

**DEPARTMENT OF ENVIRONMENTAL PROTECTION  
WETLANDS PROGRAM  
Notice of Wetlands Variance Application pursuant to  
M. G. L. Chapter 131 Section 40**

**Applicant: Mr. Stephen Peabody, Trustee, Peabody Family Trust**

**Project Location: 16 51<sup>st</sup> Street, Newbury, MA**

**DEP File No.: NE 050-0562**

**Scheduled Public Hearing: Thursday, March 20, 2008**

**Public Comments Deadline: Tuesday, April 8, 2008**

**NOTIFICATION DATE: March 12, 2008**

Notice is hereby given that a request is being made of the Department of Environmental Protection (MassDEP) to waive the wetlands protection regulations by Mr. Stephen Peabody, Trustee of the Peabody Family Trust for property at 16 51<sup>st</sup> Street in Newbury, MA. This request seeks a variance of the Wetlands Protection Act (MGL c. 131 §40) and the associated wetland regulations (310 CMR 10.00). The applicant has requested a variance pursuant to 310 CMR 10.05(10)(a)3, which allows the Commissioner to issue a variance that is necessary to avoid an Order that so restricts the use of property as to constitute an unconstitutional taking without compensation.

The variance request is for the construction of a single-family house and deck on pilings, and a driveway and parking area at 16 51<sup>st</sup> Street in Newbury MA in coastal dune and other coastal resource areas. The site is approximately 200-feet from the Atlantic Ocean. On March 12, 2002, MassDEP issued a Superseding Order of Conditions denying the project, and on January 25, 2006, the MassDEP Commissioner issued a Final Decision denying the project. On June 26, 2007, the County of Essex Superior Court issued a Memorandum of Decision and Order on an appeal of the Commissioner's decision, affirming the decision of the Commissioner.

The Department of Environmental Protection, Wetlands Program, will conduct a public hearing on the aforesaid project proposal at 9:30 am on March 20, 2008 at the Newbury Town Hall, 25 High Road, Main Meeting Room, Newbury MA 01951. A site visit will follow the hearing for those interested in attending. The Department will conduct this public hearing in order to receive information to be used in its decision on whether to grant a Wetlands Variance pursuant to 310 CMR 10.05 (10). A site visit will follow the hearing for those interested in attending.

The Department will consider all written comments on this Wetlands Variance application received by Tuesday, April 8, 2008 (Public Comments Deadline). Within ten days of the date of issuance of the Commissioner's decision on the variance, any person who submitted comments during the public comment period may, according to the procedures specified in 310 CMR 10.05(7)(j), request an adjudicatory hearing on the decision.

Additional information regarding this application may be obtained by contacting the Wetlands Program at (617) 292-5512. Project plans and documents for this application are on file with the Wetlands Program for public viewing, by appointment only, at the address below. Copies of the application can be obtained from Mr. Stephen Peabody at [sdpeabody@yahoo.com](mailto:sdpeabody@yahoo.com) Written comments must be addressed to: Lisa Rhodes, Environmental Analyst, MassDEP Wetlands Program, One Winter Street - 6th Floor, Boston, MA 02108.