



TOWN OF PALMER CONSERVATION COMMISSION

Palmer Town Building
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Tharyn Nein-Large, Chair
Donald Duffy, Vice Chair
Peter Izyk
Sean O'Donnell
Sarah Brodeur

Agent: Angela Panaccione

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MEETING MINUTES

TUESDAY OCTOBER 6, 2015 @ 7:00 PM

Members Present: Tharyn Nein-Large (Chair)
Donald Duffy (Vice Chair)
Peter Izyk
Sarah Brodeur
Angela Panaccione (Agent)

Members Absent: Sean O'Donnell

Also Present: Mario Biagetti, 35 Cedar Hill Street
Eric Levesque, Juliano's Pools
Jon Callahan, Palmer Paving Corp.

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

7:00 PM Request for Determination(RDA) 35 Cedar Hill Street – Juliano's Pools; Pool Construction

A Request for Determination of Applicability submitted by Juliano's Pools c/o of Mario Biagetti of 35 Cedar Hill Street, Palmer, MA 01069. to see if the work proposed to install an in ground swimming pool and shed in the buffer zone is subject to the Wetland Protection Act and the Town of Palmer Wetlands Ordinance. The location of the proposed project is 35 Cedar Hill Street, Palmer, MA 01069 and is also known as: Map 8-64-1.

Tharyn Nein-Large opened the public hearing and the property owner Mario Biagetti and Eric Levesque, of Juliano's Pools were present at the hearing.

This filing is an "after the fact" filing as a result of a violation. Approximately 500 SF of a Bordering Vegetated Wetland (BVW) of an intermittent stream was altered through the direct placement of fill from excavation required to install an in ground pool. The RDA is to retroactively permit the pool installation, as well as a proposed shed located on the pool apron. The pool system is a closed system, with no backwash filter. All work was proposed in a previously existing lawn, and would have been considered exempt from filing if a violation had not have occurred.

The Commission discussed the status of the violation with the parties. The unauthorized fill has been removed from the BVW and transported off site. The Agent conducted a follow up inspection on 9/15/2015 and noted the BVW vegetation cover was still present. In spring of 2016 the Agent will conduct an additional inspection

to confirm the area has naturally revegetated with native wetland species. If at this point it is apparent the area will NOT naturally revegetate, a detailed Restoration Narrative including a 1:1 replacement of all vegetation lost within the BVW and the 50-foot “No Disturb Zone”, will be required.

Motion made by Sarah Brodeur to a Negative Determination, Box 3; finding the work going forward will not alter an area subject to protection

Motion seconded by Donald Duffy

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

7:07 PM Administrative Matters: Minute Approval – September 1, 2015

Motion made by Donald Duffy to accept the minutes from Tuesday September 1, 2015 as corrected

Motion seconded by Peter Izyk

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

7:10 PM Administrative Matters: Payable – Roberts Printing \$13.50

Motion made by Donald Duffy to approve the payable to Roberts Printing in the amount of \$13.50, for the printing of the 2015 Source to Sea flyers

Motion seconded by Sarah Brodeur

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

7:12 PM Request for an Extension DEP #256-0239: Lake Thompson Aquatic Vegetation Control

The Commission received a request for an extension to the Order of Conditions DEP # 256-0239, submitted by Aquatic Control Technologies (ACT), on behalf of the Lake Thompson Civic Association, for the continued maintenance of the aquatic vegetation in Lake Thompson. This Order is due to expire on October 22, 2015 and the applicant is requesting a three (3) year extension to continue with the aquatic control.

Lycott Environmental has previously conducted treatments at Lake Thompson in accordance with the above referenced Order by providing notification to the Commission prior to herbicide applications and conducting biological surveys as required. All applications have been undertaken by licensed professionals of Lycott’s team in accordance with the manufacturer’s label. A “License to Apply” has been acquired from the Division of Watershed Management at MassDEP in Worcester on an annual basis.

The Commission discussed the request and determined a new NOI would be required to continue with the herbicide applications. The permit is over 11 years old, and in that time there can be many changes to the water quality, wildlife, vegetation, and invasive species present on site that warrant a new review of project.

Motion made by Donald Duffy to deny the request for an extension, for Order of Conditions DEP # 256-0239

Motion seconded by Sarah Brodeur

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

7:12 PM Request for an Extension DEP #256-0248: Brenton Estates – Quaker Lane Subdivision

The Commission received a request for an extension to the Order of Conditions DEP # 256-0248, submitted by Sherman & Frydryk on behalf of Brenton Estates, for the proposed Quaker Lane Subdivision, located off Flynt Street in Palmer, MA 01069. The current OCC is expired on September 28, 2015 and the applicant is requesting a three (3) year extension

to complete the proposed work. The applicant's intent is still the same, to construct a subdivision access road with associated drainage. Work on the road has commenced and is anticipated to be completed within the next two (2) years.

No person was present to discuss the extension request. The Commission will revisit the issue at the next meeting. The Agent will conduct a site inspection of the subdivision access road to see how much has been completed. If a substantial amount of work has been done, the Commission will grant an extension. If there is no development at all, the applicant will be required to refile.

7:55 PM Amended Notice of Intent DEP # 256-0286: Palmer Paving Corp; Old Warren Road

A request to amend a Notice of Intent submitted by Sherman & Frydryk c/o Palmer Paving Corp, to amend the existing Order of Conditions, DEP #256-0286, for the proposed earth removal permit. The amendment is proposed to incorporate an additional parcel into the current earth removal operation. The location of the proposed project is on Old Warren Road & Boston Road Palmer, MA 01069, and is also known as: Map 21-7-10; Map 21-7-1 and Map 27-2.

A site visit was conducted by the Agent, Commissioner Sarah Brodeur, Don Frydryk (Sherman & Frydryk), and Mike Shea (Palmer Paving) on 9/22/2015.

Tharyn Nein-Large opened the public hearing Jon Callahan, of Palmer Paving was present at the hearing. No representative from Sherman & Frydryk was present. Callahan was amenable to a continuance until a Representative could be present to present the revised earth removal plans.

The original Order of Conditions was issued to New England Construction Equipment Co, dated February 16, 2011. Under the Permit Extension Act this OOC is valid until 2018. Palmer Paving is the new owner, and requested the amendment to incorporate a new parcel into the earth removal operations. The amendment also proposed a possible additional access off Rt. 67 and two new stormwater basins.

The Agent identified her one area of concern on the site plan as the limit of grading extending into an abutting parcel (21-7-1) owned by Johnson, and request the applicant provide the Commission with documentation from the property owner that a grading easement was allowed on their property.

The Commission also discussed past conversations with Palmer Paving about the donation of this parcel to the Commission upon completion of the gravel operation. Jon Callahan did not provide comment on the matter,

Motion made by Sarah Brodeur to continue the Public Hearing until October 20, 2015 at 7:00 pm

Motion seconded by Peter Izyk

No further discussion – vote taken: 3-0-1 (DD Abstains) – Motion Carries

7:35 PM Administrative Matters: Mail, Reports, Projects, Monitoring, Enforcement, Site Visits

1. Possible Violation – Katie Lane: The building inspector notified the Agent of a possible violation on Katie Lane. There appears to be recent excavation occurring in the front lots, in the designated Riverfront Area. The agent reviewed the file and spoke with Mass DEP. The section of stream flowing through the lots where excavation is occurring was classified as intermittent during the original permitting of the subdivision. If the stream is intermittent, then the current excavation is not a violation since it is outside the 100-foot buffer zone.
2. 54 French Drive: Amanda Cooper supplied the Commission with the recording information for the “As-Built” site plan for 54 French Drive. The site plan was recorded on September 11, 2015 at the Hampden County Registry of Deeds Book: 373, Page: 115. This was the last outstanding requirement of the

previous enforcement orders issued against the Coopers. Presently, any and all requirements regarding 54 French Drive have been met and there are no outstanding violations.

Motion made by Sarah Brodeur to lift all violations of the WPA & PWO, and levy all associated fines (from 9/17/2012 & 9/5/2013) at 54 French Drive, Palmer, MA 01069 (Map 68-60).

Motion seconded by Peter Izyk

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

3. Intern Project: UMASS students Emily Lessard and Victoria White are serving as Conservation Land Management interns this fall. Emily & Victoria will be working together on an inventory of Midura Conservation Land, including working on the Land Management Portfolio for the area, as well as inventorying trails and identifying area for acquisitions. A portion of the project will include abutting landowner outreach about land conservation efforts and options. The Agent will meet with the Interns on October 8, 2015 to discuss their progress to date. At this time she will provide the interns with the wildlife cameras to be placed at Midura, by Kings Brook, to help identify the species that use the area. The interns will strategically place the cameras at areas where the floodplain forest is wide and the topography supports easy passage.
4. Midura Extension: The Agent attended the Town Council meeting on September 14, 2015 to request a letter of support from the Town Council, to Mass Dot, requesting the transfer of the Brainerd parcel to the town to be permanently protected as conservation land. Town Council unanimously voted to support the transfer and send a letter to DOT. There was also an article about the meeting in the Journal Register. The Agent is also in negotiations with the Lizaks about the possible donation of another parcel off Old Warren Road to connect to Midura. The Agent also located a file from 2001 about a donation of the Bergeron-Burns parcel to the Commission, which never appears to have been followed through with. Donald Duffy informed the Commission the property was in tax title, but the owner was going to donate it to Conservation in lieu of paying back taxes. A 2002 special town meeting vote unanimously approved the acquisition, but the Board of Selectmen at the time did not sign the purchase and sale agreement or the deed. Duffy stated the property is still in tax title and to speak with the Tax Collector.
5. Lori Anthony Complaint: Lori Anthony informed the Commission Blake Lamothe's fence has been lowered to the ground again, and is no longer raised the required 8" for wildlife passage. She supplied pictures to the Commission. The Agent contacted the Town Attorney to schedule a site visit as per the conditions of the settlement agreement. The Town Attorney instructed the agent to schedule a visit for the Commission and invite Lamothe to attend a meeting to discuss the violation and the settlement agreement. The Agent will schedule a site visit with Lamothe and request his attendance at the 10/20/2015 meeting.
6. Water Street Water Quality Sample: The Agent has begun collecting water sample from the Water Street field. The sampling is to inform watershed residents on the recreational health of the rivers in the basin. These first sites (3 on the Chicopee, 3 on the Quaboag) are in areas where paddling "Blue Trails" are being planned. Results are posted on "Is it Clean, a site in partnership with CRWC/PVPC. The sample readings are as follows: 7/23:275.5, 8/6:325.5, 8/20:461.1, 9/3:275.5, & 9/17:146.7. Results are posted at <http://www.chicopeewatershed.org/> and there is a special thanks to the Commission for helping fund the sampling. Keith Davies compiled a monitoring report of all the sampling data, which the Agent will forward to the Commission for review. The geometric mean count for Water Street over the 5 part sampling period was 278.36; which is clean for boating but not swimming.

7. 2015 Source to Sea Clean-up: The Commission hosted a cleanup of the Swift River as part of the 19th Annual Source to Sea Cleanup on Saturday September 26, 2015. The Source to Sea Cleanup is an annual trash cleanup of the Connecticut River system – rivers, streams and banks, parks, boat launches, trails and more. The event was a success. Volunteers (with help of Palmer DPW) were able to remove two mattresses, a box spring, a recliner, several tires, a pool liner, a computer monitor, as well as 20 bags of trash. If the Commission decides to participate in the event next year planning will begin in July and the commission will try to secure tee-shirts, as well as a possible gift certificate for the volunteer who collects the most trash or finds the largest item. There was also an article about the event in the Journal Register.
8. Notice of Utility Line Maintenance: The Commission received notice from National Grid about utility line maintenance on State and Emery Street. The work entails pole upgrades in the vicinity of the new solar arrays. All proposed work is exempt from the WPA.
9. Sean O'Donnell: Sean O'Donnell has not attended a Conservation Commission meeting since December 16, 2014. The Agent has reached out to him several times and has not received a response. She has email him, called him, texted him, and has even sent regular mail to his address on file requesting he inform us if he has moved and requesting he resign if he is no longer interested in serving on the Commission. The Commissions quorum is determined by the number of Commissioners appointed, and with Sean still appointed the Commission has run into quorum issues several times, resulting in cancelled meetings on more than one occasion.

Motion made by Donald Duffy to request the Town Manager/Town Council remove Sean O'Donnell from the Commission

Motion seconded by Peter Izyk

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

10. Countryside Acres: Cheryl O'Dell, President of the Countryside Acres Homeowners Association request a site visit to inspect the stormwater structures for the subdivision and supply recommendation for any required maintenance. The Agent conducted a site visit on October 6, 2015 and provided the following recommendations: Remove accumulated sediment from the swale that goes from Rt.32 to Basin A. Cut back the vegetation in the swale and add tap rock in the areas identified at the site visit. Mow and remove accumulated sediment from Basin A, C and D. Also, cut back the vegetation on swale C and ensure the inlet to Basin C is open. O'Dell will notified the Commission when all required work is completed to request a follow up inspection.
11. Permit Guide & Website Updates: Table until 10/20/15
12. Forest Management Policy and Proposed Timber Harvest: Table until 10/20/15
13. EO 562: On March 31, 2015 the Baker Administration announced Executive Order 562 (EO) (To Reduce Unnecessary Regulatory Burden). This EO requires all government agencies to review all regulations (CMRs) and demonstrate that each one 1. Has a clearly identified need best addressed by the agency; 2. 5 Cost of the regulation don't exceed the benefits; 3. Regulation doesn't exceed federal requirements or duplicate efforts; 4. There are no less restrictive alternatives; 5. The regs don't adversely affect MA competitiveness; 6. The agency has an established process and schedule for measuring the regulation's effectiveness; and 7. the regulation is time-limited or had a regular review. Each agency has to prepare a business/competitiveness impact statement for each regulation. Any regulation not meeting those standards will sunset on March 31, 2016. The EO also requires that the Secretary of

Administration and Finance (SAF) will establish a process for accepting public comment. SAF has just announced the creation of the on-line portal to accept and solicit public comment regarding all MA laws. The portal can be found at <http://www.mass.gov/anf/a-clearer-code-regulatory-reform.html> The Commissioners will view the portal on their own and will discuss it at the next meeting

Next Meeting Date: Tuesday October 20, 2015 at 7pm, at the Palmer Police Station Conference Room

Meeting Adjourned: 8:51 PM

Motion made by Donald Duffy to adjourn at 8:51 PM

Motion seconded by Sarah Brodeur

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

Sincerely Submitted,
Angela C Panaccione, Conservation Agent