

Essex Conservation Commission

March 18, 1997 - Minutes

Present: David Folsom, Chairman, Edwin Perkins, Peter Perrigo, Thomas Prentiss.

Meeting called to order at 7:40 p.m.

A continuation of a public hearing was heard at 7:42 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on an Abbreviated Notice of Intent filed by Melanie Burnham covering the reconstruction of a dwelling at 26 Lufkin Point Road.

Folsom told the Board that he attended the Board of Health meeting of March 4, 1997, at which time the reconstruction of Burnham's dwelling at 26 Lufkin Point Road was discussed. It was noted that the Conservation Commission required a letter from the Board in answer to a memorandum submitted to them requesting a review of the records of the septic system, and if necessary to examine the property to satisfy itself and the Commission that upon completion of the dwelling reconstruction, the on-site system would not impact the salt marsh. Due to the absence of the Board of Health Administrative Clerk because of medical problems, a letter was not forwarded to the Commission as a result of the above meeting, but a copy of the handwritten notes pertaining to this issue were obtained. The notes stated that from the discussion that was held, a letter was to be forwarded to the Commission stating that the inspection report in the file passes Title V - the Health Agent stated that he did everything he could and that the system is working. A copy of a letter dated March 17, 1997, sent to Attorney Francis Flatley (attorney for Joseph Whelton, abutter to the property) from Health Agent John Jacobi was also read into the meeting. The letter stated Jacobi's concerns have been expressed in writing to engineer Clay Morin, who did the initial inspection, and requested Morin to re-evaluate the situation.

Joseph Whelton, an abutter, told the Board, "From the report issued by Morin Engineering dated June 24, 1995, I feel Mr. Morin was not on that lot at all, but on the other Zaffiro property (Zaffiro owned the property prior to the Burnhams) and the Martin property. Mr. Jacobi went to look and at one time he agreed with me that you cannot get water to run uphill. The vegetation now is completely stripped, where before it wasn't. Mr. Jacobi was waiting for a letter from the engineer regarding the problem. As far as I'm concerned, they looked at another

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property's septic system and not the one pertaining to the property. I feel the whole system is fouled up. No one seems to know if there is a system there."

Engineer Clay Morin - "I did the inspection - there is a system there. We made reference to a plan in the report drawn by Hancock Survey, which was done for the pier - it was referenced because of the flood plain. We made reference to the system, but there is no plan on record showing what is there. I have checked, and there is a septic tank and it is 50 feet away from the marsh. There is no other piping leading to the marsh. That is the extent of my inspection - that is what I was required to do."

Donald Burnham, property owner, - "I had the soil checked at Biomarine and they stated in a Certificate of Analysis there is no contamination of the soil. I am content with the reports on the system, but I do feel that the run-off rushing down on our property may have an impact on the marsh." Burnham then submitted a copy of the report from Biomarine to the Board for their records. Joseph Whelton then stated that the french drain shown on a plan submitted to the Board was put in by Zaffiro, the prior owner, because he was having problems with the septic system.

Selectman Edward Neal - "I came here tonight to speak on behalf of my friend Don Burnham. I feel Essex has been inhospitable to him. Certainly the septic systems in Town need to be upgraded, but Mr. Burnham, when he bought his home, had a Title V inspection, which passed. It is my understanding that Mr. Burnham is not expanding the use of his property, and to hold up his reconstruction in this way borders on harassment. Last October, the Health Agent had an extensive check of his septic system. The question is - does the septic system impact the marsh and does the reconstruction have an impact on the area. I don't feel the question of the septic system should hold up the issuance of the Order of Conditions. I feel Mr. Burnham's plan should be approved by the Conservation Commission and that the Health Agent should be asked to check after regarding the septic system."

Commission member Edwin Perkins - "The only reason this has been held up is because we asked for verification from the Board of Health regarding the septic system and its impact on the marsh. I don't think we should be accused of being derogatory to Mr. Burnham."

Mrs. Bruce Shaw, Lufkin Point - "I think other people have rights as well as Mr. Burnham, as far as the marsh goes. Our concern is the reasons for the marsh becoming mud."

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Joseph Whelton then asked engineer Clay Morin where the leaching system was. Morin told him the leaching field was in front of the house. The septic system is below grade.

Mrs. Shaw - "I also would like to see how it can leach uphill. It must need a pump to pump it up, but they have said there is no pump there."

Edward Neal - "They said they took a transit. If we have some undefined pollution problem at Lufkin Point maybe we should just extend Phase Two to include all of Lufkin Point."

Commission Member Prentiss wanted it noted that he has never inspected William Martin's septic system, only his walkway.

Perkins moved to close the public hearing for Melanie Burnham for property at 26 Lufkin Point Road, seconded by Perrigo, with the Board voting unanimously in favor.

A public hearing was held at 8:10 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, to consider an amendment to an Order of Conditions issued to James and Norrie Stavros for the relocation of a wetlands replication area and reduction of wetland impact on Pond Street, Assessors Map 5, Lot 4.

Scott Patrowicz, of Patrowicz Land Development Engineering, represented the Stavros'. Patrowicz told the Board the driveway has now been reduced to 12 feet wide, down from 14 feet. The revised site plan relocates the wetland replication area adjacent to the proposed driveway, moved from further down the road. The construction of the wetland replication area can now be accomplished at the same time as the driveway construction. The length of the driveway is approximately 250 feet. When questioned about public safety with the width and length of the driveway, Patrowicz suggested that it remain at 12 feet over the wetland area and then have it fan out further down to enable vehicles to pull over. Patrowicz then noted that the method of replication will remain the same as that submitted by Sommer Environmental Technology with the Notice of Intent, but the revised plan reduces the impact to the wetlands and surrounding woods, as compared with the previously approved design. The Board reviewed the revised plan.

Perkins moved to close the public hearing to consider a modification to the Order of Conditions issued to James and Norrie Stavros, seconded Perrigo, with the Board voting unanimously in favor.

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A public hearing was held at 8:20 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Tom Guertner covering the addition of a deck at 74 Main Street.

Guertner told the Board he would like to construct a deck that would wrap around one and one-half sides of the dwelling (Periwinkles Restaurant), 12'2"x20' and 7'6"x44' in size. Guertner was asked the height of the river at high tide. He told the Board that it came to the top of the rip-rap. The Board then reviewed the Notice of Intent.

Perrigo moved to close the public hearing for Tom Guertner for the addition of a deck at 74 Main Street, seconded by Perkins, with the Board voting unanimously in favor.

A request to extend the Order of Conditions D.E.P. File Number 21-224 issued for the Essex River Dredging project - the Marinas - was submitted by Edwin Perkins of Perkins Marine. 2000 yards of material not removed by the original contractor still need to be removed from the marinas located on the Essex River.

Perrigo moved to extend the Order of Conditions D.E.P. File Number 21-224, issued to the Marinas for the Essex River Dredging project, for three years, seconded by Prentiss, with Folsom, Prentiss, and Perrigo voting in favor, Perkins abstained.

The Extension Permit will expire on June 30, 2000.

A request for a Certificate of Compliance was submitted by John Coughlin, Trustee of PMC Realty Trust, for work regulated under Order of Conditions D.E.P. File Number 21-271. The project covered the construction of two subdivision roads off Western Avenue. Folsom said he had visited the site and the only difference in the plan submitted with the Notice of Intent was the extension of the hammerhead to make a driveway to Lot #7.

Perrigo moved to issue a Certificate of Compliance to PMC Realty Trust, John Coughlin Trustee, certifying that work regulated under Order of Conditions D.E.P. File Number 21-271 has been satisfactorily completed, seconded by Prentiss, with the Board voting unanimously in favor.

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The Order of Conditions was written for the proposed project of Melanie Burnham, 26 Lufkin Point Lane.

Perkins moved to allow Melanie Burnham to reconstruct the dwelling at 26 Lufkin Point Lane per plans submitted with the Notice of Intent, seconded Prentiss, with the Board voting unanimously in favor.

The Order of Conditions was written for Tom Guertner for the construction of a deck at 74 Main Street.

Perkins moved to approve the proposed construction of a deck at 74 Main Street as submitted by Tom Guertner, seconded by Prentiss, with the Board voting unanimously in favor.

The modification to the Order of Conditions issued to James and Norrie Stavros for the construction of a driveway and replication area on Pond Street was written.

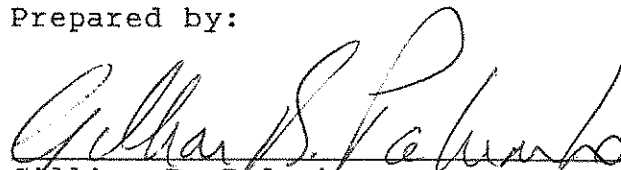
Perkins moved to approve the modification to the Order of Conditions issued to James and Norrie Stavros for the relocation of the replication area on Pond Street, seconded by Perrigo, with the Board voting unanimously in favor.

The Board reviewed the correspondence.

Perrigo moved to adjourn the meeting, seconded by Prentiss, with the Board voting unanimously in favor.

Meeting adjourned at 9:00 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: