



City of Peabody Conservation Commission

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

MINUTES

May 19, 2021

Via Zoom ID 898 4786 2849

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, this meeting of the Peabody Conservation Commission was conducted via remote participation to the greatest extent possible.

MEMBERS PRESENT

Chairman Michael Rizzo
Secretary Stewart Lazares
Michael Vivaldi
Travis Wojcik
Arthur Athas
Amanda Green (Alt.)
Vice Chairman Bruce Comak (not present entire hearing)
RitaMarie Cavicchio (Alt.) arrived 7:15pm left at 9:40pm

MEMBERS ABSENT

Melissa Cantin

Also Present: Lucia DelNegro, Conservation Agent

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:01 pm

Alternate Commissioner Green was given voting rights in the absence of Commissioner Cantin. Alternate Commissioner Cavicchio participated via discussion only and voted when Vice Chairman Comak was not present for a vote.

NOTICES OF INTENT

1. A Public Hearing on on a Notice of Intent submitted by Norse Environmental Services, Inc. (Maureen Herald) for Tara and Adrian Ponciano (owners). The proposed project is the construction of an addition with garage under, driveway, cut/remove two trees, associated grading and utilities in buffer to BVW. The property is known as 43 Pulaski Street, Map 53, Lot 34A, Peabody MA.

Present: Tara and Adrian Ponciano (owners)

Documents: Plot Plan of Land Peabody MA prepared for Adrian O. & Tara Ponciano 43 Pulaski Street. Scale: 1" = 40' with a final revision date of May 31, 2021 drafted by David P. Terenzoni, PLS. (Plan to be revised).

Summary: Brief discussion ensued regarding the grading, topography and erosion controls. The plot plan needs to be revised showing the following: Erosion control detail, driveway TBR, trees TBR and trees to be planted. The hearing was open to members of the public for comment. Darguin Fortuna spoke in full support of the project. No other members of the public wished to speak.

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

Motion to issue a standard Order of Conditions 1-50 adding conditions 51: hold the Order until the revised plan as discussed above is submitted and approved by staff as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously.

Commissioner Green was given voting rights in the absence of Commissioner Cantin.

2. 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

Present: William Manuel (Wetlands & Land Management Inc.)

No discussion.

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

REQUEST FOR DETERMINATION OF APPLICABILITY

3. A continued Public Hearing on a Request for Determination of Applicability submitted by William Manuell (Wetlands & Land Management, Inc.). The applicant is seeking confirmation that there are no areas of jurisdiction or buffer zones extending on the property. The property is known as Race Drive (unconstructed way), Map 57, Lots 74B through M, O, P, Peabody MA

Present: William Manuel (Wetlands & Land Management Inc.)

Summary: The applicant is seeking confirmation that there are no areas of jurisdiction under the state or local jurisdiction as well as buffer zones extending on the property. **Discussion ensued.**

(Technical difficulties) There were no members of the public that wished to comment.

Motion to close the public hearing as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously with Mr. Comak not present for the vote.

Motion to issue a Negative Determination of Applicability agreeing that there are no local or state jurisdictional wetlands, buffer zones (from abutting lots), vernal pools (associated buffers), BVW, riverfront etc. located on the property as made by Mr. Wojcik. Seconded by Mr. Lazares with Mr. Comak not present for the vote.

Both motions passed 7-1 with Mr. Comak not present. (Both alternate members had voting rights in the absence of Mrs. Cantin and Mr. Comak)

4. A Public Hearing on a Request for Determination of Applicability submitted by Keith Morris (Env. Consultant) for Pan AM Railways Inc. (Bill Wallace). The applicant is seeking confirmation of wetland boundaries, sensitive areas. This application is for verification of wetland boundaries only and not for the actual application of herbicides. Prior to application a Yearly Operation Plan will be submitted to the community and there is a 45-day review/comment period. The property is known ROW, (map on file), Peabody MA.

Staff could not confirm if the public hearing could be open as the applicant has not notified abutters per the city's local ordinance Chapter 32. The commission will not open the public hearing until the applicant's legal team documents in writing their exemption from the local by-law. No paperwork has been filed to date and abutter's have not been notified.

Motion to continue as made by Ms. Green. Seconded by Mr. Wojcik. Passed 7-1 with Mr. Comak not voting. (Alternate members had voting rights in the absence of Mrs. Cantin and Mr. Comak)

EXTENSION REQUEST

5. A Request for an Extension Permit on DEP File No. 55-829. The request is being made by Kara Sliwoski (SOLitude Lake Management) for Cedar Pond Village (ponds). The project is an aquatic management program. The address is known as Cedar Pond Village Condominium- 1200 Salem Street (map 98, Lot 500T (500-754) Peabody/Lynnfield. The Order expires on May 12, 2021. The applicant is asking for a one-year extension per the local ordinance. (Note: All permits are "tolled" during the SOE).

Present: Dominic Meringolo (SOLitude Lake Management)

Motion to extend the Order of Conditions until 8/12/2023 (per tolling) as made by Mr. Lazares. Seconded by Mr. Vivaldi. Passed 7-1 with Mr. Comak not voting. (Alternate members had voting rights in the absence of Mrs. Cantin and Mr. Comak)

CETIFICATES OF COMPLIANCE

6. A continued request for a FULL Certificate of Compliance as made by Peter Blaisdell, Jr. (Williams & Sparages) on behalf of AMConCorp (Patrick Coburn) for DEP File No. 55-865. The project was the construction of a commercial building and parking area (demo/rebuild, stormwater features and parking). The address is known as 3 Mount Pleasant Drive, Map 029, Lots 006, Peabody MA.

Motion to continue as made by Mr. Lazares. Seconded by Mr. Wojcik. (motion passed 6-2 with Mr. Vivaldi and Mr. Comak not voting. Both alternate members had voting rights).

7. 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 (TBD late 2021) ITEM CONTINUED UNTIL JUNE 2021

No motion needed continued at previous meeting.

8. A continued request for a Full Certificate of Compliance as made by E.J. O' Sullivan (Haven Contracting Corp.) for DEP File No. 55-874. The project was the construction of a new parking area and a detention basin. The address is known as 22 Johnson Street, Map 34, Lot 12, Peabody MA.

Motion to continue as made by Mr. Lazares. Seconded by Mr. Wojcik. (The motion passes 7-1 with both alternate members voting and Mr. Comak not voting)

ENFORCEMENT ORDER/VIOLATION ORDERS

9. Enforcement Order issued to Daniel Ruiz for the property known as 44 Bartholomew Street, Peabody MA. The alleged violation is bringing multiple truckloads of fill onto the site. Buffer zone and resource area was altered. A valid Order of Conditions has never been issued for said work. CONTINUED UNTIL 2021 WHEN VEGETATION HAS GROWN IN – TBD

Present: William Manuel (Wetlands & Land Management Inc.)

Motion to continue as made by Mr. Wojcik. Seconded by Ms. Green. (The motion passes 7-1 with both alternates voting and Mr. Comak not voting.) The item was also continued at a previous hearing until vegetation grows in.

10. Enforcement Order issued to the Trustees of 55 Pulaski St Realty Trust (Roadhouse Pub) c/o John R. Keilty Legal counsel of said Trustees for property located at 55 Pulaski Street. The extent of activity is uncertain at this time. However some possible alleged activity is altering, filling and changing the grade of either buffer zone or actual resource to expand a current parking lot or buildable area of the Roadhouse Pub property, possibly trespassing on an abutting lot and destruction of living trees and vegetation. A Valid Wetland permit has not been issued to date for any such work.

Present: William Manuel (Wetlands & Land Management Inc.)

Documents: Letter from Wetland Scientist dated May 11, 2021

Summary: Mr. Manuell submitted paperwork and the commission felt they could withdraw the Enforcement Order. Erosion controls have been installed. The fill is over 100 feet away from the wetlands in question.

Motion to withdraw the EO as made by Ms. Green. Seconded by Mr. Lazares. (The motion passes 7-1 with both alternates voting and Mr. Comak not voting.)

OTHER AND DISCUSSION ITEMS

● **Stewart Lazares- Secretary updates on CPC filing Peabody Lakes & Ponds**

Summary: Secretary Lazares updated the commission on his project. Ms. DeINegro and Stewart attended various CPC meetings requesting funds to hydro-rake/mechanical harvest Elginwood and Mill Ponds. They received \$150,000.00. Presently the city has permits to treat all city owned waterbodies with chemicals. The proposed mission statement is to limit the use of manmade products and to remove the plant life instead of treating with chemical applications only. The next step will be to file an NOI. The NOI will encompass all the lakes and ponds that are city owned with the hopes of securing future funds to treat all waterbodies similar.

Mr. Lazares is also working on another project regarding Goldthwaite Brook. Captain Lewis (Fire Dept.), Mayor Bettencourt and Secretary Lazares flew a drone over the brook on May 18 to determine the chokepoints. The commission requested that the video is shared via email as soon as possible. There was discussion regarding flood gates etc. Secretary Lazares will continue working on side projects as such to better the city and its wetlands resources. The commission thanked Stewart for working hard behind the scenes.

Further discussion regarding street sweeping the bike path. Commissioner Wojcik agreed that the bike path should be swept.

● **Discussion request made by Andrea Kendall, PWS of LEC -proposed NOI application- 51 Jubilee Drive**

Present: Andrea Kendall (LEC Environmental Consultants, Inc.), Austin Turner (Bohler Engineering), Chad Sumner (Sumco Eco-Contracting)

Summary: Chad Sumner (owner of 51 Jubilee) wanted to have a pre-NOI discussion about proposed site preparation work. **Discussion ensued** regarding the vernal pool, possible blasting, fissures, priority habitat, filling a quarry hole and wetland replication areas etc. The chairman had concerns with work so close to the vernal pool. He would like to see the 200-foot vernal pool buffer preserved during future development. The owners will file a NOI to prepare the site for a future development in preparation of a sale. The future property owner will then file another NOI for site development. **Discussion ensued.**

● **Discussion request made by Darguin Fortuna AIA, NCARB of Flow Design Architects regarding and existing Order of Conditions 55-871 address: 10.5 Winter Street (Single family home in flood zone) as to whether proposed changes to the approved plan require an Amendment or if the Commission will allow a verbal discussion for said changes to plan for work in a FEMA Flood Zone A.**

Present: Darguin Fortuna (Flow Design Architects-licensed architect)

Summary: The architect presented the proposed changes to the approved plan Order of Conditions. The property is located in FEMA AE and no wetlands are present. The commission did not feel that the changes were detrimental to the flood plain. All mechanical components and living space must be installed above the flood zone elevation. Ms. DeINegro checked FEMA maps and stated she believed the food elevation was 27. The finished floor elevation of the garage bottom floor will be 24.6. Greenspace and porous pavement will be still be in perpetuity. All changes will be reflected on an As Built plan when the Certificate of Compliance is requested.

Motion to approve changes (remove raised slab grade to one slab grade of 24.6 garage level), all other conditions are still valid, and everything must be reflected on an As Built Plan when filing for a CoC as made by Mr. Wojcik. Seconded by Mr. Comak. Motion passed with RitaMarie not present.

Original conditions still stand:

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".

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.

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.

• MINUTES- NONE

Motion to adjourn as made by Mr. Wojcik. Seconded by Mr. Lazares. (The motion passed with Mr. Comak and Ms. Cavicchio not present.) **The meeting adjourned at 10:10PM**

Respectfully submitted, (To be signed electronically)

Chairman Michael Rizzo