

Brennan Punderson & Donahue, PLLC

ATTORNEYS AT LAW

Kevin T. Brennan, Esq.

Ebenezer Punderson, Esq.

Joan Donahue, Esq.

VIA EMAIL (rvenkataraman@richmondvt.gov)

October 7, 2020

Ravi Venkataraman
Town Planner
Town of Richmond
P.O. Box 285
203 Bridge Street
Richmond, Vermont 05477

Re: Appeal of Donald and Laurel Palmer, Trustees of the Palmer Family Trust

Dear Ravi:

I am writing in reply to your email of September 25, 2020 in which you advised the Palmers that the Town of Richmond Development Review Board ("DRB") has decided to re-open the Palmers' Appeal Hearing in order for the DRB to request additional supplemental information.

Specifically, the DRB has requested the following:

1. Additional information relative to the ownership of the lot not owned by the Palmers that was created via a subdivision in 2008.
2. Information on whether the property owner of said lot was approached by the appellant.
3. Information on the status of the Class II wetlands, including:
 - a) Why and how the wetlands were classified as Class II wetlands?
 - b) Was the classification of the Class II wetlands a recent development?
 - c) Did the property have any wetlands--specifically Class II wetlands--at the time the lots were subdivided in 2008?
4. Additional information on whether all possibilities for access were explored

Following, please find the responses in the same order in which they are presented above:

1. The parcel that is not owned by the Palmers and that was created by their 2008 subdivision is currently owned by Kevin O'Neil. Our office has not searched title to the property. This information has been provided from our clients' personal knowledge of the property and owner.
2. Mr. Palmer has recently approached Mr. O'Neil inquiring about obtaining an easement and right of way through his property to access the adjacent Palmer parcel. Mr. O'Neil was

TO REPLY:

KEVIN: Monkton P.O. Box 8, 1317 Davis Road, Monkton, Vermont 05469 Phone 802.453.8400 Fax 802.453.8411

EBEN & JOAN: Middlebury The Marbleworks, 99 Maple Street, Suite 10B, Middlebury, Vermont 05753 Phone 802.989.7342 Fax 802.989.7623

not interested in granting such an easement. Unfortunately, given the wetlands located on the O'Neil property, the only possibly viable easement area would be located unreasonably close to the residence.

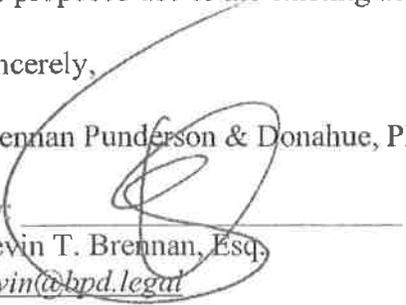
3. Attached hereto as Exhibit 1, please find a letter from Evan Fitzgerald, Fitzgerald Environmental Associates, LLC. As you will see in Mr. Fitzgerald's letter, the wetlands were not classified as Class II wetlands until very recently, on June 29, 2020. At the time of the Palmers' 2008 subdivision the property did not have any mapped Class II wetlands.
4. The Palmers have exhausted all possibilities for access to the property. As presented in the Notice of Appeal and documents attached thereto, and as further explained at the DRB's hearing, all other potential access points would require crossing a Class II wetland. Given that there is a preexisting access impacting a Class II wetland through the Palmer's Richmond property, the State of Vermont Agency of Natural Resources Department of Environmental Conservation will not allow the Palmers to construct a new access that impacts a Class II wetland, but will issue such a permit for the existing access, and in fact, have. I have attached a copy of the Draft Individual Wetland Permit and Determination hereto as Exhibit 2.

In light of the above and evidence previously provided to the DRB: (1) the Class II wetlands are a unique physical condition creating an unnecessary hardship for the Palmers; (2) as a result, there is no possibility that the property can be developed without a variance which is necessary to enable the reasonable use of the property; (3) The Palmers did not create the unnecessary hardship. There were no mapped Class II wetlands at the time of the Palmers' 2008 subdivision, but subsequently, Class II wetlands have been mapped, limiting access to the preexisting access; (4) a variance will not alter the essential character of the neighborhood nor will it impair development on adjoining lands; and (5) the requested variance is the minimum necessary to afford relief and is the least deviation possible from the zoning regulations.

On behalf of the Palmers, I respectfully request that the Board grant the variance request to allow the proposed use of the existing access to the Hinesburg lands.

Sincerely,

Brennan Punderson & Donahue, PLLC

By: 
Kevin T. Brennan, Esq.
kevin@bpd.legal

Encl.

cc: Donald F. Palmer and Laurel J. Palmer, Trustees (via email)