATION COMMITTEE:**

●**Chairman Lazares to appoint a one person nominating committee for Commission officers.**

Chairman Lazares appointed Michael Rizzo

**CERTIFICATES OF COMPLIANCE**

**1. A continued request for a FULL Certificate of Compliance as made by John Dick for the property owners (George and Nancy Kappeler) on DEP File No. 55-883. The project was the construction of additions to existing single family home including removal/relocation of existing sheds and relocation/addition of paved areas. The address is known as 1 Hoover Terrace, Map 24, Lot 38, Peabody MA.**

**Present:** John Dick (consultant)

**Summary:** Work is not complete yet. The electrical trench is still open. The commission cannot vote until all work has been completed. The consultant requested that the ConComm draft a friendly Enforcement Order (EO) so that work can take place along the bank of the river as discussed at the last hearing. Staff will work with the consultant to come up with Action Items that will restore the bank on the adjacent parcel back to compliance. Work cannot be completed without a permit or an EO.

**Motion** to continue the Certificate of Compliance until the May hearing as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 5-0.

**Motion** to have the agent work with the consultant on action items for a friendly Enforcement Order as made by Mr. Vivaldi. Seconded by Mr. Athas. Adopted unanimously 5-0.

**2. A continued request for a FULL Certificate of Compliance as made by Mohammad Haque for Boston Muslim Cemetery (owner) on DEP File No. 55-878. The project was various activities related to the creation of a cemetery, including grading, retaining wall construction, path installation and landscaping for a “green” type of burial. The address is known as 530 Lowell Street, Map 35, Lot 27A, Peabody MA.**

**Present:** Md Islam (Boston Muslim Cemetery)

**Summary:** The commission gave verbal permission at the last hearing for burials to commence. **Discussion ensued** regarding the No Disturb Zone. The commission asked for paperwork showing the discrepancies along the twenty-five no Disturb Zone. MD gave a brief presentation. The ConComm felt nothing more was required from the applicant. The net difference of loss vs. gain is minor in nature.

**Motion** to issue a Full Certificate of Compliance with the following conditions in perpetuity: ► LTPPP dated 3.7.2023 is in perpetuity; ► The burials must remain “green” as approved by the ConComm and further approved by Peabody Health Dept.; ► Unused soil must be disposed of appropriately off site or outside all buffer zones and resource areas including abutting parcels. No soil shall be stored on site in buffer zones as made by Mr. Vivaldi. Seconded by Mr. Athas. Adopted unanimously 5-0.

**3. A continued request for a PARTIAL or FULL Certificate of Compliance as made by Attorney John R Keilty on DEP File No. 55-903. The project was a commercial development which included riverfront enhancement. The address is known as 49 Tremont Street, Map 76, Lot 402, Peabody MA.**

**Motion** to continue to the May hearing as made by Mr. Vivaldi. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

**4. A request for a FULL Certificate of Compliance as made by Darguin Fortuna on DEP File No. 55-871. The project was the construction of a multifamily house in FEMA flood plain. The address is known as 10.5 Winter Street, Map 85, Lot 126, Peabody MA.**

**Present:** Darguin Fortuna (Flow Design Studio)

**Summary:** The plans have been revised as requested. The air condition units have been raised outside of the flood plain as requested and required. Mr. Fortuna showed pictures of the AC units and their elevations. **Discussion ensued** regarding the AC units, the pavers and greenspace.

**Motion** to issue a Full Certificate of Compliance with the following conditions in perpetuity: ► The greenspace as shown on the plan in the rear yard shall remain in PERPETUITY. All trees/plantings/grass must remain as shown on As Built Plan; ► There shall never be any living space allowed in FEMA Flood Plain elevations (including the existing storage room located in the garage on the ground floor); ► The pervious pavers are required to remain in perpetuity. If they are damaged they must be repaired in like kind; ► The air conditioning units/mechanical components must be located outside of the FEMA Flood Plain in perpetuity as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 5-0. The CC will be held until William Paultiz signs off.

**5. A request for a PARTIAL Certificate of Compliance as made by Attorney James Juliano on DEP File No. 55-171. The project was a large subdivision. This parcel appears to be outside of ConComm jurisdiction and the owner is requesting a partial for said house only. The address is known as 7 North Dale Street, Map 11, Lot 122, Peabody MA.**

**Present:** Attorney James Juliano

**Discussion ensued** regarding the original Order of Conditions encompassing the entire subdivision. This property is not in ConComm jurisdiction. The original developer erroneously received occupancy permits from the building department without ConComm sign off. This is an ongoing problem for older subdivisions of this type.

**Motion** to issue a Partial Certificate of Compliance releasing only 7 North Dale Street as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 5-0.

### **NOTICES OF INTENT**

**6. 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, Map 120, Lot 27 (portion), Peabody MA.**

**Summary:** MASSDEP issued comments regarding the current plan. A site visit was conducted with members of the ConComm, staff, consultants, and a neighborhood group. The proposed plan shows work in the twenty-five (25) No Disturb Zone. The commission has asked for the plans to be revised to reflect DEP comments as well as the local ordinance No Disturb Zone. The plans have not been completed yet therefore a motion for a continuance was necessary.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0.

**7. A continued Public Hearing on a Notice of Intent submitted by GZA GeoEnvironmental, Inc. (Dan Nitzsche) for Emmanuel and Rose Papanickolas (owners) and JD Raymond Transport, Inc. (Will Boyle-applicant). The proposed work is the construction of a stormwater infiltration basin partially within the buffer zone to a wetland resource. The property is known as 25 Farm Avenue, Map 69, Lot 006 and 007, Peabody MA.**

**Present:** Attorney Kimberly Kroha

**Summary:** A very brief **discussion ensued**. The commission received documents after the deadline for continued items. They need more time to review plans, peer review memos and city comments.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Vivaldi. Adopted unanimously 5-0.

**8. A 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:** Andrea Kendall (LEC Environmental Consultants, Inc.) and Daniela DeOliver (DeOliver Estates, LLC)

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**Summary:** Andrea gave a presentation. MassDEP issued comments regarding stormwater. The plans as shown are not meeting stormwater compliance. The commission asked for the applicant to try and incorporate some stormwater treatment on site. DPS has not submitted a memo yet. The board will not vote until a memo has been submitted. There were no members of the public that wished to speak for or against the project. The item needed to be continued until plans are revised.

**Motion** to continue to the May hearing as made by Mr. Vivaldi. Seconded by Mr. Rizzo. The motion passed unanimously 5-0.

### **ENFORCEMENT ORDERS/VIOLATION ORDERS**

**9. A continued Enforcement Order issued to Dan Mayer (Mayer Tree)- 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.**

**Present:** Attorney Kate Carter

**Summary:** Attorney Carter feels that the ConComm must remove the item from the agenda and stop continuing the item. The commission will leave the item on the agenda until their legal counsel states otherwise.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0.

**10. 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.**

**Present:** Attorney Barry Fogel and William Rocco

**Summary:** There was little discussion because the ConComm received paperwork a few days before the hearing. The commission, DeRosa Team and staff were unable to review said new submittals. The peer reviewer was also not present. The ConComm did not feel comfortable having a discussion in the absence of the peer review team.

**Motion** to continue as made Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

**11. A continued Enforcement Order issued to Alfred Dimambro, Trustee (Regency Realty Trust) for work located at 11-13 Wallis Street. There are ongoing as well as historic violations on this property (illegal dumping (appliances etc.), stockpiling of various items in riverfront/flood plain, fill in FEMA flood plain, alteration of**

**riverfront without permit and ongoing “use” as what appears to be a contractor’s yard.**

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The item was continued without any discussion.

**Motion** to continue as made by Mr. Rizzo. Seconded by Mr. Athas. Adopted unanimously 5-0.

**12. Violation Order: Peter Alfe 1 Nichols Lane Extension Lynnfield MA. The alleged violation is altering the 100-foot buffer zone of a drinking water reservoir (creating a turnaround area and stockpiling material on city owned property and within 400 feet of a drinking water reservoir. The Town of Lynnfield has requested assistance.**

**Discussion ensued.** All stockpiling on city land and in the buffer-zone has been removed. The property owner is in compliance on the Peabody side. The item will be removed without a motion. No motion is necessary as the violation has been remedied. The property owner will stop stockpiling on city property unless he obtains permission from the ConComm and the city.

### **MINOR PERMITS AND TREES**

**13. Tree removal: 1 Sasha Circle- 3 trees in decline (removed on 3.30.23)**

**14. Minor Permit: 201 Warren Street Ext. Roofing permit (approved on 3.23.23)**

**15. Minor Permit: 1 Brooksby Village Drive- Gatehouse Repair Project (TB approved on 3.31.23)**

**Motion** to approve/accept items 13, 14 and 15 as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

### **OTHER ITEMS**

- **MINUTES- February 8 and March 8, 2023**

This item will be voted on at the May hearing.

- **Adjournment**

**Motion** to adjourn as made by Mr. Athas. Seconded by Mr. Rizzo. Adopted unanimously 5-0.

The meeting adjourned at 8:36 PM.

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

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**Chairman Stewart Lazares**