



# TOWN OF PALMER CONSERVATION COMMISSION

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Donald Blais, Jr, Vice Chair  
Peter Izyk  
David Cotter

Agent: Angela Panaccione

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## MEETING MINUTES

### TUESDAY DECEMBER 20, 2016 @ 7:00 PM

**Members Present:** Sarah Brodeur (Chair)  
Donald Blais, Jr (Vice Chair)  
Peter Izyk  
Angela Panaccione (Agent)

**Members Absent:** Dave Cotter

**Also Present:** James Michaeliau, 228 Breckenridge Street  
John Stevens, Maple Ledge Associates  
Kaitlyn Rimol, BSC Group  
Peter Levesque, Wetlands Consultants, Inc  
Donald Frydryk, Sherman & Frydryk  
Brandon Ruotolo, B. Ruotolo Law Practice  
Richard Bernard, 1 Aspen Circle

**Meeting Opens:** 7:02 PM – Sarah Brodeur (Chair)

#### 7:02 PM Notice of Intent DEP #256-0321: 232 Breckenridge St; Stevens – SFH Construction

A Notice of Intent (NOI) submitted by Sherman & Frydryk c/o John Stevens for the completion of a single family home previously started by the former owner of the property. Work will include construction and grading of a driveway, connection to the town sewer via force main, completion of the water service connection grading and stabilizing the lawn area and landscaping. The location of the proposed project is 232 Breckenridge Street and is also known as: Map 13-22.

Sarah Brodeur opened the Public Hearing for the NOI. The applicant John Stevens was present, as well as his representative Donald Frydryk, of Sherman & Frydryk. Abutter James Michaeliau, of 228 Breckenridge Street was also present.

As shown on the site plan entitled Notice of Intent: Sewer Force Main Connections – John Stevens, 232 & 234 Breckenridge Street, Palmer MA; Project #04111A (Sheets 1 of 1); Signed & Stamped by Donald Frydryk, Sherman & Frydryk, LLC.; Dated October 26, 2016; Revised November 29, 2016, a wetland limit is delineated west of Breckenridge Street. The proposed force main connections run east up to Breckenridge Street, then continue south alongside Breckenridge meeting the existing manhole in front of house #230. The work will

include placement of erosion controls at the limit of disturbance, debris removal, site construction, final grading, loaming, seeding and stabilization of the disturbed area. The driveway will be paved with hot mix asphalt.

Resource areas on the project site were confirmed on December 8, 2016 by the Conservation Agent. The wetlands flag series W1-W8 delineate the eastern extent of the forested/shrub boundary of the BVW. The over-story contains red maple, eastern hemlock, and gray birch, while the shrub layer contains highbush blueberry, cinnamon fern, and sensitive fern. Groundcover includes goldthread, skunk cabbage and sphagnum moss.

The proposed project will include approximately 3,435 square feet of disturbance within the 100-foot wetland buffer zone. The disturbance will result from placing erosion controls at the limit of proposed work, site development, final grading, and loam and seeding of disturbed areas. The proposed project will also include 2,140 square feet of disturbance within the 50-foot wetland buffer which has been disturbed by the previous owner of the property.

Mitigating measures for this project include the installation of erosion control barriers as shown on the plan and details. The erosion controls shall be installed downhill of the proposed work to provide sediment removal before discharging into the wetland. All disturbed areas shall be loamed and seeded. All slopes greater than 4 to 1 shall be mulched. Erosion controls shall be installed prior to any disturbance on the site. Erosion controls shall be maintained until the Palmer Conservation Commission approves removal of the controls

According to the Palmer Quadrangle of the current Massachusetts Natural Heritage Atlas 13th Edition (October 1, 2008 Edition), published by the Natural Heritage & Endangered Species Program (NHESP) and the MassGIS data layer, the property is not mapped within Priority Habitats of Rare Species or Estimated Habitats for Rare Wildlife protectable under the Massachusetts Endangered Species Act (MGL c. 131 §. 23). In addition, there are no mapped Certified or Potential Vernal Pools, drinking water areas, or ACECs within the parcel.

The Agent had a few minor issues with the work currently occurring. On her inspection she noted the proposed erosion controls had yet to be installed at the limit of work, even though work is already occurring. She requested they be installed immediately and the applicant should contact the Commission after for an additional inspection. She also requested Mr. Stevens install the required DEP sign as soon as possible since work is underway on site. Her final concern was with permanently marking the limit of work. Since the homes will soon be sold, she recommended a condition be included that no expansion of the back yard was to occur. Currently there is very little undisturbed area left between the BVW and the start of the SFH lots (25-foot on average). The Commission agreed to the special condition of permanently marking the current tree line as the limit of any and all future work.

Sarah Brodeur asked if any members of the public had any questions or concerns about the project. Abutter James Michaeliau, of 228 Breckenridge Street stated he did not have any issues, he was just curious about the abutters notification he received and has actually been considering joining the Conservation Commission so he attended tonight's meeting. He did inquire about the significance of the 50-foot no disturb zone and the 100-foot buffer zone.

The agent responded that any development proposed in the 100-foot Buffer Zone can negatively impact the abutting Resource Areas(s). Negative impacts, both from the "construction" and "use" phase of the project can include erosion, siltation, pollution, loss of groundwater recharge, reduced water quality and loss of wildlife habitat. By maintaining at least a 50-foot strip of continuous, undisturbed, indigenous vegetative cover along the Resource Area boundary (within the 100 foot Buffer Zone), negative impacts can be mitigated or avoided and it will also improve water quality & groundwater recharge, reduce erosion and pollution to the adjacent wetland resource areas, and provide wildlife habitat.

**Motion made by Donald Blais, Jr to close the Public Hearing for DEP #256-0321**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

**Motion made by Donald Blais, Jr to issue the Order of Conditions for DEP #256-0321; with special conditions and Findings of Fact**

**Motion seconded by Peter Izyk**  
**No further discussion – vote taken: 3-0-0 – Motion Carries**

**7:15 PM Notice of Intent DEP #256-0322: 234 Breckenridge St; Stevens – SFH Construction**

A Notice of Intent (NOI) submitted by Sherman & Frydryk c/o John Stevens for the completion of a single family home previously started by the former owner of the property. Work will include construction and grading of a driveway, connection to the town sewer via force main, completion of the water service connection grading and stabilizing the lawn area and landscaping. The location of the proposed project is 234 Breckenridge Street and is also known as: Map 13-23.

Sarah Brodeur opened the Public Hearing for the NOI. The applicant John Stevens was present, as well as his representative Donald Frydryk, of Sherman & Frydryk. Abutter James Michaeliau, of 228 Breckenridge Street was also present.

As shown on the site plan entitled Notice of Intent: Sewer Force Main Connections – John Stevens, 232 & 234 Breckenridge Street, Palmer MA; Project #04111A (Sheets 1 of 1); Signed & Stamped by Donald Frydryk, Sherman & Frydryk, LLC.; Dated October 26, 2016; Revised November 29, 2016, the proposed project will include approximately 3,708 square feet of disturbance within the 100-foot wetland buffer zone. The disturbance will result from placing erosion controls at the limit of proposed work, site development, final grading, and loam and seeding of disturbed areas. The proposed project will also include 1,475 square feet of disturbance within the 50-foot wetland buffer which has been disturbed by the previous owner of the property. The current limit of disturbance and approved work is 25-feet from the edge of the BVW.

Mitigating measures for this project are the same as proposed for the previously discussed project.

Also the property is not mapped within Priority Habitats of Rare Species; and there are no mapped Certified or Potential Vernal Pools, drinking water areas, or ACECs within the parcel.

The Agent had the same issues with this project and requested the proposed erosion controls be installed immediately, as well as the DEP sign, and again permanently marking the current tree line as the limit of any and all future work.

**Motion made by Donald Blais, Jr to close the Public Hearing for DEP #256-0322**  
**Motion seconded by Peter Izyk**  
**No further discussion – vote taken: 3-0-0 – Motion Carries**

**Motion made by Donald Blais, Jr to issue the Order of Conditions for DEP #256-0322; with special conditions and Findings of Fact**  
**Motion seconded by Peter Izyk**  
**No further discussion – vote taken: 3-0-0 – Motion Carries**

**7:30 PM Request for Determination (RDA): 624 River Street – MECO, New Utility Pole**

A Request for Determination, submitted by Massachusetts Electric Company d/b/a National Grid to see if the work associated with the installation of a new utility pole is subject to the Wetland Protection Act and the Town of Palmer Wetlands Ordinance. The location of the proposed project is 624 River Street, Palmer, MA 01069, and is also known as: Map 36-61.

Sarah Brodeur opened the Public Hearing. Wetlands Consultant Kaitlyn Rimol, of the BSC Group was present on behalf of MECO to present the project. No other public was present.

A site visit was conducted by the Agent on October 12, 2016 and based on the site visit, the proposed pole, anchor, and guy will be located within Bordering Land Subject to Flooding (BLSF), the 100-foot Buffer Zone to BVW associated with Forest Lake, and NHESP Priority and Estimated Habitat. Surrounding areas primarily consist of scattered residential dwellings and forested upland areas. The Ware River is located to the west of the

Project area. However, no activities are proposed within the 200-foot Riverfront Area. No other sensitive resource areas such as Certified Vernal Pools (CVP), Outstanding Resource Waters (ORW), or Areas of Critical Environmental Concern (ACEC) were identified within the Project area.

The proposed Project involves the installation of a single wood pole structure, anchor, and guy within previously disturbed BLSF, 100-foot Buffer Zone to BVW, and NHESP Priority and Estimated Habitat. New Pole 88-1 will be a directly embedded, single wood pole structure. The proposed pole will be installed by auguring a hole to a depth of approximately six (6) feet. Guys will be anchored into the ground with helical (screw) driven anchors, resulting in minimal ground disturbance. Excess soil will either be used as backfill or disposed of off-site. Existing Pole 88 will be replaced in a similar manner. The pole will be cut at the base, and the stub will be removed from the hole. The replacement pole will be installed in the same hole or immediately adjacent in accordance with the methods described above. Because of the minimal impact and the previously disturbed nature of the proposed location of P88-1, the Project is not expected to impair BLSF or Buffer Zone. No tree clearing or trimming is anticipated for this Project. Ground disturbance will be minimal and Best Management Practices (BMPs) will be implemented to prevent impacts to resource areas. Additional details are provided in the following sections.

Prior to any activity on site, the limits of wetland resource areas closest to P88-1 shall be flagged with surveyor's tape and the flags shall remain in place during construction. Access to install new P88-1 will be from the existing unpaved driveway and the property owners front landscaped yard area. Equipment used to perform maintenance work on P88 will be staged on River Street. Disturbed areas resulting from access will be restored upon the completion of work.

**Motion made by Donald Blais, Jr to close the Public Hearing**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

**Motion made by Donald Blais Jr to issue Negative Determination, (Box 3 w/ conditions), finding the work associated with the installation of the proposed pole, anchor, and guy is located entirely within previously disturbed area (altered/regularly maintained lawn) within the BLSF, the 100-foot Buffer Zone to BVW/Forest Lake, and NHESP Priority and Estimated Habitat and with the use of proper erosion & sedimentation controls and the restoration of all disturbed areas upon completion of construction, the pole installation will not alter adjacent Resource Areas.**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

### **7:35 PM Emergency Certification: Town of Palmer – Three Rivers Bridge Repairs**

Palmer's Town Manager Charles Blanchard requested an emergency certification for emergency repairs to the Main Street Bridge # P-01-005, in Three Rivers MA (48 10'48.81 N 72 21'52.42 W) due to Public Health and Safety concerns - Bridge/Road Failure. The applicant to perform the work is SPS New England Inc., 98 Elm Street, Salisbury, MA 01952

All work shall be performed in accordance with the final approved site plan entitled Proposed Bridge Cribbing Main Street Over Quaboag River Palmer Massachusetts Bridge P-01-005 (Sheets 1-5); prepared by Tighe & Bond; Signed & Stamped by Antonio J. de Cruz; dated 12/5/2016. According to the plans and supporting materials provided, no work will occur within the river. Work permitted includes temporary blocking (or cribbing) to be installed on each side of Beams 7 thru 10 at pier 2 and beam 21 at pier 2. Work shall occur from the bridge and existing paved roadway and no work shall occur outside that described in the approved plans.

The project is not expected to alter resource areas or buffer zones as appropriate best management construction practices and sediment and erosion controls will be used. Access to the project will be from the bridge and along Main Street Three Rivers. All construction debris and non-biodegradable controls will be removed from the site following construction and site stabilization. Work is proposed within the habitat of the state-listed Wood Turtle.

Given the time of year, any Wood Turtle present in the area would be hibernating in the thick mud at the bottom of the river and would rarely move till spring. To be 100% certain the Conservation Agent searched the work area thoroughly for Wood Turtles on December 12, 2016 and did not find any evidence of them.

The Emergency Permit is valid for 30 days, from 12/20/16 – 1/19/17

**Motion made by Donald Blais Jr to issue an Emergency Certification to the Town of Palmer**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

**7:41 PM Administrative Hearing – L 21 Aspen Circle (Map 10-20); Road Construction**

Sarah Brodeur re-opened the Administrative Hearing to discuss the violations that have occurred at L21 Aspen Circle. Violations include, but are not limited to failure to obtain a permit prior to conducting an activity subject to regulation under the MA Wetlands Protection Act & the Town of Palmers Wetlands Ordinance & Regulations.

Property owner Richard Bernard, of 1 Aspen Circle were present, as well as his Attorney Brandon Ruotolo, of B. Ruotolo Law Practice; and their consultants Peter Levesque, of Wetlands Consultants, Inc and Donald Frydryk, of Sherman & Frydryk.

The discussion began with the Agent giving a summary of the site visit conducted last Thursday December 15, 2016 at 10:15 am. Commissioners Peter Izyk and David Cotter, as well as the Conservation Agent Angela Panaccione were present. Also present were landowner Richard Bernard, Attorney Brandon Ruotolo, DCR Service Forester Douglas Hutcheson, Wetlands Consultants Peter Levesque and John Prenisol, Engineer Donald Frydryk, and Michael Piota (who conducted the site work for Mr. Bernard). It was apparent major improvements were conducted along the existing woods roads throughout the property. Areas of concern for erosion were identified on site by the Agent. There were two wetlands crossing in particular where ponding water was observed within the improved roadways.

Ruotolo asked for clarification on the roles the Commission and DCR were taking on the enforcement side of the project. The Agent responded DCR would handle the forester specifically and review his license since it was clear the approved FCP was not followed at all. The Commission stated it would handle any violations to resource areas, and leave jurisdiction in the uplands to DCR.

The Commission reviewed the previously issued enforcement order and discussed amendments with those present before ratification.

1. The attachment will clearly identify the activity (310 CMR 10.04) subject to the violation as the construction or improvement of roads and other ways through an identified BVW without a permit; including the changing of run-off characteristics, the destruction of plant life; and any other changing of the physical characteristics of land (i.e. the installation of permanent wetlands crossings and the construction of permanent roads involving grading in resource areas). Any references to change of use will be omitted.
2. Change all deadlines
3. Remove all violations dealing with vegetation removal, slash and stumpage
4. Focus specifically on Roads crossing wetlands.

The next step: the landowner will submit an Existing Conditions Plan no later than April 15, 2017. The plan shall be for the existing BVW boundaries and the improved roads on site and shall include:

- Resource Area Delineation: a delineation of BVW with extensive soil borings (to determine if soils under road fill are hydric or not) and DEP wetlands data sheets. The BVW shall be marked on the site with numbered flags and the existing conditions plans should clearly identify flag numbers

- A Square Footage Calculation: of BVW altered through road construction.
- A Scaled site plan (not more than 1"=40') showing BVW, 50-foot and 100-foot buffer zones, road locations, and CVP 175. All flagging shall be numbered consecutively on site, and on the corresponding site plan. Each individual resource area line delineated shall be indicated on the flag by letter and consecutive number, and shall be indicated on the corresponding site plan. Plans should clearly indicate the 100' buffer zone, as well as the 50' "no disturb zone".

When the Commission can verify the Existing Conditions Plan in the field, and accepts the plan the Landowner and the Commission will discuss how next to proceed. Currently the EO requires a Resource Area Restoration Plan (RARP) for the removal of the roads and the complete restoration of the BVW. If the landowner can demonstrate the "existing" roads are actually upland in the BVW w/ no hydric characteristics (i.e. not fill onto of hydric solis), then they would not need to be restored. Additionally, pedestrian foot paths are allowed through the BVW and the landowner could choose to install boardwalks or foot bridges in place of road fill.

Ruotolo stated he did not think the Commission should ratify the enforcement order until he could review and comment upon it. The Agent responded there is no requirement for the violator to be able to review their "violation". Traditionally, the Commission issues and ratifies the EO, and then the violator can appeal it to the district court if they disagree. Given the complex nature and differing jurisdictions of the violations on site; the current EO reserves the Conservation Commission right to amend the EO as necessary and impose additional such conditions as may be needed. Any amendment to the existing enforcement order and/or new conditions shall be ratified by a majority of the members of the Commission at the next scheduled meeting.

**Motion made by Donald Blais to ratify the Enforcement Order issued on November 17, 2016 as amended**  
**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

**Motion made by Donald Blais to continue the Administrative Hearing until 7pm on January 17, 2017**  
**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

**8:40 PM Administrative Matters: Minute Approval – December 6, 2016**

**Motion made by Donald Blais, Jr to approve the minutes from Tuesday December 6, 2016**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0**

**8:41 PM Administrative Matters: MACC Payable \$110.00**

**Motion made by Donald Blais, Jr to approve the payable to MACC in the amount of \$110.00, as payment for Unit 101 Webinar (c0692) for Commissioners David Cotter & Donald Blais Jr, to be held 1/19/17**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0**

**8:42 PM Administrative Matters: Other Projects, Monitoring, Enforcement and Violations**

1. Land Management Committee Reports: The Committee met Monday December 12, 2016, at 4:00pm to discuss and work on the Recreational Trails Grants (due date/deadline for all RTP grants is February 1, 2017). Alice Davey, from Community Development attended to assist the Commission in preparation of the grant application; specifically the budget. The next two (2) meeting of the Land Management Committee are scheduled for Tuesday 1/10/2017 at 4:00pm and Monday 1/30/2017 at 4:00pm and will focus solely on completing the Trails Grant Application. The January 10<sup>th</sup> meeting will consist of reviewing the draft narrative & budget, the January 30<sup>th</sup> meeting will be a final review of the whole grant application, which will be mailed out January 31, 2017.

The Agent also shared a press release she wrote for the Palmer Journal, which was run in the Thursday December 15<sup>th</sup> paper. Lisle Donaldson, of Summer Street responded to the press release with a desire to join the committee. The Agent will contact Donaldson invite her to the January 10<sup>th</sup> subcommittee meeting.

**Motion made by Donald Blais, Jr to appoint Lisle Donaldson to the Land Management Subcommittee**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

2. Discuss Palmer Landfill Solar Array – The Agent conducted a site visit today to view the Riverfront Area Restoration required under the order (invasive removal and planting of native blueberries). The riverfront has been completely cleared of all vegetation, natives included. Pictures were supplied to the Commission. The Agent informed the Commission she met general contractors on site back in November to discuss the removal of the invasive species along the southern most portion of the site. As discussed, Borrego was supposed to commence work the week of 11/7/2016. Once the invasive species were removed, Borrego was supposed to schedule a walkthrough with her for final approval.

The scope of work discussed included clearing and removing all the invasive species (oriental bittersweet and honeysuckle) to ensure prevention of invasive species propagation and regeneration. The applicant requested the additional removal of approximately twelve (12) native trees within the riverfront area that were either dead or have been severely damaged due to bittersweet vines in the canopy; the stumps were to remain. The Agent granted the approval for the tree removal of **up to 12 trees**; conditional upon **the inability of site contractors to remove the invasive without damaging the host trees** and in areas where the trees are mostly dead and it is a **safety issue** (for example the trees that are on the limit of work for the array, but are dead and are endangering the safety of the crew. She reiterated both at the November site visit, and in a follow up email, the project is to remove the invasive species (Bittersweet and honey suckle) from the Riverfront Area of the property in order to improve the resource area values. The goal is to retain native vegetation, as much as possible, during removal. This is very difficult, if not impossible due to the level of infestation, site constrains and safety so the 12 trees that were flagged were allowed to be removed only if absolutely necessary. In no way did she authorize the complete removal of all vegetation in the Riverfront Area of the site.

The Commission will closely monitor the site, and will meet with contractors in the spring to develop a restoration planting plan, as the nine (9) high brush blueberries proposed will not be sufficient for the completely cleared southern portion of the site. No enforcement action will be taken at this time.

3. Violation Update – Palmer Motorsports Park Septic System: The Commission discussed the continuing violations on site. The Commission was in agreement that the required level spreader from the original access road OOC needs to be installed and at no point in time was it ever approved to remove it from the plans.

**Office Closed:** Thursday December 22, 2016

**Next Meeting Date:** Tuesday January 17, 2017 at 7:00pm

**Meeting Adjourned:** 9:00 PM

**Motion made by Donald Blais, Jr to adjourn at 9:00 PM**

**Motion seconded by Peter Izyk**

**No further discussion – vote taken: 3-0-0 – Motion Carries**

Sincerely Submitted,  
Angela C Panaccione, Conservation Agent