



TOWN OF PALMER

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CONSERVATION COMMISSION

PALMER CONSERVATION COMMISSION MEETING TUESDAY JULY 2, 2013 @ 7:00 PM

Members Present: Robert Ring (Chair)
Donald Duffy
Matt Trybus
Peter Izyk
Angela Panaccione (Agent)

Members Absent: Dennis Cote

Also Present: Zachary Cooper, 54 French Drive
Evelyn Sullivan, 50 French Drive
Paula Allen, 57 French Drive

Meeting Opens: 7:00 PM – Robert Ring (Chair)

7:00 PM NOI DEP # 256-0300 – Com. Development, Endelson Playground; 12 Main Street

The applicant requested a continuance to address the Riverfront Redevelopment Requirements 310 CMR 10.58(5), and alter the plans to provide a 25-foot no disturbed area to the Swift River.

Motion made by Don Duffy to continue the Public Hearing until 7:00 PM on July 16, 2013
Motion seconded by Peter Izyk
No further discussion – vote taken: 4-0-0– Motion Carries

7:05 PM Administrative Matters: Minute Approval – June 4, 2013

Motion made by Matt Trybus to approve the minutes from Tuesday June 4, 2013 as corrected
Motion seconded by Don Duffy
No further discussion – vote taken: 4-0-0

7:07 PM Administrative Matters: Chair Reports

1. **Quorum Issues:** Ring spoke with the Town Manager about issues with quorum and voting. Ring was informed as long as the meeting opens with quorum, voting can occur with commissioners abstaining.
2. **Trail Improvements:** Alex will photograph several locations for the Commissions records. Ring suggested we schedule a time in the next few weeks to take a photo of the Alex, the trails and the commission for the paper.
3. **Lamothe Violation:** Ring informed the Commission the court date has been postponed again, until July 22. Lamothe has hired a new attorney and a wetlands specialist and is now appearing to want to work with the commission. The wetlands specialist will delineate the entire property for the

commission and will submit a new plan by July 8, 2013. Ring was not sure what type of filing the Commission would receive. Ring did report during the last storm the river rose right to the fence line.

7:15 PM Certificate of Compliance DEP #256-0252: NE Realty Association

Northeast Realty received a permit in August of 2006, for a proposed development on Thorndike Street, DEP # 256-0252. The project was abandoned and no work was completed. The location has delineated Riverfront Area associated with it. The Commission sent a letter to the applicants requesting they apply for a Certificate of Compliance and close the open conditions associated with the site. After seven years or inaction, any new work proposed would require filing for a new permit.

At the request of the Commission, NE Realty Association submitted a request for a Certificate of Compliance for work never commenced. The Order of Conditions was also never recorded at the registry of deeds.

Motion made by Don Duffy to issue an invalid Order of Conditions to Northeast Realty, for DEP # 256-0252

Motion seconded by Matt Trybus

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

7:20 PM Administrative Matters: Agent Reports

1. Ordinance Hearing: The Agent informed the Commission of the June 10th Town Council meeting and the first reading of the revised wetlands Ordinance. Several questions were asked and answered. Town Council did request a brochure, outlining the differences between the Wetlands protection Act and the revised Ordinance. The Agent will have the final draft ready for the second reading and public hearing, scheduled for July 8th
2. Open Space and Recreation Conference: The Agent gave a report of the Open Space conference proceedings. Two important highlighted were creating a blanket Notice of Intent (similar to what the DPW has done) with the Trail Committee and the Con Com to cover any and all Trail work on town lands the new Environmental Justice (EJ) requirements in updating OSRP. The agent explained Environmental Justice to the commission and addressed any of their concerns. Basically, Environmental Justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies. Palmer does have designated EJ areas, but they are classified as a Tier 1: Low Income. In updating the OSRP, Palmer would have to complete an extended outreach and survey to the designated EJ areas, and also address access issued to parks and open space for individuals residing in the EJ areas.
3. Casino Filing: The Agent spoke with Mohegan Sun representative, Beals & Thompson, about the upcoming filing. Due to the complexity and size of the delineations, the Commission has requested an ANRAD, but due to the applicants' inability to receive property owners' signature they are proposing and RDA instead. The Commission requested an ANRDA because 1) it requires abutter notification where and RDA does not, 2) RDA expire after three years and there is not process for extension, 3) A RDA does not include fees, whereas an ANRAD would have a \$2000 fee. The Agent will relay the concerns to Beals & Thompson and request they attend the next meeting to discuss further. The Agent will also request seven (&) copies of the full plans for the commission.
4. Possible Violation – Park St/Cleveland: The commission received a complaint about the work occurring in the CSX railroad right of way. Significant clearing is occurring and abutters are concerned if the work was permitted. The Agent supplied the commission with a letter from CXS,

dated April 13, 2013, outlining their intended vegetation removal and clearing in that location. Duffy requested the Agent review the YOP and insure all wells (municipal and private) are properly located. The BOH or planning department should have prior plans or maps with existing wells. The main reason for insuring the wells are properly located on the YOP is to be sure no pesticide/herbicide spraying is proposed in any of the wellhead areas.

7:40 PM EO/Violation: 46 Wilbraham Street – CKS Auto Sales

A site visit occurred today, July 10, 2013 with the Agent and Chair Ring to CKS Auto Sales. It was noted the required restoration area was mowed again, and two (2) cars were parked in the restoration and riverfront area as well. A gentleman from CKS supplied the commission with proposed plans from 2002 and stated they could park according to those plans. Ring informed him the plans are only “proposed”, and were never approved by the Commission. Ring also requested they attend the meeting this evening, at 7:30 PM to discuss the matter further. No representative from CKS attended. Ring proposed the Commission issue a one-time fine of \$300.

Motion made by Don Duffy to issue a one-time fine, of \$300 to CKS Auto Sales, for non-compliance with Palmer’s Wetlands Protection Ordinance

Motion seconded by Matt Trybus

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

Motion made by Pete Izyk to issue an Enforcement Order, dated July 2, 2013, to CKS Auto Sales, for non-compliance with the Wetlands protection Act and Palmer’s Wetlands Protection Ordinance

Motion seconded by Don Duffy

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

7:45 PM EO/Violation: 54 French Drive – Zach Cooper

Zachary Cooper attended tonight’s meeting, at the request of the Commission to discuss the violations occurring at 54 French Drive. Also present were neighbors Evelyn Sullivan, 50 French Drive, and Paula Allen, 57 French Drive. A site visit occurred today, July 10, 2013 with the Agent and Chair Ring. It was noted a new horseshoe pit was installed on site, resulting in the building up of the grade to install. It was also noted the top retaining wall had two electrical outlets present, which would have required trenching the area to install the wiring. Cooper informed the commission that only the conduits were present, and no actually wiring has occurred. When questioned about trenching for the conduits, Mr. Cooper then stated only the outlets were present and no trenching occurred.

Evelyn Sullivan expressed her concerns with the drainage to her property. She claimed Mr. Cooper has been raising and raising the yard up over the past two years; that he has dug up every stump, root and stone present and is always working at odd hours and on the weekend. Sullivan also stated the horseshoe pit and the corresponding supporting walls has redirected the drainage directly to her yard. She also stated Mr. Cooper is always out there will heavy machinery and is constantly digging. She can no longer have company due to the noise and exhaust fumes from the vehicles. She also stated that Cooper constantly removes all the soils from site and never replaces them. She supplied the commission with several pictures taken over the past year, documenting several different violations.

Ring stated the initial EO issued last May required restoration plantings, not grass that is currently in place. Cooper said he received Commission approval for the “Athletic grass”, and that the Commission waived the conservation mix planting requirements. Ring concurred with the grass, but did inform Cooper he was in violation again for the horseshoe pit and for not planting bushes at the bottom of each retaining wall as proposed. Cooper informed the Commission he informed the Agent of the Horseshoe pit, but no response was given. Ring informed Cooper no response does not constitute an approval. The Agent

informed the Commission that the issue was on the agenda for June 18th, but the meeting was cancelled due to lack of quorum. The Agent did not reply to Cooper because it was a matter for the Commission to decide on and not her individually.

The Agent also expressed concerns with the damage to the Bank and Beach from the excessive work on the property. Cooper stated a desire to restore the beach and the Agent recommended he include the beach restoration, as part of the NOI filing the Commission would be requiring.

Cooper raised his own concerns with Sullivan and her pumping water out of the lake for watering her yard. A reference was made about Dave Johnson, refereeing to the pump being grandfathered in, due to its long time existence.

Motion made by Don Duffy to issue an Enforcement Order, dated July 2, 2013, to Zachary Cooper of 54 French Drive, for non-compliance with the Wetlands protection Act and Palmer's Wetlands Protection Ordinance

Motion seconded by Matt Trybus

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

Motion made by Don Duffy to require a Notice of Intent, in complete compliance with the Wetlands protection Act and designed by a professional engineer, by September 3, 2013

Motion seconded by Matt Trybus

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

Mr. Cooper was instructed no more work at all was allowed on site until the Commission received a completed NOI, and a valid OOC was issued for the work.

Evelyn Sullivan did request it go on record that she does feel retaliation from the Coopers for her concerns she addressed previously.

8:15 PM Administrative Matters: Internship discussion with Sarah Brodeur

The Commission discussed the possible project our new intern, Sarah Brodeur, could work on. The Agent desired Sarah to help in the office a bit; specifically developing a digital applicant database in order to easily access permits. The Agent also desired to have Sarah help reorganize the filing system, so it would be navigable. Duffy would like the intern to set up wildlife viewing cameras in Conservation Lands to monitor the species present. The commission decided to find quotes for a few companies for outdoor wildlife monitoring cameras. A discussion occurred over where the cameras would be species specific or habitat specific. The process for setting the cameras and determining the proper locations is dependant upon what your are looking to find.

Next Meeting Date: Tuesday, July 16, 2013 at 7 PM

8:30 PM Meeting Adjourned

Motion made by Matt Trybus to adjourn

Motion seconded by Pete Izyk

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

Sincerely Submitted,
Angela Panaccione, Agent