

Palmer Planning Board

Planning Board Meeting Minutes

Monday, November 6, 2017

I Call to order

Chairman Michael Marciniac called the meeting to order at 7:00PM on Monday, November 6, 2017 in the Planning Board office. Present were Kathleen Burns, Norman Czech, Thomas Skowrya and Paul Burns-Johnson. Also present was Town Planner, Linda Leduc and Nicole Parker, recording minutes.

II Public Hearings

7:00 PM – Special Permit - RB Enterprises Earth Removal, Robinson Rd: Continued from February 27; March 6; April 10; May 8, June 5; June 19; July 24; August 28; September 18; October 2, 2017:

7:00 PM - Special Permit - RB Enterprises Access onto Route 67: Continued from June 19; July 24; August 28; September 18; October 2, 2017:

M. Marciniac opened the continuance reminding everyone that it is a concurrent hearing. Special Permit and Site Plan Approval for Earth Removal Operations; A Special Permit for Access Other than Through Legal Frontage, and may take up any information or testimony on either permit applications.

The Board received a letter from the Town's Land Use Attorney, Brian Falk, via e-mail, dated November 3, 2017.

It explained the fact that a Board member may only miss one hearing under the Mullin Rule. T. Skowrya missed two meetings, leaving him ineligible to participate in the proceedings from this day forward. Although ultimately up to the Chair, M. Marciniac told T. Skowrya it was his decision whether or not to stay with the Board during the meeting or sit in the audience or leave, to which T. Skowrya decided to sit in the audience.

M. Marciniac then reiterated that the voting members going forward will be K. Burns, P. Burns-Johnson, N. Czech and M. Marciniac.

M. Marciniac stated the latest information contained a memo from Cross- Spectrum Acoustics, dated October 20, 2017 and received by the Planning Department October 26, 2017, with response to comments from the Board's engineer, John Furman of vhb.

Applicant's Attorney, David Berson of Bacon & Wilson, requested that the site plan be presented first, as it correlates with the revised sound study, and introduced who was present representing the applicants. He stated Herbert Singleton, of Cross-Section Acoustics was present, as well as applicants, Ray Breton and Paul Les, and Donald Frydryk, of Sherman and Frydryk Engineering.

D. Frydryk spoke about the changes in the plan. He stated that the access road will be paved from Boston Road for approximately 650 feet, past the existing water line that serves the property at 128 Boston Rd. The applicant proposes adding a 6 foot stockade fence on either side of the roadway going up 260 feet, starting at the entrance of the driveway, and continuing westerly on the southerly and northerly property line. Two rows of white pines are proposed along the easterly side of the access road.

A letter from D. Frydryk, dated October 26, 2017 explained some dust control measures. He read from the letter stating that water will be brought in from off-site twice a day and as needed. The active working area will be sprayed with 1,000 gallons of water at the start of the day and 1,000 gallons at midday. A study found that the additional water will result in approximately .045 inches excess runoff, which was stated to be minimal, to which vhb concurred.

Atty. Berson reintroduced the topic of the sound and vibration concerns. Changes made to the plan resulted in changes to the sound study. Atty. Berson introduced Herbert Singleton Jr, PE INCE Bd. Cert, President of Cross-Spectrum Acoustics.

Mr. Singleton stated that his memo dated October 20, 2017 responded to comments from vhb, who responded to the initial study from approximately a month ago. He reviewed his original study briefly. Proposed activity regarding nuisance was explained as trucks driving on the roadway coming in to the property and gravel operation extraction area on the property. The combination of that noise was studied by two sensors placed at the location for approximately 2 days, at 6 truck trips per hour, basically every 10 minutes. The original analysis incorporated the buffers that were proposed. DEP states that the project cannot exceed 10dbi over existing background noise.

Mr. Singleton stated that vhb found two errors in the report- that did not affect the outcome. One mistake was that they were figuring 8 trucks per hour and not 6, which had increased the dbi by one. The other mistake was switching the results for 128 vs. 138 Boston Rd in the table of results. He stated that 138 has higher noise levels due to the elevation and it being at more of a level plane with the exhaust stack. He stated that it was corrected in the revised report. He stated a study was done without sound barriers on either side of the roadway and still met the DEP criteria at the physical residences, but not at the property line. However, considering there would be sound at the property line, mitigation is required.

J. Furman of vhb stated that all studies and reviews relative to the access road have been submitted and he doesn't believe there is any more analysis that needs to be looked at. The opinion of vhb is that the approval criteria on the application should focus on whether the project will cause nuisance to the adjacent properties. In vhb's opinion, there would be an increase in sound levels and since diesel fumes are unregulated the Board would need to decide the level of annoyance that would impact the residential areas abutting the permit area considering the length of this project over 22 years.

Attorney Berson made final statements to the board. He stated that the rules and regulations for earth removal operations and the zoning ordinance state that the buffers are required from the operating area and not the access road, but understood the impacts the Board needs to consider as a whole.

A number of abutters were present and spoke reiterating their concerns with water rights, noise, dust, fumes, and the number of vehicles that would impact their properties and lifestyle for more than 20 years.

The Board members first discussed the Access Application based upon the criteria set forth in section 171.28 of the Palmer Zoning Ordinance. P. Burns-Johnson stated that the commercial access road being used for earth removal for over 22 years would cause a significant impact to the abutters and their ability to use and enjoy their property. K. Burns agreed. N. Czech spoke on the sound and vibration studies only looked at the impacts to the buildings and not the property lines. The abutters should be able to enjoy their yards as well. M. Marciniac stated that he did not believe the project showed proper mitigation for dust, noise and noxious fumes. The commercial access road would cause considerable nuisance to an area that is dominated by residential uses. He stated Special Permits for access other than through a lots legal frontage have been granted because they have reduced nuisances to abutters not increase them as in this case.

The Planning Board found that the Access Application does not meet the criteria set forth in section 171.28 of the Palmer Zoning Ordinance and on a motion made by Paul Burns-Johnson and seconded by Kathy Burns and voted 4-0, the Access Application was denied.

Attorney Berson asked if there could be a short recess to consult with his client. Chairman Marciniac called for a 5 minute recess.

The meeting resumed at 8:20PM

Chairman Marciniac asked Attorney Berson if he would like to request a continuance for the Earth Removal Application hearing as there were outstanding issues. Attorney Berson asked what information was still in need of being submitted relative to the earth removal project. J. Furman stated that since the access road would now have to revert to the original location off of Robinson Road there were a number of outstanding items noted in the vhb traffic review memo prepared by Juliet Locke, dated February 13, 2017. In particular, due to the rural, narrow and extensive curvature of the roadway, further study of the road's site lines and distances, the overall impact of the increase in traffic volumes and safety review of the intersection of Robinson Road and Boston Road/Rt. 67 needs to be conducted. J. Furman also recommended that crash data from both the MassDOT database and local police department be reviewed. The vhb memo states "Based on our review and the site observation performed, it is in vhb's opinion that the Applicant has not sufficiently addressed the safety concerns regarding the use of Robinson Street, and recommends the Palmer Planning Board withhold action on this application until additional information and a full Safety Study of the roadway and intersection is performed. The safety analysis shall be prepared and signed/sealed by a Professional Traffic Engineer of the Commonwealth of Massachusetts". The above documents were requested and not produced. Attorney Berson was asked if the Applicant would agree to a continuance in order to collect the outstanding information/documents/studies and he indicated that the Applicant would not agree to a continuance.

Attorney Berson was then asked if it was accurate to say that he was refusing to provide any further information and he stated that was correct. Chairman Marciniac requested a motion from the Board to deny the Earth Removal Application due to lack of information.

In particular, section 171.73.A.2 of the Palmer Zoning Ordinance provides that the Board may only permit an earth products excavation operation on those lots considered by the Board to have suitable access onto roads of sufficient width and capacity to support maximum projected loads.

Without the information requested of the Applicant, as recommended by the Board's professional peer reviewer, the Board was unable to make findings necessary to comply with sections 171.73.A.2 and 171.73.A.3 of the Palmer Zoning Ordinance.

A motion was made by N. Czech and seconded by P. Burns-Johnson to deny the Earth Removal Application due to the Applicant's refusal to provide information necessary for the Board to grant a special permit in accordance with the Palmer Zoning Ordinance. The motion passed 4:0 to deny.

It was discussed whether the Stormwater permit had standing on its own without an approved Site Plan. In response, Attorney Berson withdrew the Stormwater application.

III. New Business:

Minor Amendment to 1317 Main Street Site Plan (Map 58, Lot 198):

The existing Site plan is for Class II auto sales. The previous Site Plan for a 9-car license was issued to DiRico Motor Sales, Inc. The Site Plan and license will be issued to Peter Scagliarini and FSG Realty, LLC for the same # of cars.

Waiver of Site Plan – 1240 Park Street, Pet Grooming Business (Map 56, Lot 143):

The Board received a request to ratify a Waiver of Site Plan for a new dog grooming business in the Park Street Plaza, in the store front location previously occupied by Fire Services Group. The business will have 4 workers where clients will drop off their pets in 30 minute intervals and pick-ups will be staggered throughout the day.

A motion was made to ratify the Waiver request by N. Czech, seconded by P. Burns-Johnson. The motion passed. Vote 5:0.

Waiver of Site Plan – 1235 Thorndike Street, Offices (Map 73, Lot 58):

The Board received a request to ratify a Waiver of Site Plan to convert 1235 Thorndike Street to office and showroom space for Altitude Organics headquarters in MA. The existing home will continue to be used as an owner residence.

A motion was made to ratify the Waiver request by N. Czech, seconded by K. Burns. The motion passed. Vote 5:0.

SANR – Jean & Edward Bubon, Foster Street, Property Survey Plan:

It was noted when surveying the property that there was an inconsistency with the property boundary as known. This plan corrects that. T. Skowyra motioned to endorse the plan. N. Czech seconded the motion. The motion passed (5:0)

SANR – Jean & Edward Bubon, Foster & Emery Street, Lot Division Plan:

A motion was made to endorse the by N. Czech, seconded by P. Burns-Johnson. The motion passed 5:0.

Minutes; September 18, 2017 & October 2, 2017, October 16, 2017: There were no minutes to approve

Abutting Town Notices were distributed to the Board

Knox Pond Construction Report # 121:

A motion was made to acknowledge receipt of Knox Pond Construction Report #121 by K. Burns, seconded by N. Czech. The motion passed 5:0.

IV. Old Business:

Updated Site Plan, VCA Animal Hospital dumpster location:

The Board received a letter dated November 2, 2017 from Don Frydryk of Sherman & Frydryk addressing the new location of the dumpster at 1028 Thorndike Street. They also received an updated Site Plan showing the location of the enclosed dumpster with a revision date of 11/2/17. The Board accepted this plan as approved.

A motion was made to approve of the updated Site Plan by N. Czech, seconded by K. Burns. The motion passed 5:0.

V. Town Planner Update:

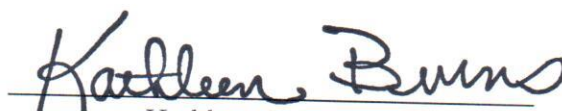
Complete Streets – Interactive Map:

L. Leduc update the Board as to the Complete Streets process and noted that there was currently an internal Interactive Map receiving comment. A public forum will be held later in the year to receive additional comments on what improvement projects the Town would like to see done under this program. The map will also be released for public comment at this time.

Laviolette Field Fitness Trail Celebration: There will be a gathering at Pinocchio's Restaurant, November 13 from 6-8 pm to celebrate the naming of the new Laviolette Field Fitness Trail in Three Rivers.

VI. Adjournment

A motion was made to adjourn at 8:51PM by T. Skowyra, seconded by P. Burns- Johnson. The motion passed (5:0)


Kathleen Burns, Clerk