



TOWN OF PALMER CONSERVATION COMMISSION

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Tharyn Nein-Large, Chair
Donald Duffy, Vice Chair
Peter Izyk
Sarah Brodeur
David Cotter

Agent: Angela Panaccione

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MEETING MINUTES

TUESDAY JANUARY 5, 2016 @ 7:00 PM

Members Present: Tharyn Nein-Large (Chair)
Peter Izyk
Sarah Brodeur
Dave Cotter
Angela Panaccione (Agent)

Members Absent: Donald Duffy (who has recused himself from all Palmer Motorsports Park proceedings)

Also Present: John Furman, PE Managing Director of VHB Springfield
Chris Wagner, VHB Environmental Consultant
Mike Maeciniec, Chair Palmer Planning Board
Sheryl Jyringi, 20 West Ware Road
Debbie Sourdif, 385 Rondeau Road
Marcus Nutter, 385 Rondeau Road
Brad Miner, 118 Town Farm Drive, Warren, MA
Ginger Perrier Miner, 118 Town Farm Drive, Warren, MA
Fred Ferguson, Palmer Motorsports Park, LLC.
Johnathan Fryer, Palmer Motorsports Park, LLC.
Daniel Moeller, J. Read Corporation
Donald Frydryk, Sherman & Frydryk, LLC.
Douglas Farmer, Turley Publications
Jim Russell, The Republican
Michael J. Baril, Warren, MA

Meeting Opens: 7:00 PM – Tharyn Nein-Large (Chair)

7:00 PM Administrative Hearing – Violation: Palmer Motorsports Park; Septic System

Chairman Tharyn Nein-Large opened the administrative hearing to discuss the violations that have occurred with the soil absorption system (SAS) installation and assess possible fines. Nein-Large stated only concerns dealing specifically with the installation of the septic system would be addressed.

At the previous Commission meeting held on December 17, 2015 the Commission voted unanimously to retain VHB as their outside consultant to review the SAS for compliance with the negative determination and the approved plans and documents. An initial Site visit was conducted on December 17, 2015 and included representatives from the Applicant, the contractor performing the work, and VHB, as well as all Commission members except Donald Duffy and the Commission's Agent, Angela Panaccione. The initial Site visit was held to view the current state of the septic system, and to inform the Applicant to stop work on the system until any potential violations could be reviewed by VHB and discussed at the next scheduled public hearing held by the Commission. An additional field assessment of the area was conducted on December 31, 2015 by VHB consultant Chris Wagner and the Commission's Agent, Angela Panaccione to observe the existing conditions on the Site and to document any potential violations committed by the Applicant, Palmer Motorsports Park, LLC, with respect to the Determination of Applicability (DOA) issued for the Project, along with attached conditions.

VHB Environmental Consultant Chris Wagner presented his findings from the December 31 inspection to the Commission:

The septic system has been substantially constructed. The system itself has been put in place and most major earth work has been completed. However, final grades have not been established, and no riprap has been placed on the side slopes of the mounded system. A portion of the northeastern slope of the system is covered by a large pile of stumps, slash, and other evidence of vegetation clearing. A pile of tree trunks is also present at the base of the slope. The rest of the side slopes around the system consist of unvegetated bare earthen slopes. Portions of the construction area are within the 100-foot buffer zone to Bordering Vegetated Wetlands (BVW), and thus the area falls under the jurisdiction of the Massachusetts Wetlands Protection Act (WPA) and the Palmer Wetlands Protection Ordinance (WPO). VHB has found the following issues of noncompliance with the DOA.

Discrepancies with Site Plans

The system does not appear to have been constructed in accordance with the site plans provided with the RDA. In particular, two issues were noted at the December 31 Site visit:

There is substantial fill in an area between the race track and the system. The Site Plans show an isolated, mounded system set back from the edge of the race track, with a distance of approximately 50 feet between the track and the limit of mounding of the system at its closest point (the southeast corner), widening to approximately 70 feet between the track and the system at the southwest corner. The mounded system was to grade from approximately 852 feet in elevation down to approximately 848 feet, where it would join existing grades (see Site Plans, Sheets 3 and 4). The area in between the track and system was to remain undisturbed, except for an area approximately 35 feet wide across to permit access to the work area. The area in question has been completely cleared of all vegetation and has been completely filled in.

The system appears to have been constructed closer to the wetland than what was established in the DOA and shown on the Site Plans. The Site Plans (Sheet 4) show a limit of work line that, at its closest point, is approximately 13 feet away from the 50-foot offset to Bordering Vegetated Wetlands (BVW) on the Site, giving a total distance of 63 feet from the limit of work to BVW. This distance is also noted in the DOA issued by the Commission, which states: "The limit of work for the system is 63 feet from the edge of wetland. The area between the system and the wetland includes no less than 63 horizontal feet of forest." However, measurements were conducted in the field that show the current toe of slope of the system to be closer to the wetland. Measurements were made with a 100-foot tape from the existing toe of slope to four wetland flags which were found in the field (A166, A171, and two unlabeled flags). The measurements are as follows: A165 (likely – no

#) = 23 feet (slash pile); A166 = 31 feet (pile of tree trunks); A171 = 56 feet (toe of slope); A173 (likely – no #) = 43 feet (toe of slope).

Also the erosion controls were deficient in several locations and do not appear to have been installed within the last year at a minimum, and the straw wattles in particular have degraded to a point where their functionality is compromised. The silt fencing has been torn or has collapsed in at least one section, allowing sediment into the wetland beyond. On the December 31 Site visit, water was observed flowing over a collapsed section of silt fencing along the edge of BVW, near flag A171. Sediment was directly observed in the BVW. Another section of silt fencing near flag A166 is not toed in properly.

In addition to the issues noted above, several other components of the Project were out of compliance with the conditions attached to the DOA issued by the Commission and the Conservation Agent Angela Panaccione continued the discussion by presenting additional information and video documentation to the Commission of the on-going violations. The Agent also outline the individual conditions of the determination violated; which include conditions 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, & 15.

Additionally, a drainage pipe of sorts is discharging a continuous heavy flow of water to the area the SAS is located. The force of the water exiting this pipe is causing significant erosion of the system into the nearby BVW.

Chair of Palmer’s Planning Board Mike Marciniac and John Furman, from VHB both stated and concurred that they reviewed all site plans, and amendments submitted by Palmer Motorsports Park and the stormwater outfall was not depicted on any plan since 2007. Marciniac further stated the original special permit for the track issued but the Planning Board in 2007 did not incorporate a stormwater management plan. The track was to have country drainage (sheet flow drainage).

No individual present representing Palmer Motorsports Park or J Read Corporation could identify the source of the drainage pipe coming off the track.

Johnathan Fryer, Attorney to Palmer Motorsports Park attempted to argue the Commission did not have jurisdiction over the septic system if it received Board of Health approval, but the Agent informed him the Commission always has jurisdiction over the “work” required to construct the system if it is located within 100-feet of a resource area.

Dan Moeller, contractor for J Read Corporation presented an as built sketch to the Commission for the SAS system. According to his sketch, the system was constructed per the approved site plan and GPS located accordingly. The Agent explained that was not possible based on on-site measurements from the flags to the system. Muller than argued the flags the Agent was measuring from were not the correct flags. The Agent & VHB stated they were, in fact two of the flags still had the original flag numbering visible.

Motion made by Sarah Brodeur to find Palmer Motorsports Park & J Read Corporation in violation of the Negative Determination issued on March 19, 2015 and to issue an Enforcement Order, dated January 5, 2016 outlining the various violation and requiring a Restoration Plan detailing how the violator will come into compliance with 1/19/2015 approved site plan and special conditions.

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0 – Motion Carries

The Commission proceeded to assess and total the possible fines to date for the various violations. The fine was based upon \$300.00 per violation, per day; commencing the day on which the violation has been confirmed by the Commission or its Agent (December 8, 2015). Each provision of the approved site plan and special

conditions violated constituted a separate offense. Violations include, but are not limited to failure to comply with the Negative Determination, including failure to observe a particular condition, requirement or time period specified in the Conditions; failure to complete work as described in the Approved Site Plan and Project Description; and failure to construct the system in accordance with the Approved Site Plan and Project Description when such failure causes damage to the interests identified in the Act & Ordinance;

Motion made by Sarah Brodeur to assess the current fines for violations to the approved site plan and special conditions at \$304,500; to both Palmer Motorsports Park, LLC and J. Read Corporation; to be issued to each independently

Motion seconded by David Cotter

No further discussion – vote taken: 4-0-0 – Motion Carries

8:20 PM Administrative Matters: Mail, Reports, Projects, Monitoring, Enforcement, Site Visits

Motion made by Sarah Brodeur to table all other matters to the next scheduled meeting

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0– Motion Carries

Next Meeting Date: Tuesday January 19, 2016 at 7pm

Meeting Adjourned: 8:23 PM

Motion made by Sarah Brodeur to adjourn at 8:23 PM

Motion seconded by Peter Izyk

No further discussion – vote taken: 4-0-0– Motion Carries

Sincerely Submitted,
Angela C Panaccione, Conservation Agent