



# TOWN OF PALMER CONSERVATION COMMISSION

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Sarah Brodeur, Chair  
Donald Blais, Jr, Vice Chair  
Peter Izyk  
David Cotter

Agent: Angela Panaccione

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## MEETING MINUTES TUESDAY AUGUST 1<sup>st</sup>, 2017 @ 7:00 PM

**Members Present:** Sarah Brodeur  
Donald Blais, Jr.  
Peter Izyk  
David Cotter

**Members Absent:** None

**Also Present:** Austin Turner, 2 Breckenridge Street  
Tommy McLean, Sherwood Lumber  
Lindsey Barbee, Greenman-Pedersen, Inc.  
Jim Thompson, Alden Street, Palmer MA 01069  
Donald Frydryk, Sherman & Frydryk  
Richard Bernard, L21 Aspen Circle  
Gail Ceresia, Berkshire Wetland Consulting Services  
Brandon Ruotolo, 200F Main Street, #275, Stoneham MA 02180

**Meeting Opens:** 7:04 PM – Sarah Brodeur (Chair)

### **7:04 PM Request for Certificate of Compliance (COC): DEP# 256-0316 – 384 Boston Road**

The Commission received a request for a Certificate of Compliance from Jason LaFleur, c/o Jose Vazquez for the installation of a replacement septic system and leach field at 384 Boston Road, under the Order of Conditions for DEP # 256-0316. A site visit occurred July 18, 2017 with the Conservation Agent and Jason LaFleur. The Agent determined that the work regulated by the Order of Conditions was completed in compliance with the OOC and approved plans and documents and recommended the Commission issue a Complete Certificate of Compliance with continuing conditions #41-42.

**Motion made by Donald Blais, Jr. to close the hearing and to issue a complete Certificate of Compliance for DEP #256-0316 with ongoing conditions #41-42.**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

### **7:04 PM Cont. Administrative Hearing – L21 Aspen Circle (Map 10-20) – Road Construction**

The Commission continued the Administrative Hearing to discuss the violations that have occurred at L21 Aspen Circle. The 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 and the Town of Palmer Wetlands Ordinance and Regulations.

Sarah Brodeur reopened the hearing, and Richard Bernard, property owner, Gail Ceresia, wetland consultant for the restoration plan, and Brandon Ruotolo, legal counsel for the property owner, were present at the hearing. Sarah Brodeur, Donald Blais, Jr. and Conservation Agent Angela Panaccione attended a site visit to the property on July 6<sup>th</sup>, 2017 to observe the current conditions of the property, for the purpose of developing a current conditions site plan. Gail Ceresia presented the existing conditions plan to the Commission, prepared by Sherman & Frydryk, dated July 31, 2017.

**Motion made by Donald Blais, Jr. to accept the existing conditions plan for L21 Aspen Circle, dated July 31, 2017**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

The hearing proceeded with a review of the proposed restoration plan, led by Gail Ceresia, who explained that the restoration effectively divides the property into six (6) different areas through the wetland and buffer zone that require attention. The restoration will consist of working backward through the road system to remove fill, restore intermittent stream systems, and fill in deep sink holes that have arose on site.

Gail Ceresia informed the Commission the final restoration plan prior to August 22<sup>nd</sup>, 2017 so that the Commission may conduct a final site inspection prior to the commencement of restoration activities.

**Motion made by Donald Blais, Jr. to accept the draft restoration plan provided by Gail Ceresia**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**Motion made by Donald Blais, Jr. to continue the Administrative Hearing for L21 Aspen Circle to August 22, 2017 at 7PM**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**7:30 PM Cont. Public Hearing for NOI DEP #256-0324: Belchertown Land Trust – Upper Bondsville Dam**

A Notice of Intent was submitted by the Belchertown Land Trust for safety repairs to the dam, per the order of the Department of Conservation and Recreation (DCR) Office of Dam Safety.

The Commission had a discussion concerning the Chapter 91 permit as required through the repair process.

The Applicant requested a continuance until September 19<sup>th</sup>, 2017.

**Motion made by Peter Izyk to continue the hearing to September 19<sup>th</sup>, 2017 at 7 PM.**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**7:35 PM Cont. Public Hearing NOI DEP #256-0327: Sherwood Lumber – 24 Third St (Map 28-28, 28-29, 28-31 & 28-43; 343-20)**

A Notice of Intent was submitted by Sherwood Lumber for the proposed redevelopment of the lumber facility located at 24 Thirds Street.

Sarah Brodeur reopened the hearing, and Lindsey Barbee, of Greenman-Pedersen, Inc. Engineering and Construction Services, and Tommy McLean, of Sherwood Lumber, were present at the hearing. The Commission discussed water withdrawal from the Swift River, for the purpose of controlling dust in the lumber yard on site.

The discussion centered on the fact that water withdrawal from the Swift River will necessitate crossing conservation land and a trail owned by the Commission, and will result in impacts to Bordering Land Subject to Flooding (BLSF). The Applicant proposed to install a board walk over the trail that will house the hosing used to withdraw water from the river; this board walk will also help to deter motor vehicle use, which is impacting the trail system and is an unpermitted use of the land. To mitigate the necessity of crossing conservation land, the Applicant has proposed to install an overlook deck that can be used for fishing.

The discussion proceeded to modifications to the stormwater system on site, which was revised with respect to MassDEP's stormwater guidance handbook for the Western Region. The Stormwater Operation and Management Plan was also discussed with respect to timelines for cleaning catch basins and other stormwater structures.

Sarah Brodeur opened the hearing to the public for comment, and no public was present.

**Motion made by Donald Blais, Jr. to close the Public Hearing for DEP #256-0327: Sherwood Lumber – 24 Third Street**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**Motion made by Donald Blais, Jr. to issue an Order of Conditions (OOC) with Findings of Facts and Special Conditions for DEP# 256-0327**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**7:58 PM Request for Certificate of Compliance (COC): DEP #256-308 – Sherwood Lumber**

The Commission received a request for a Certificate of Compliance from Greenman Pedersen, Inc, c/o Sherwood Lumber for the proposed redevelopment of the lumber facility located at 24 Thirds Street, under the Order of Conditions for DEP # 256-0308. A site visit occurred May 30, 2017 with the Conservation Agent and Lindsay Barbee. The Agent determined that the work regulated by the Order of Conditions was never completed and recommended the Commission issue an Invalid Order – finding the work never commenced.

**Motion made by Donald Blais, Jr. to issue an Invalid Certificate of Compliance (COC) for DEP #256-308 because the work permitted under the Order of Conditions never commenced. No future work subject to regulation under the Wetlands Protection Act may occur without the filing of a new Notice of Intent and receiving a new Order of Conditions**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**8:00 PM Administrative Hearing: Food & Fuel Inc. – 1237 Park Street (Map 56-7)**

The Commission held an Administrative Hearing to discuss the stormwater violations that have occurred at the Food & Fuel Inc., located at 1237 Park Street. 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 and the Town of Palmer Wetlands Ordinance and Regulations.

The Commission was made aware of a potential enforcement situation at the Food & Fuel Inc., located at 1237 Park Street. The enforcement situation pertains to the unpermitted installation of inadequate stormwater systems on site, after conducting site improvements to the gas pumps in addition to other activities. The Conservation Agent was made aware of the stormwater issues on site by an abutter whose property has been flooded by extreme

rain events as a result of the improper installation of stormwater structures. This abutter provided photographic and video evidence to the Chair on June 20<sup>th</sup>, 2017 to support his claims, and expressed concern not only over his own property, but also the potential undermining of the railroad that runs behind Park Street. The Chair authorized the Agent to pursue enforcement on June 20<sup>th</sup>, 2017.

The remaining discussion on this issue focused on changing the date listed on the Enforcement Order to September 19<sup>th</sup>, 2017.

**Motion made by Donald Blais, Jr. to ratify the Enforcement Order issued to Food & Fuel Inc. on July 25<sup>th</sup>, 2017**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**8:16 PM Administrative Hearing & Cont. NOI: Dollar General – 2 Breckenridge Street (Map 24-56)**

The Commission held an Administrative Hearing to discuss the violations that have occurred at 2 Breckenridge Street, and reviewed the Notice of Intent (NOI) for the proposed development of a Dollar General Store. Violations include, but are not limited to, failure to obtain a permit prior to conducting any activity subject to regulation under the MA Wetlands Protection Act and the Town of Palmer Wetland Ordinance and Regulations.

Sarah Brodeur reopened the hearing, and Austin Turner, of Bohler Engineering, was present. The Commission discussed the current status of the project, and the next steps to be taken with respect to enforcement, because none of the stipulations detailed in the Enforcement Order issued on June 6<sup>th</sup>, 2017 have been complied with; the stipulations refer to filing a Notice of Intent permit application, paying the associated fees for submitting the permit application, hiring a wetlands consultant that is approved by the Agent to remain on site during all construction activities, and to flag all resource areas on site. Although Dollar General did submit a Notice of Intent, the application was withdrawn a few days later.

The Commission proceeded to discuss the option of issuing fines in the amount of three hundred (300) dollars per day, per violation, to Dollar General as a result of the complete inability to attain voluntary compliance in this matter. The Commission determined that it had been 57 days since enforcement measures had been initiated.

Austin Turner maintained that the Negative Determination of Applicability that was issued by the Commission in October 2016 was still valid, and that it was not necessary to file a Notice of Intent. Sarah Brodeur stressed the fact that in the event that work permitted under a Negative Determination of Applicability results in impacts to resource areas, such as the major sedimentation event of Grave's Brook and the Quaboag River on May 12<sup>th</sup>, 2017, that the Determination becomes invalid and requires the filing of a Notice of Intent. Due to the inability of the Applicant to understand this provision, the Commission revoked the Negative Determination of Applicability.

**Motion made by Donald Blais, Jr. to revoke the Negative Determination of Applicability issued to Dollar General on October 2016**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

The Commission continued the hearing by discussing the appeal process with Austin Turner. The Agent explained that the enforcement order can be appealed, within 60 days of issuance, to Superior Court as opposed to MassDEP.

Sarah Brodeur proceeded to open the hearing to the public, and Jim Thompson, of Alden Street in Palmer, was present to express his concerns about the project. Mr. Thompson explained that he has been concerned about this

project since its inception because of the constant flooding issues experienced by residents in that part of town. He continued to express his concerns about traffic in the area, and stated that the intersection of Breckenridge Street and Route 20/Park Street has always been a terrible intersection, and expects that the traffic issues will worsen as a result of this project. Finally, Mr. Thompson expressed his frustration with the Commission and the enforcement process in general to have yielded any measurable results in this matter.

**Motion made by Donald Blais, Jr. to issue fines in the amount of three hundred (300) dollars per day per violation**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

Austin Turner requested a stay for sending the fine notice to the court pending the opportunity to have a discussion with his clients.

**Motion made by Donald Blais, Jr. to accept the stay requested for sending the fine notice to the court until August 3<sup>rd</sup>, 2017 at 12:00 PM**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**Motion made by Donald Blais, Jr. to continue the Administrative Hearing until August 22<sup>nd</sup>, 2017**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**9:09 PM      Ratify Emergency Permit: Well installation – 38 French Drive (Map 68-29)**

The Commission received a request from the Board of Health Agent Josh Mathieu for an emergency permit to install a new artesian well at 38 French Drive due to a lack of potable water at the residence. The applicant to perform the work is Dave Costello, from the Connecticut Valley Artesian Well Company. The work to be allowed is limited to the installation of a new Artesian Well. The well will be located 70-feet from the surface waters of Lake Thompson. A site visit occurred July 31st, 2017.

The Agent included the following conditions for the well installation:

1. When feasible, work will be scheduled during times when the ground water table and/or surface water level are low (i.e., seasonal fluctuations and/or when an adequate amount of time has passed following significant rainfall).
2. The installation of the well must be at least 50 ft. from the Lake Thompson and a well slurry containment pit shall be constructed prior to well installation to catch all well drillings. The applicant shall notify the Commission after the erosion and sediment controls are installed, prior to any further activity on site, for an inspection.
3. Prior to construction the general contractor shall designate a construction staging area, located outside all resource areas and buffer zones. All construction trailers, portable sanitary facilities, material storage and overnight parking of equipment shall be in the staging area. The perimeter of the staging area shall be protected as necessary with silt fence and the ground surface shall be protected with washed stone or another suitable non-erosive material.
4. If dewatering proves to be necessary, a dewatering plan shall be submitted to the Commission for review and approval. Dewatering activities shall be monitored daily to ensure that sediment-laden water is appropriately settled prior to discharge toward the wetland resource areas. No

discharge of water is allowed directly into an area subject to jurisdiction of the Wetlands Protection Act.

**Motion made by David Cotter to ratify the Emergency Permit for the installation of a new artesian well at 38 French Drive, issued on July 31<sup>st</sup>, 2017**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**9:15 PM          Approval of Payables: June Mileage Reimbursement – \$432.71**

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**Motion made by David Cotter to approve the payable to Angela Panaccione in the amount of \$432.71, for the reimbursement of travel expense for June 2017, from the Con Com Town Bylaw Expense Account**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**9:17 PM          Approval of Payables: MACC Dues – \$395.00**

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**Motion made by Peter Izyk to approve the payable to MACC in the amount of \$395.00, for FY 18 Membership dues and four (4) E-handbook subscriptions from the Con Com Town Bylaw Expense Account**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**9:20 PM          Approval of Payables: MSMCP Dues – \$20.00**

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**Motion made by Peter Izyk to approve the payable to MSMCP in the amount of \$20.00, for FY 18 Membership dues from the Con Com Town General Expense Account**

**Motion seconded by David Cotter**

**No further discussion – 4-0-0 – Motion Carries**

**9:22 PM          Approval of Payables: Hotel Reimbursement – \$222.28**

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**Motion made by Donald Blais, Jr. to approve the hotel reimbursement for Angela Panaccione in the amount of \$222.28, for the reimbursement of travel expense to the NPDES Stormwater Training held in Marlborough MA on 7/13/2017 & 7/14/2017, from the Con Com Town Bylaw Expense Account**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**9:25 PM          Approval of Payables: July Mileage Reimbursement – \$240.75**

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**Motion made by David Cotter the payable to Angela Panaccione in the amount of \$240.75, for the reimbursement of travel expense for July 2017, from the Con Com Town Bylaw Expense Account**

**Motion seconded by Peter Izyk**

**No further discussion – 4-0-0 – Motion Carries**

**9:28 PM          Administrative Matters: Signature Authority for the Approval of Documents**

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**Motion made by Peter Izyk to give the Chair and/or Vice Chair the authority to approve payables and payroll**

**Motion seconded by David Cotter**  
**No further discussion – 4-0-0 – Motion Carries**

**9:28 PM      Administrative Matters**

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1. Forest Lake Seasonal Cottages: The Commission discussed the upcoming commercial development consisting of the construction of seasonal cottages at Forest Lake, and how to proceed to confirm the wetland delineation on site.

**Motion made by Peter Izyk to require the filing of an ANRAD/RDA to confirm the wetland delineation on site**

**Motion seconded by Donald Blais, Jr.**  
**No further discussion – 4-0-0 – Motion Carries**

2. Ice House Development: The Conservation Agent informed the Commission that she will be conducting a site visit to the property for the possible development of this site on Thursday, August 3<sup>rd</sup>, 2017.
3. Route 20 Sports Bar: The Commission discussed the future development of the Route 20 Sports Bar.
4. Three Rivers Revitalization: The Commission discussed the future revitalization efforts for the Three Rivers village.

**9:30 PM      Request for Certificate of Compliance (COC): DEP #256-0038 – 19 West Ware Road**

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The Commission reviewed a Request for a Certificate of Compliance (COC) for the property at 19 West Ware Road. The Conservation Agent provided context for this project, informing the Commission that this was a past enforcement situation that resulted from: eight-hundred (800) square feet of unauthorized fill; the installation of an improperly sized thirty-foot by thirty six-inch (30' x 36") culvert; and the installation of a septic system that doesn't meet Title V requirements. The Conservation Agent also stated that the Commission denied the Request for a COC in 1991 due to these issues.

**Motion made by Peter Izyk to deny the Request for a Certificate of Compliance for DEP #256-0038**

**Motion seconded by David Cotter**  
**No further discussion – 4-0-0 – Motion Carries**

**Set Next Meeting Date: August 22<sup>nd</sup>, 2017 @ 7:00 PM**

**Meeting adjourned: 10:40 PM**

**Motion made by Peter Izyk to adjourn at 10:40 PM**

**Motion was seconded by David Cotter**  
**No further discussion – 4-0-0 – Motion Carries**

Sincerely Submitted,

Sarah Brodeur  
Palmer Conservation Commission Chair