



## City of Peabody Conservation Commission

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

### MINUTES

**July 26, 2023**

**Link:** <https://peabodytv.org/videos-on-demand/?vid=1064>

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

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

#### MEMBERS ABSENT

Ritamarie Cavicchio  
Chairman Stewart Lazares

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

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

VICE CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:00 PM

**NOTICES OF INTENT**

**1. A continued Public Hearing on a Notice of Intent submitted by Norse Environmental Services, Inc. (Maureen Herald) for Crystal Bass (property owner). The proposed work is the construction of a single-family dwelling, associated grading/utilities, remove a portion of existing driveway, proposed clear cut and clear vegetation within buffer of intermittent stream. The property is known as 36A Greenwood Rd, Map 108, Lot 003A, Peabody MA.**

**Present:** Maureen Herald (Norse Environmental Services, Inc.)

**Summary:** A site visit was conducted on May 10 with members of the commission, DPS and the agent. There were no concerns with the project, but the plan needed to be revised. The plan has been revised as requested by the commission. The commission was concerned with the amount of landscaping debris within the buffers of both the BVW and the intermittent stream. The property owner must remove and dispose of the debris accordingly before work can commence. The consultant agreed and stated it would not be a problem. There were no comments from the public.

**Document:** Plan of Land Peabody, MA surveyed for Crystal Bass 36A Greenwood Road prepared by David Terenzoni PLS with a final revision date of July 10, 2023. Scale: 1" = 20'.

**Motion** to close the public hearing as made by Mr. Comak. Seconded by Mr. Vivaldi. Adopted unanimously 5-0.

**Motion** to issue a standard Order of Conditions 1-50 adding **51)** Reminding the applicant/owner erosion controls MUST be inspected by the Conservation Agent or Staff before any work can commence (conditions 27 and 28). Compost logs or strawbales without plastic meshing shall be used. Haybales are not allowed; **52)** Once erosion controls are installed or beforehand if practicable, ALL landscaping debris (tree limbs, grass clippings and leaves etc.) that are deposited along the intermittent stream and within the 100-foot buffer zone must be removed from the site and disposed of appropriately BEFORE any work and excavation of any kind can commence. Evidence must be submitted to show appropriate cleanup and staff must inspect before work can start. **DPS/Engineering conditions: 53)** New water and sewer lines should be run from the new building to the city water and sewer mains in Greenwood Road; **54)** The water and sewer lines that will be installed (outside of the plumbing departments purview) must be inspected by a representative of the DPS/Engineering Department before the trench is closed; **55)** The applicant's water line shall be chlorinated, and pressure tested. All testing shall be submitted to and approved by DPS/Engineering Department prior to activating this new section; **56)** The new sewer lateral will be tested and confirmed to hold tight by the applicant's contractor after installation. Testing will be approved by the DPS/Engineering department prior to activating as made by Mr. Comak. Seconded by Mr. Vivaldi. Adopted unanimously 5-0.

**2. 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.**

**Motion** to continue as made by Mr. Vivaldi. Seconded by Mr. Comak. Adoped unanimously 5-0.

**3. 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.**

**Motion** to continue as made by Mr. Vivaldi. Seconded by Mr. Comak. Adoped unanimously 5-0.

**4. A continued Public Hearing on a Notice of Intent submitted by NativeTEC (Robert Marini) for Escarlynn 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:** Escarlynn Crisotomo (owner)

**Summary:** The property owner's consultant was not able to attend the hearing. There was a brief recap of the proposed project. The work is just outside the 200-foot riverfront. The project is over 50 feet from the BVW. Only a portion of the garage and proposed pavement are within the buffer zone. They are not anticipating large stockpiles on site during construction. The item was open to members of the public. Jennifer Buchanan lives at **171 Lowell Street**, and she is concerned about her retaining wall being undermined during construction. **Discussion ensued** regarding the existing rubble foundation from an old structure on site. Ms. DelNegro reminded the commission that the building department typically makes sure projects will not negatively impact retaining walls and not the commission. A commissioner asked about stormwater. The agent reminded the commission that four units or less does not trigger stormwater standards to be met. There are presently no stormwater features proposed. Joyce Berube spoke on behalf of her mother Stella Spyropoulos. She resides at **161 Lowell Street** and is concerned about the proposed project. Ms. Berube brought up an old Violation Order regarding a stockpile of fill in the yard that has been resolved. An Enforcement Order was never issued because the property owner worked diligently with ConComm staff to remedy the violation in a speedy timeframe. Ms. Berube claims the temporary stockpiling has altered their property. They feel that the property was graded illegally. Stella Spyropoulos chimed in also stating that they feel the stockpile was not removed from the site but instead spread out over the lot. The neighbors feel that runoff from the abutting lot is damaging their property. They stated that the owners altered the natural course of water. The abutters also stated that they placed gravel and raised gardening beds along the fence (outside the buffer zone). They feel that the gravel and garden is causing

damage to their property. Escarlyn vehemently denied all accusations. She stated that a temporary stockpile from two years ago would not cause ongoing issues as the pile had been removed in 2021. The agent stated a Violation Order was issued and the soil stockpile was removed swiftly from the buffer zone. The stockpile had erosion controls and a tarp on it while it was on the property. If any soil was placed on the property, it was outside of the ConComm's jurisdiction and it would have been to fill in existing holes only. Ms. DelNegro reminded the commission that the neighbors made false claims of illegal blasting on the property. The fire captain needed to conduct a site visit and found no evidence of such illegal blasting. Stella felt that the agent did not do her job correctly. Joyce Berube mentioned that it has been a dry season which is why they are concerned about water damage. **Discussion ensued.** The property owner was unable to answer questions that the public and the commission had regarding the project. Therefore, the item needed to be continued.

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

**5. A Public Hearing on a Notice of Intent submitted by Gibraltar Pools Corp (PJ DeBernardo) for Joseph and Bridgette Mucci (property owners). The proposed work is the installation of an above ground pool in the buffer to Devils Dishfull Pond. The property is known as 71 Lake Street, Map 45, Lot 39A, Peabody MA.**

**Present:** Joseph Mucci (owner) and PJ DeBernardo (Gibraltar Pools Corp)

**Documents:** Plot Plan in Peabody Ma-Lake Street dated 7/16/23 drafted by Gloral Associates. Scale: 1" = 20'.

**Summary:** The wetland flags need to be connected on a revised plan with a distance marker from said flags to the proposed pool. Erosion controls must also be shown on a revised plan. The board was concerned with how tight the rear yard was. They do not want any heavy machinery and will condition the project accordingly. There were no comments from the public. The ConComm reminded the owner about draining the pool water.

**Motion** to close as made by Mr. Comak. Seconded by Mr. Athas. Adopted unanimously 5-0.

**Motion** to issue Standard Order of Conditions 1-50 adding the following conditions: **51)** Erosion controls must be inspected before any work can commence. See also condition 27B; **52)** No heavy machines are allowed in the backyard. All preparation for the pool must be done by hand. Only hand digging and hand tools are allowed as made by Mr. Comak. Seconded by Mr. Vivaldi. The motion passed 4-1 with Ms. Green voting present. (The Order is to be held until a revised plan is submitted and approved.)

**6. A Public Hearing on a Notice of Intent submitted by Norse Environmental Services, Inc. (Maureen Herald). The proposed work is removal of existing deck, stairs and footings. Reinstall new footings, 12'x12' prefab sunroom, construct a 12'x12' deck, stairs, associated grading and utilities. The property is known as 6 Leblanc Drive, Map 25, Lot 124, Peabody MA.**

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**Present:** Maureen Herald (Norse Environmental Services, Inc.) and Christopher Breshnahan (owner)

**Documents:** Plot Plan of Land Peabody MA prepared for Christopher Breshnahan & Maura Chenery drafted by David Terenzoni. The final plan is dated 6/22/2023 with a scale of 1"=20'.

**Summary:** The existing deck, associated footings and stairs will be removed. It will be replaced with a prefabricated sunroom, deck, stairs and associated utilities/footings. The commission reminded the owner about discharging hot tub water near the wetland. There were no members of the public that wished to speak for or against the project.

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

**Motion** to issue a standard Order of Conditions 1-50 with no special conditions as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

**7. A 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 as made by Mr. Vivaldi. Seconded by Mr. Athas. Adopted unanimously 5-0.

**8. A 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.**

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

**ABBREVIATED NOTICE OF RESOURCE AREA DELINEATION**

**9. A Public Hearing on an Abbreviated Notice of Resource Area Delineation submitted by Wetlands & Land Management, Inc. (William Manuell) for JND Real Estate Solutions LLC (John Decoulos).The applicant is seeking confirmation for the extent and location of wetland resource areas that may be subject to jurisdiction under the Massachusetts Wetland Protection Act and the City of Peabody Wetlands Ordinance within and surrounding the property known as 24 ½ North Central Street, Map 64, Lot 28, Peabody MA.**

**Present:** William Manuell (Wetlands & Land Management, Inc.)

**Documents:** Site Development Permit Plan located in Peabody MASS, 24 ½ North Central Street prepared by ELSA. Scale: 1" =20' dated May 26, 2023.

**Summary:** The plan before the commission was for a wetland resource area delineation only. There is not a project associated with the application presently. Mr. Manuell shared the wetland plan and discussion ensued. The delineation was conducted in May. It appeared that the property has been altered historically. The wetland scientist speculated that fill was placed as a walkway to a beautiful apple tree in the rear lot. This would explain the bizarre wetland line. The property has bordering vegetated wetlands (and associated buffer zone) and buffer from a locally protected drainage ditch. The item was open to members of the public.

**Kim and Jim Bates, 24A No Central Street**

MRS BATES: We are the neighbors next door. I just wanted to agree with the gentleman who did the survey. Our secondary yard floats. It is very wet back there. I agree entirely with what he is saying. There was a staged area in the back area of that neighbor's yard at one point. I am not sure if that was part of that thing to the apple tree I heard. As far as the wet part about it he is correct. In our experience.

**Paul Stevens, 24 North Central Street**

I am to the left of that property by two houses. I have one question. I am just curious at the time the survey was done what was our seasonal water level? That could increase or decrease depending on the amount of rainfall we got. I don't know if we have that information, or historic high and lows?

MR RIZZO: This is for the delineation of the BVW. The height of the water normally wouldn't matter. It is the identification of the BVW where they use soils and hydrology hydric soils, plant life and so forth to make the determination of where the wetland boundary is. Water is higher at certain times of the year. We can still determine where the wetland is. You are asking a groundwater question.

**Discussion ensued.** The wetland scientist explained his methodology for his delineation. The abutter was satisfied with his explanation.

**Motion** to close the public hearing as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

**Motion** to accept the delineation as submitted made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 5-0.

**CERTIFICATES OF COMPLIANCE**

**10. A request for a Full Certificate of Compliance as made by William Manuell (Wetlands & Land Management, Inc.) on a Local Order of Conditions (no DEP file number). The project was the demolition of an existing propane filling shed and the construction of a new garage building. The address is known as 99 Lynnfield Street, Map 101, Lot 24, Peabody MA.**

**Present:** William Manuell (Wetlands & Land Management, Inc.)

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**Summary:** The property is only locally protected under the city's wetland ordinance. Staff was on site and work appeared to be done in compliance with the Order of record.

**Motion** to issue a Full Certificate of Compliance with condition 52) the O&M is in perpetuity as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

*Items 11 and 12 were discussed together.*

**11. A continued request for a FULL Certificate of Compliance as made by Peter Ogren (Hayes Engineering) on DEP File No. 55-312. The project was the construction of a service building with associated appurtenances and land grading. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.**

**Present:** Anthony Capachietti (Hayes Engineering)

**Summary:** The pipe in question at the last hearing was removed from the site when the building was removed. All maintenance of the drainage system has been done to the best of their ability. Photos have been distributed to the board. Robert Langley reviewed and had no objections to the issuance of compliance for the files. The request is for administrative purposes for a clean title to sell the property. At this time the commission felt they could not determine if work was done in complete compliance considering the age of the file. The commission felt they could close the Order checking off the invalid box.

**Motion** to issue a Full Certificate of Compliance checking off the invalid box on DEP File No. **55-312** and DEP File No. **55-323** as made by Mr. Comak. Seconded by Mr. Athas. Adopted unanimously 5-0.

*Items 11 and 12 were discussed together.*

**12. A continued request for a FULL Certificate of Compliance as made by Peter Ogren (Hayes Engineering) on DEP File No. 55-323. The project was the construction of a commercial building with associated appurtenances, grading and mitigation efforts for the demolition of an existing building and its appurtenances to accommodate commercial building. The address is known as 13 Corwin Street, Map 92, Lot 6, Peabody MA.**

**Present:** Anthony Capachietti (Hayes Engineering)

**Summary:** See above.

**Motion** to issue a Full Certificate of Compliance checking off the invalid box on DEP File No. **55-312** and DEP File No. **55-323** as made by Mr. Comak. Seconded by Mr. Athas. Adopted unanimously 5-0.

**EXTENSION REQUESTS**

**13. Request for an Extension Permit on DEP File No. 55-879. The request is being made by William Paulitz (Acting Director of DPS/City Engineer) for the city of Peabody. The project is the reconstruction of the Endicott Street bridge and other associated work. The Order expires on November 25, 2023.**

**Motion** to extend one year as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

**14. Request for an Extension Permit on DEP File No. 55-829. The request is being made by SOLitude on behalf of Cedar Pond Village Condominiums. The project is aquatic maintenance and ecological restoration at waterbodies located at the condominium complex. The Order expires on August 17, 2023.**

**Motion** to extend one year as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 5-0.

**15. Request for an Extension Permit on DEP File No. 55-839. The request is being made by SOLitude on behalf of Huntington Woods Condominiums. The project is aquatic maintenance and ecological restoration at waterbodies located at the condominium complex. The Order expires on August 22, 2023.**

**Motion** to extend one year as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 5-0.

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

**16. 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.**

**Present:** Attorney Richard Nysten

ATTY NYLEN: As you recall this is one hundred-year-old contractor’s yard. I have been in front of you for several months. We have put together a plan. We removed some of the debris that was outside. We fixed a catch basin. We also removed a considerable amount of debris and put-up straw wattles to protect against erosion going into the canal. (**Correction:** Attorney Nysten stated it is a canal. It is the North River and not a canal. It is regulated as a river and not a canal as cited in ORAD 55-877). We had another site visit after that work was done in May. The chairman and commissioner Rizzo commented that there was still some brick area that straddled the flood plain line. We removed that and put it on the outside of the flood plain. I don’t have the ability to share the screen, but I think everyone is aware of the site. It slopes down to the canal (North River). A portion of the site is in the flood plain. A substantial portion is outside. Our intent has been to move and make sure that any contractors’ material is always going to be outside of the flood plain. We have taken steps to do that. We have put in steel markers. We are looking to get the sign off from the commission so we can end the Enforcement Order. I think we have come into compliance with everything the commission has requested.

MR RIZZO: We tried to get an agreement relative to the Enforcement Order that the items in the EO were addressed. That was my understanding.

ATTY NYLEN: That is correct.

MR RIZZO: There was one matter that I have not been able to see because I have not been to the site. at the last meeting you talked about the addition of cleaning out the brick and cleaning the site up a little bit. We asked you to locate in that area the flood plain elevation and provide a physical marker that shows where the flood elevation is located. What is the elevation?

ATTY NYLEN: It is 15.7. If you recall, some of the confusion was when we originally put the stakes in, we weren't delineating the actual flood plain elevation. We were showing where it was. After we removed all the material, we went back, and we re-staked it. We spoke with Chris Mello. We confirmed now that the bottom of the stakes are at 15.7. So anything that is canal (river) side would be in the flood plain of those stakes. And anything that is landward is outside of the flood plain of 15.7. I did put that in a letter to the chair back before the ill-fated power outage meeting. You do have that on record. We replaced the wooden stakes with metal so they would be more permanent. We obviously are hoping, there is something in front of DEP to develop that property to change it from a contractor's yard. For purposes of now and being able to see where the line is and not knock it down. We changed it. When we had that site visit you are absolutely right. We had wooden stakes and we replaced those with metal stakes.

**Discussion ensued** about the metal stakes. They will draw a paint line and drill a hole at the correct FEMA elevations on each metal stake. The commission wanted to be on record stating that the site is not in compliance, but the proponent has addressed the items in the Enforcement Order.

**Motion** to withdraw the Enforcement Order as made by Mr. Vivaldi. Seconded by Ms. Green. Adopted unanimously 5-0. The withdrawal letter will be held until the commission staff confirms the posts have been installed appropriately (drill marks and paint).

**17. 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.**

**Motion** to withdraw the EO without prejudice as made by Mr. Vivaldi. Seconded by Mr. Comak. The motion passed 4-1 with Ms. Green voting present.

**18. 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.**

**NO DISCUSSION**

**Motion** to continue as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

**MINOR PERMITS AND TREES**

- **Minor Permit- 21 Glendale Avenue- deck rebuild (approved on 5.9.2023)**
- **Minor Permit- 262 Andover Street- remove old fencing and replace with new fencing (approved)**
- **Minor Permit- 5 Sutton Street- replace existing above-ground pool in riverfront (waiting for paperwork)**
- **Minor Permit- 16 Chestnut St- demolish and rebuild dilapidated garage in same footprint. (approved by BC on 7.5.23)**
- **Minor Permit- 263 Lynn Street (2nd level addition on existing footprint. (approved 6.6.23)**

**Motion** to accept Minor Permits as made by Mr. Comak. Seconded by Ms. Green. Adopted unanimously 5-0.

**OTHER ITEMS**

- **MINUTES- May 10, June 14 and July 12, 2023**

**Motion** to accept the minutes as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 5-0.

Motion to adjourn as made by Mr. Athas. Seconded by Ms. Green. Adopted unanimously 5-0. **The meeting adjourned at 9:07 PM**

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

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**Chairman Stewart Lazares**