



City of Peabody Conservation Commission

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

MINUTES

September 29, 2021
Via Zoom ID 844 1701 7455

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

Stewart Lazares
Bruce Comak (left at 10:20pm)
Travis Wojcik
Arthur Athas
Michael Vivaldi
Alt. RitaMarie Cavicchio
Alt. Amanda Green

MEMBERS ABSENT

Melissa Cantin
Michael Rizzo

Also Present: Lucia DelNegro, Conservation Agent

CHAIRMAN RIZZO CALLED THE MEETING TO ORDER at 7:10 pm

In the absence of Mrs. Cantin and Mr. Rizzo both alternate member Ms. Green and Ms. Cavicchio had voting rights.

NOMINATIONS

- Chairman- Stewart Lazares
- Vice Chairman- Michael Rizzo
- Secretary- Michael Vivaldi

Motion to accept nominations as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously 7-0. The new commission officers are listed above.

CERTIFICATES OF COMPLIANCE

1. **A request for a Full Certificate of Compliance as made by Sarah Ebaugh-Project Engineer (VHB) for DEP File No. 55-869. The project was upgrades and improvement to existing developed property located at 0 Warren St, 3 Berry Street and 0,15 & 18 Crowninshield Street, Peabody MA.**

Present: Sarah Ebaugh (VHB- engineer)

Summary: The project engineer gave a brief presentation.

Motion to issue a Full Certificate of Compliance on DEP File. No 55-869 with the following conditions in perpetuity: Signs along Berry St parking area shall remain in perpetuity; O&M and LTPPP in perpetuity; Snow storage plan in perpetuity and maintenance logs/Inspection reports of SWM system shall be emailed to staff annually on 10.31 as made by Mr. Vivaldi. Seconded by Mr. Athas. Adopted unanimously 7-0.

2. **A request for a Full Certificate of Compliance as made by Adam Buckley (property owner) for DEP File No. 55-806. The project was addition, deck, pool with deck for the property located at 12 Castle Circle, Map 62, lot 77, Peabody MA.**

Present: Adam Buckley (property owner)

Summary: The home addition has been constructed. The pool was never installed and will not be installed in the future. If the property owner wishes to install the pool at a later date, they will need to file an RDA. All other work was in compliance.

Motion to issue a Full Certificate of Compliance DEP file No. 55-806 as made by Mr. Wojcik. Seconded by Mr. Vivaldi. Adopted unanimously 7-0.

3. **A request for a Full Certificate of Compliance as made by Josephine Cooke (property owner) for DEP File No. 55-300. The project was site prep regrading and installation of lawn for the property located at 25 Glendale Avenue, Map 120, lot 27, Peabody MA.**

Present: Josephine Cooke (property owner)

Summary: The commission has already issued a Partial CC in 1992 stating loam and seed needs to be installed to obtain Full CC. The property is fully vegetated, and the owner wishes to clear her title.

Motion to issue a Full Certificate of Compliance on DEP File. No. 55-300 as made by Mr. Wojcik. Seconded by Ms. Green. Adopted unanimously 7-0.

4. A request for a Full Certificate of Compliance as made by Lisa Clarke (property owner) for DEP File No. 55-886. The project was the installation of an above ground pool with deck for the property located at 21 Tsitsinos Drive, Map 114, lot 139, Peabody MA.

Present: Lisa Clarke (owner)

Motion to issue a Full Certificate of Compliance on DEP file No. 55-886 adding condition #49 is perpetuity: *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 as made by Mr. Wojcik. Seconded by Ms. Green. Adopted unanimously 7-0.*

5. 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).

Motion to continue CC request on DEP file No. 55-793 until May 2022 as made by Mr. Vivaldi. Seconded by Mr. Wojcik. The motion passed 6-1 with Ms. Green voting No.

REQUEST FOR DETERMINATION OF APPLICABILITY

6. A Public Hearing on a Request for Determination of Applicability submitted by Glen Keenan (owner). The proposed work is a garage addition to an existing single-family house with a bedroom and bath above with minimal grading for slab floor. The property is known as 5 Bailey Terrace, Map 23, Lot 141A, Peabody MA.

Present: Glen and Kathleen Keenan (property owners) and contractor (name unknown)

Summary: On 9.23.21 abutters filed a complaint with MASSDEP regarding illegal discharge of pool water onto abutting lots. Property damage occurred. The Conservation Agent was on vacation. The abutters felt time was of the essence and reported the violation to the state. The pool was installed without commission approval in 2012. The building permitting software has had issues for many years. Presently the software is functioning properly. **Discussion ensued** regarding the pool being a chlorine pool or a saltwater pool. The item was open to members of the public.

Cynthia Beacom, 2 Patricia Road

MS BEACOM: I have no problems with the building of the garage. My only concern is that I don't want any additional flooding. That stream does exist when it rains. This season was very wet. My yard gets completely flooded. That is my only concern. I just don't want any additional flooding.

Katholiki Chakoutis 4 Patricia Road

MS CHAKOUTIS: In the back of my house when they started to build those houses on Bailey Street they put a brook. It has always been a brook and running water. I believe the water is coming from Reading. When they started to build those homes the city of Peabody put a drain underground and goes to Patricia Road. My question is one the brook was always clean water. If

Mr. Keenan, and I am not against him putting in an addition. My only request is when he empties his pool water.

Discussion ensued regarding the pool water being discharged into the stream and abutting lots. The abutters asked if the commission could require the applicant or the city to do something to alleviate the flooding on the property.

Elizabeth Caron, 6 Patricia Road

MS. CARON: I know there was a mistake by the pool contractor. Kiki mentioned there was a problem previously regarding the pool situation. The contractor had mentioned that it was an "order" for him to let the water go that way. The water goes to that location and it feeds underneath into my basement. My sump pump is on the other side of the house. The water found a way to tunnel in from the basement from that area. When it rains the stormwater, pool water and excess water has created gully there. It fills up and then takes a while to go down. What happens with all that rain we got it gullies into that area. I need something there as a barrier to catch either the pool water or stormwater. Whatever is happening because it is affecting me now.

MRS KEENAN: The pool water will never do that again. It was absolutely on us. It will absolutely go down the drain. I did go over and speak with both neighbors on that day. Liz did not mention that it was in her basement at the time. I just want you to know that all the other times you got water we are not emptying our pool constantly. It is just when the pool is closed each year. What we are talking about is not pool water. It is rainwater.

Discussion ensued regarding groundwater levels and properties flooding in the surrounding neighborhood. The commission explained that going forward that 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. They gave them permission to drain into the catch basin on Bailey Terrace per the City's Stormwater System Ordinance. Chairman Lazares suggested the abutters report clogged catch basins to DPS to remove obstructions. He directed the abutters to the city's website and storm drain "button."

Nicole Surette, 5 Patricia Road

MS SURETTE: I am across the street from Liz Caron and Kiki. When the drain across the street gets leaves it comes over to our driveway side. It comes up into our driveway and flooded my garage a few times. My concern is about the wetlands. Are we going to get someone out before they dig or do any of that to see where the wetlands are? We are on that slope on Patricia Road. It floods even without the leaves. If we get a big storm or a lot of rain it does go there. It fills up and comes across the street onto my side and goes into the drain. That floods as well. We are on the slope. I go out and clean them (catch basin) on the outside.

Discussion ensued. The commission did not require any stormwater retention on site for the addition.

Motion to close the public hearing as made by Mr. Athas. Seconded by Mr. Vivaldi. The motion passed 7-0.

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 as made by Mr. Athas. Seconded by Mr. Wojcik. The motion passed unanimously 7-0.

7. A 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.

Motion to continue to the October 13 hearing as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted unanimously 7-0.

NOTICES OF INTENT

8. A 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.

Present: Kevin Donahue (Cargo Ventures), Karen Staffier (VHB-engineer), Laura Laich (VHB-wetland specialist), Attorney John R. Keilty (legal counsel)

Summary: The applicant's consultant gave a brief presentation. The proposed project is the removal of existing building/structures on the six (6) acre site. The applicant plans to construct a sixty thousand (60,000) square foot warehouse facility. **Discussion ensued** regarding the infrastructure under the property and resource areas and their associated buffer zones. They are reducing impervious areas in the riverfront by about six thousand (6,000) square feet. They will need a special permit from City Council. They also need Planning Board approval. **Discussion ensued.** Since the NOI and development will be peer reviewed the consultant requested a continuance to the November 17th hearing. There were no members of the public that wished to speak for or against the project at this time.

Motion to continue until November hearing as made by Ms. Green. Seconded by Mr. Vivaldi. The motion passed unanimously 7-0.

9. 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

Motion to continue until the November hearing as made by Mr. Vivaldi. Seconded by Mr. Wojcik. Adopted unanimously 7-0.

10. A continued Public Hearing on a Notice of Intent submitted by LEC Environmental Consultants, Inc. (Andrea Kendall) for Sumco Eco-Contracting LLC (Richard Sumner). The applicant proposes site preparation activities in support of future development by others. Given the size, topography and configuration of the property and the goal to maintain/improve the existing contiguous forested vernal pool buffer the project footprint

of any development will need to occupy the north and west portions of the site and will result in permanently impacting the western quarry hole. Replication is proposed for lost resource areas. The property is known as 0 & 51 Jubilee Drive, Map 81, Lot 003 and Map 91, Lot 012, Peabody MA.

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

Documents:

- ▶ Conceptual Layout Plan A prepared by Bohler Engineering (no stamp) dated 9.9.2021.
- ▶ Overall Wetland Replication Exhibit sheet 1 prepared by Bohler Engineering, stamped NO STAMP with a revision date of 9.9.21 (no scale).
- ▶ Wetland Replication Exhibit sheet 2 prepared by Bohler Engineering, stamped by NO STAMP with a final revision date of 9.9.21 (no scale).
- ▶ Notice of Intent Application & Wetland Resource Area Analysis dated June 22, 2021 Sections 5 and 6 pages 12-16.

Summary: The discussion from the last hearing continued. The consultant provided feedback to MASSDEP's original comments on the proposed project. Although there is not a potential buyer the consultant displayed and discussed a conceptual plan for redevelopment.

MR VIVALDI: What is the timeline for the filling and regrading of the wetland replication area?

MS KENDALL: The goal that we are proposing is not to do any of the impacts to the quarry or construct the wetlands replication until there is a valid Order of Conditions issued for the future site development. What we would do in the interim is to install the plantings in the vernal pool buffer as we previously described in the NOI. We would establish the no-disturb markers in the field.

Discussion ensued.

CMMR: LAZARES: To repeat, you said no work on the land will begin until the property is sold and they will take care of doing all this work?

MR. TURNER: That is correct, right Andrea?

MS KENDALL: My understanding, maybe Chad can verify, the vernal pool establishment of the no-disturb zone.

CMMR LAZARES: You will do that before you sell it?

MR TURNER: Correct. The reestablishment of those buffer zones which have been degraded and interior to that pink line. There is an area in here that you can see that shadowed area. That would be infilled with restoration plantings. This in cut here and this open area here would be restored immediately. The conservation markers established. Then no further work commencing until has issued an approval for a future development program.

Discussion ensued. The applicant stated they would not want to replicate the BVW area until Springtime anyways. The current plan is conceptual and subject to change. There were no members of the public that wished to speak for or against the project. The commission felt they could vote favorably adding special conditions. A revised plan must be submitted/approved before release of Order (showing rendering of VP sign, granite posts and revise typo in note section).

Motion to close the public hearing as made by Mr. Vivaldi. Seconded by Mr. Comak. The motion passes unanimously 7-0.

Motion to issue Order of Conditions 1-50 with the following special conditions: #50 work and maintenance shall be done in accordance with the following plans and reports: ► Conceptual Layout Plan A prepared by Bohler Engineering (no stamp) dated 9.9.2021, ► Overall Wetland Replication Exhibit sheet 1 prepared by Bohler Engineering, stamped TBD with a final revision date of TBD (no scale), ► Wetland Replication Exhibit sheet 2 prepared by Bohler Engineering, stamped by TBD with a final revision date of TBD (no scale), ► Notice of Intent Application & Wetland Resource Area Analysis dated June 22, 2021 Sections 5 and 6 pages 12-16 attached hereto; **51)** A Wildlife Sweep of the quarry hole and surrounding area must be performed before the quarry hole is filled. A sweep is a visual inspection of the entire active site before equipment mobilizes and ground disturbing activities begin each day to make sure there are no reptiles in the area and if any are observed, to document them and safety relocate nearby but off the active site. Sweeps are a good simple way to check that wildlife is out of the construction area before work begins (check for bird nests [before trees are removed], net for anything living in the quarry before it is abandoned and specifically look for the following species: spotted turtle, wood turtle, black racer snake, frogs and eastern hognose snake.); **52)** The quarry hole alteration (ILSF) and BVW replication CANNOT commence until a favorable Order of Conditions for future site development is issued and past all appeal periods; **53)** The vernal pool buffer zone-no disturb zone signs (shown around the vernal pool) must be installed on **granite posts** (3 feet in the ground; 3 feet above grade). The sign shall have a steel VP marker on top and a sign no smaller than 1 square foot with the wording "VERNAL POOL-DO NO DISTURB"; **54)** The vernal pool buffer zone enhancement area and the no disturb granite posts MUST be planted and installed immediately or as soon as practicable after the issuance and appeal period of this Order;

Checklist L – Projects Which Alter Bordering Vegetated Wetlands (BVWs), **1.** The compensatory Bordering Vegetated Wetland shall be constructed prior to any filling of wetlands, **2.** All revegetation of Resource Areas shall be performed according to the replication plan on file and dated TBD. The proposed replacement area shall meet or exceed the General Performance Standards outlined in Section 10.55(4)(b)-7 of 310CMR. Should the replacement area fail to meet any of these standards the Commission reserves the right to require measures necessary to achieve compliance, **3.** A wetland specialist shall be on site during construction of the wetland replication area and shall supervise its construction. Two reports prepared by the Wetland Specialist shall be submitted annually to the Commission by May 1st and September 1st of each year for two years. Each report shall include an observed species list, relative abundance of each species, percent cover of wetland and upland species, the visibility of the plantings and proposed remedial measures to ensure that at least 75% of the surface of the replication area be re-established with indigenous wetland plant species within two growing seasons. Said report shall include enough photographs for proper coverage of issues/points being addressed. If monitoring data indicates that this objective cannot be met, a corrective plan of action shall be submitted to the Commission for approval and implemented under the supervision of the wetland specialist. No certificate of compliance will be granted by the Commission until such time as the replacement area has been found to meet these standards as made by Mr. Athas. Seconded by Mr. Wojcik. Adopted unanimously 7-0.

VIOLATION ORDER

11. UPDATE ON: Shirat Hayam Bethel Cemetery Lowell St- Wetland Mitigation Report/pictures – the violation was dumping of soil and other earth refuse in buffer zone.

Present: Anna Hathaway (representative for the cemetery)

Discussion ensued.

Motion to withdraw the VO as made by Mr. Wojcik. Seconded by Mr. Athas. Adopted unanimously 7-0.

ENFORCEMENT ORDER/VIOLATION ORDERS

12. A Continued 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.

Present: William Manuell (Wetlands & Land Management Inc) and Daniel Ruiz (owner)

Discussion ensued.

Motion to withdraw the EO as made by Mr. Wojcik. Seconded by Ms. Green. Adopted unanimously 7-0.

13. 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.

Summary: The commission discussed the EO. Chairman Lazares and Commissioner Wojcik will reach out to the city solicitor to find out how he would like to handle the situation.

OTHER AND DISCUSSION ITEMS

▶ **Stewart Lazares-** The chairman gave an update on the CPC filing for the restoration of Peabody Lakes & Ponds (Mill and Elginwood only at this time). The mayor is presently reviewing the contract. Once it is signed an NOI will be drafted by SOLitude in the next few months and presented at a public hearing. At the hearing the commission will determine where the refuse from the project will be stored and all special conditions that would be required.

▶ **TREE REQUESTS- NONE**

▶ **MINUTES- June 16 and August 4, 2021 remotely**

Motion to approve as made by Mr. Athas. Seconded by Mr. Vivaldi. (Motion passed 6-1 with Mr. Comak leaving the meeting early)

▶ **Adjournment**

Motion to adjourn as made by Mr. Wojcik. Seconded by Ms. Cavicchio. (Motion passed 6-1 with Mr. Comak leaving the meeting early). The hearing adjourned at 10:29 PM

Respectfully submitted, (To be signed electronically)

Chairman Stewart Lazares