

TOWN OF PALMER CONSERVATION COMMISSION

Meeting Minutes

Tuesday, October 6th, 2020 – 6:30 PM
LOCATION: VIRTUAL VIA ZOOM

Donald Blais, Chair
Dorothy Lawrence, Vice Chair
David Cotter
Peter Izyk
Nicholas Zeo
Brenda Cole
Mike Swiatek

Angela Panaccione, Agent
Sarah Fortune, Assistant

Members Present: Donald Blais, Jr.
Dorothy Lawrence
Peter Izyk
David Cotter (6:41 PM)
Nicholas Zeo
Brenda Cole
Mike Swiatek

Members Absent: None

Also Present: Angela Panaccione, Conservation Agent
Sarah Fortune, Conservation Assistant
Jackie Firsty, Bluewave Solar; 111 Huntington Ave, Suite 650, Boston, MA 02119
Drew Pierson, Bluewave Solar; 111 Huntington Ave, Suite 650, Boston, MA 02119
Kevin McGarry, Fuss & O'Neil; 1550 Main Street, Suite 400, Springfield, MA 01103
Michael Fliss, Meadowbrook Green Condominiums; 36 Meadowbrook Lane, Palmer, MA 01069
Don Frydrk, Sherman & Frydryk, LLC; 3 Converse Street, Palmer, MA 01069
Marc Cardaropoli; 19 New Hampshire Ave, Three Rivers, MA 01080
Kara Sliwoski, SOLITUDE, LLC
Tom Reidy
Sandra McConathy

1. **Call to Order:** 6:30 PM – Donald Blais, Jr. (Chair)

- a. **Roll call attendance:**
 - i. **Donald Blais, Jr. – present**
 - ii. **Dorothy Lawrence – absent**
 - iii. **Peter Izyk – present**
 - iv. **David Cotter – absent (enters meeting at 6:41 PM)**
 - v. **Nicholas Zeo – present**
 - vi. **Brenda Cole – present**
 - vii. **Mike Swiatek – present**

2. **Chair, Member & Committee Reports**

- a. **First Street**

Nick Zeo reported that signage had been posted along the trail at the conservation area for the Palmer Monson Family Network. The Agent reported that she approved the use of the conservation area by the Palmer Monson Family Network, but wasn't aware that they were going to be posting signage. Nick continued to report that he

spoke with some young folks who were in the gazebo about recent acts of vandalism to the gazebo, and they were extremely receptive. Donald Blais, Jr. added that he visited the conservation area recently and observed that the graffiti had been removed from the gazebo, and thanked the DPW for doing this work.

The Agent proceeded to report that the cameras purchased from Verizon to monitor the conservation area are useless and that we will be cancelling our service with Verizon. The warranty replacement cameras that were ordered do not work – they will not synch to the Verizon network because they didn't come in an official box that contained a QR code to scan in order to synch them, and they didn't come with batteries. Mike Swiatek suggested that the PCC look into obtaining trail cameras to monitor the conservation area, which now have the ability to monitor the area in real time.

3. Approval of Minutes

- a. 9/22/2020

Motion made by Nick Zeo to table the approval of the minutes from 9/22/2020 until 10/20/2020 at 6:30 PM

Motion seconded by Peter Izyk

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek – aye

Vote was Unanimous – Motion carries

4. Project Monitoring

- a. DEP # 256-0345: MA DOT Mongo Pond Dam Repairs

The Agent reported that the preliminary work to repair the Mongo Pond Dam commenced on 10/5/2020 and included the installation of silt fence along the access road and installation of the coffer dam. All necessary equipment is now on site, but more erosion controls need to be installed as the project progresses, so the Agent will continue to conduct regular site inspections.

5. Violations & Enforcement

- a. 19 Kelly Street

The Agent and Assistant performed an inspection with the Ware Conservation Commission to 19 Kelly Street to review violations and discuss joint enforcement. The project was permitted in 2005, and new property owners have worked within the 25-foot No Disturb Zone to wetlands on the site. It was difficult to determine the extent of violations in Palmer without entering the site, but either the Agent or Assistant will attend the next Ware Conservation Commission meeting to schedule a joint inspection with the property owners.

6. New/Old Business

- a. Master Plan Update – Need new representative

Dorothy Lawrence reported that she is unable to represent the PCC on the Master Plan Update Committee due to a conflict of interest with her employer, who is also the consultant working on the plan update, although the state ethics commission determined there is no conflict of interest for her to participate on the committee. Nick Zeo will serve as the new representative on the committee, and will report updates to the PCC as needed.

7. Schedule of Public Meetings & Hearings

- a. 7:02 PM Notice of Intent (NOI) DEP #256-349 – Marc Cardaropoli: 19 New Hampshire Street (Map 16 Lot 28): The applicant has submitted a Notice of Intent to install a garage within the 100-foot Buffer Zone to Bordering Vegetated Wetlands (BVW), and the locally protected 50-foot vegetated buffer strip to BVW. The work is subject to the MA Wetlands Protection Act and the Town of Palmer Wetlands Protection Ordinance.

Donald Bais, Jr. opened the hearing at 7:02 PM, and Don Frydryk of Sherman & Frydryk, LLC and property owner Marc Cardaropoli were in attendance to discuss the proposed project, stating that the work involves the construction of a garage in an existing grassed area located within the 100-foot buffer zone and 50-foot No Disturb Zone to wetland resource areas. The proposed garage construction will result in 4,300 square feet of permanent disturbance in the 100-foot buffer zone and 2,000 square feet of permanent disturbance in the 50-foot No Disturb Zone. An Order of Conditions was issued for the construction of a single family home on the site in 2005, and a Certificate of Compliance was issued in 2012 which required permanent monumentation of the limit of work. Recent USGS maps depict a perennial stream on the site, but the previous project was permitted as a buffer zone project. A site visit was conducted on 10/6/2020 with the Assistant and channelization was observed in some areas, whereas other areas did not have a defined channel, but water was observed in this area in spite of current drought conditions. Don believes that the stream becomes perennial as it approaches Three Rivers Road, and the property owner stated that he has never seen water in this channel. The project could be approved as proposed as a buffer zone project, but if the PCC determines that there is a perennial stream on the site, then the property owner will be required to do improvements in the Riverfront Area.

The Agent suggested that the PCC determine that the stream is perennial to avoid setting a bad precedent when the stream could in fact be perennial. The Agent also suggested improvements to the Riverfront Area, such as the removal of tires, a tarp, and an old chair that were observed during the site visit. The property owner was amenable to making these improvements to the Riverfront Area on the site.

The Agent instructed Don Frydryk to provide a revised narrative that discusses the Riverfront Area and proposed improvements as a result of the project, in addition to revised site plans. The PCC couldn't close the public hearing until the revised information is submitted because they can't accept revised information after a hearing is closed. The applicant requested a continuance of the public hearing until 10/20/2020 at 7:00 PM to allow for revised documents to be submitted to the PCC.

Motion made by Dave Cotter to continue the public hearing for DEP # 256-0349 for the construction of a garage at 19 New Hampshire Ave until 10/20/2020 at 7:00 PM

Motion seconded by Dorothy Lawrence

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye;

Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous –Motion carries

- b. 7:21 PM Notice of Intent (NOI) DEP #256-350 – Solitude, LLC: Meadowbrook Green Condominium Association (Map 18 Lot 47-1): The applicant has submitted a Notice of Intent for the Ecological Restoration of Meadowbrook Green Condo Ponds through utilizing selective aquatic herbicide and algaecide treatments with USEPA/MA DAR registered herbicides and other BMPs to control growth of nuisance aquatic plant species and invasive plant species, (specifically white and yellow waterlily and purple loosestrife), improve fish habitat, improve water quality and slow pond eutrophication.

Donald Blais, Jr. opened the public hearing at 7:21 PM and Kara Sliwoski of Solitude, LLC and Michael Fliss of the Meadowbrook Green Condominium Association were in attendance to present the proposed project, stating that there was a previous permit for pond management that couldn't be extended because it was several years old. The new permit application includes work to control aquatic vegetation and algae, and also includes previous pond management activities. The applicant is aware of the DEP comments on the project and requested a continuance of the public meeting until 11/17/2020 at 7:00 PM so that they can address the DEP comments.

The Agent reported that an aeration unit was installed in one (1) of the three (3) ponds prior to the Notice of Intent submission, which has been integrated into the permit application, and asked if there are additional aeration units proposed. Michael Fliss stated that no additional aeration units are proposed. The Agent will conduct an inspection of the aeration unit with Michael Fliss in the next few weeks.

Kara Sliwoski proceeded to review the previous pond management plan, which included bi-monthly monitoring events from April to September to observe for treatment needs to manage the growth of aquatic vegetation and algae; pro-active monitoring of the ponds can potentially reduce the amount of herbicide and other chemicals used by allowing spot treatments to occur quickly dependent upon pond conditions. Several herbicides and algicides were included in the Notice of Intent application, but not all are likely to be utilized for pond management in a year.

Donald Blais, Jr. opened the hearing for comments or questions by the PCC and members of the general public. Peter Izyk asked if the management plan proposes to treat the ponds for mosquitos; Kara Swiloski informed him that the plan doesn't propose to treat the ponds for mosquitos. The Agent asked if the project has been reviewed by an environmental monitor; Kara Swiloski reported that the project was submitted to the environmental monitor on either 9/16/2020 or 9/17/2020 but is not sure of the status of this yet. The Agent informed Kara that the next environmental monitor is not scheduled until 10/22/2020, and that she believes it has to run for 30-days before closing. Kara was unsure about the requirements of the environmental monitor, but added that this time will allow for the applicant to respond to DEP comments and for the Agent to perform an inspection of the aeration unit that has been installed prior to the Notice of Intent submission. There were no additional questions or comments from the PCC or members of the general public.

The Agent recommended that the applicant submit Requests for Certificates of Compliance for outstanding Orders of Conditions for work regulated under DEP # 256-0019 and DEP # 256-0280. The Agent suggested that a Request for COC be submitted for DEP # 25-0019 even if the applicant can't locate the original Order of Conditions; the PCC will issue an invalid Certificate of Compliance to close out this file.

The applicant requested a continuance of the public hearing until 11/17/2020 at 7:00 PM.

Motion made by Dorothy Lawrence to continue the public hearing for DEP # 256-0350 for ecological restoration of ponds at Meadowbrook Green Condominiums until 11/17/2020 at 7:00 PM

Motion seconded by Dave Cotter

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous –Motion carries

- c. 7:42 PM Cont. Request for Determination (RDA) – BWS Dumplin Brook, LLC: L22 Sykes Street (Map 18 Lot 22) & L28 Mt Dumpin Street (Map 18 Lot 28): The applicant is requesting a determination to see if the work associated with the installation of a large scale solar array is subject to the MA Wetlands Protection Act and the Town of Palmer Wetlands Protection Ordinance.

Donald Blais, Jr. reopened the public hearing at 7:42 PM, and Jackie Firsty and Drew Pierson of Bluewave Solar and Kevin McGarry of Fuss & O’Neil were in discuss the proposed project with the PCC. The Agent stated that the stormwater management report still has not been submitted for review, per PCC request at the last meeting on 9/22/2020. Drew Pierson informed her that the stormwater management report was designed based on NOAA Atlas 14, and that some adjustments have been made to the limit of work and selective clearing areas per PCC comments, which is why the report has not yet been submitted for review. He also added that the Planning Board might want to review the stormwater report again based on the aforementioned changes to the site plans. The Agent recommended that the hearing be continued until the stormwater management report has been received by the PCC, and requested that the report be submitted no later than the Thursday prior to the next meeting on 10/20/2020. The Agent also informed the applicant that the revised site plan must also be submitted to both the PCC and the Planning Board to avoid discrepancies. The Agent asked if the new site plans were submitted to the Planning Board as a minor amendment; Drew Pierson said he did not know, as it is up to the Planning Board to determine whether or not the changes are minor.

Kevin McGarry of Fuss and O’Neil stated that he will work on the stormwater management report, and will clarify information provided on selective clearing areas for the PCC. He added that he doesn’t believe the changes to the selective clearing areas will affect the stormwater management report because those areas won’t be completely cleared of vegetation.

Donald Blais, Jr. opened the public meeting for comments or questions from the PCC and members of the general public. No one wished to comment on the project at this time.

The applicant requested a continuance of the public meeting until 10/20/2020 at 7:00 PM.

Motion made by Dorothy Lawrence to continue the public meeting for the Request for Determination of Applicability submitted for large-scale solar development at L22 Sykes Street and L28 Mount Dumplin Street to 10/20/2020 at 7:00 PM

Motion seconded by Nick Zeo

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous –Motion carries

- d. 7:55 PM Cont. Notice of Intent (NOI) – BWS Dumplin Brook, LLC: 3090 Palmer Street (Map 29 Lot 1): The applicant has submitted a Notice of Intent to see if the work associated with the installation of a large scale solar array is subject to the MA Wetlands Protection Act and the Town of Palmer Wetlands Protection Ordinance.

Donald Blais, Jr. reopened the public hearing at 7:55 PM and Jackie Firsty of Bluewave Solar in addition to Kevin McGarry of Fuss & O’Neil were in attendance to discuss the project with the PCC. Jackie Firsty informed the PCC that an Order of Resource Delineation (ORAD) was issued for the site in 2018 which confirmed/modified the boundaries of resource areas which were requested for confirmation. The site contains Bordering Vegetated Wetlands, Isolated Vegetated Wetlands, Bank, Riverfront Area, Bordering Land Subject to Flooding, and Priority Habitats of Rare Specices. The Natural Heritage and Endangered Species Program (NHESP) issued a determination on 10/1/2020 that the project will not result in a take of rare species or their habitats. The proposed limit of work will encompass approximately 16-acres of the site. The project proposes to construct two (2) solar arrays in the western portion of the site within existing cleared areas located between two (2) wetland areas. The solar array panels have been designed to allow for light and water penetration beneath the panels. A majority of the site is currently vegetated, but a conservation wetland seed mix is proposed for use under the array panels. An existing gravel access road will be improved and extended. The also project proposes an upgrade of a stream crossing on site per request of the Agent, which will replace an existing culvert with a 3-sided box culvert; this will assist with the overall public benefit associated with the Route 181 culvert replacement. The proposed box culvert will be 12-foot wide, 5-foot tall, and 20-foot long and will be installed perpendicular to stream flow. Compensatory flood storage will be created adjacent to the new box culvert due to the loss of flood storage resulting from the culvert installation. Bypass piping and check dams will be used to dewater the stream, and all excavated soils will be stored in upland areas for use after backfill the area upon installation of the new culvert. Rip rap is proposed on both sides of the culvert headwall to provide stabilization. Disturbed areas resulting from the culvert upgrade will be restored to pre-construction conditions and erosion sediment controls will be used during construction.. The project includes plantings for shading per Planning Board requirements. Stormwater management is also proposed to mitigate pre- and post-construction stormwater flows.

The stream crossing upgrade will result in impacts to Bank, Bordering Vegetated Wetlands, and Bordering Land Subject to Flooding. The proposed western solar array will result in impacts to Bordering Land Subject to Flooding, and will require the construction of a second compensatory storage area. Additional impacts to Bordering Land Subject to Flooding, Riverfront Area, and Priority Habitats of Rare Species will result from the installation of underground utilities to sevice the array. Finally, plantings required for shading by the Planning Board will result in minimal impacts to Bordering Land Subject to Flooding and Riverfront Area associated with the wetstern array.

Kevin McGarry informed the PCC that he hasn’t been able to review DEP comments on the project, but asked if they had any questions on the project as proposed. The Agent proceeded to ask about DEP comment #1 which pertains to wetland resource areas that were not included, reviewed or approved in the 2018 ORAD that was issued for the site. DEP

conducted a review of historic aerial photos and false color imagery, which indicates the presence of wetlands in the northern portion of the site that have been filled in as a result of agricultural activities and constitute violations. The ORAD only confirmed the limits of resource areas that were requested by the applicant, and the ORAD was issued with the stipulation that any new resource areas found on site would be incorporated into the current Notice of Intent. Solar panels are proposed in this area, and if there are in fact wetlands there, a 401 Water Quality Certification will be required. The Agent added that the PCC has a time-of-year restriction regarding wetland delineation confirmation, which begins on November 1st, and will require evaluation of soils in areas identified by DEP as potential wetlands; an outside consultant will be hired if the delineation review falls within the time-of-year restriction. The Agent also added that the landowner believes that he has an agricultural exemption from the Wetlands Protection Act, which he does not, and she has spoken to him several times about agricultural exemptions, such as continuous mowing of wetland vegetation.

Motion made by Dorothy Lawrence to obtain estimates for peer review of the wetland delineation under MGL Chapter 53G for the project at 3090 Palmer Street to 11/17/2020 at 7:00 PM

Motion seconded by Brenda Cole

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous –Motion carries

Kevin McGarry requested a continuance of the public hearing until 11/17/2020 at 7:00 PM in order to review and address DEP comments.

Motion made by Dorothy Lawrence to continue the public hearing for the Notice of Intent submitted for large-scale solar development at 3090 Palmer Street to 11/17/2020 at 7:00 PM

Motion seconded by Dave Cotter

No further discussion

Role call vote: Donald Blais, Jr. – aye; Dorothy Lawrence – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous –Motion carries

8. Set Next Meeting Date

- a. The next meeting of the PCC is scheduled to occur on Tuesday, October 20th, 2020 at 6:30 PM.

9. Meeting Adjourned: 8:54 PM

Motion made by Brenda Cole to adjourn at 8:54 PM

Motion was seconded by Dorothy Lawrence

No further discussion

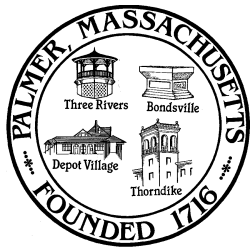
Role call vote: Donald Blais, Jr. – aye; Peter Izyk – aye; David Cotter – aye; Nicholas Zeo – aye; Brenda Cole – aye; Mike Swiatek - aye

Vote was Unanimous - Motion carries

Sincerely Submitted,

Sarah A. Fortune

Palmer Conservation Assistant



TOWN OF PALMER CONSERVATION COMMISSION

Meeting Documents

**Tuesday, October 6th, 2020 – 6:30 PM
LOCATION: VIRTUAL VIA ZOOM**

Donald Blais, Chair
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Chair
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Brenda Cole
Mike Swiatek

Angela Panaccione, Agent
Sarah Fortune, Assistant

The following is a list of documents used at the above-mentioned meeting, in addition to those included in the agenda packet which is part of the official record of the meeting:

Number	Description	Agenda Item	Notes
1.	Meeting Minutes: 9/22/2020	Approval of Minutes	Approval tabled until 10/20/2020 at 6:30 PM
2.	Meeting Minutes: 7/21/2020	Approval of Minutes	Retained in 2020 Meeting Minutes binder in office
3.	Notice of Intent: 19 New Hampshire Ave	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0349
4.	Site plans: 19 New Hampshire Ave	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0349
5.	DEP File Comments: 19 New Hampshire Ave	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0349
6.	Notice of Intent: Meadowbrook Green Condominium Association	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0348
7.	DEP File Comments: Meadowbrook Green Condominium Association	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0348
8.	Request for Determination of Applicability (RDA): Bluewave Solar – L22 Sykes Street & L28 Mt. Dumplin Street	Schedule of Public Hearings & Meetings	Retained in RDA file for Bluewave Solar
9.	Site Plans: Bluewave Solar – L22 Sykes Street & L28 Mt. Dumplin Street	Schedule of Public Hearings & Meetings	Retained in RDA file for Bluewave Solar
10.	Notice of Intent: Bluewave solar – 3090 Palmer Street	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0350
11.	Site plans: Bluewave solar – 3090 Palmer Street	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0350
12.	Stormwater Management Report: Bluewave solar – 3090 Palmer Street	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0350
13.	DEP File Comments: Bluewave solar – 3090 Palmer Street	Schedule of Public Hearings & Meetings	Retained in file for DEP # 256-0350