

Essex Conservation Commission

August 12, 1997 - Minutes

Present: Edwin Perkins, Chairman, Robert Brophy, R. Jeffrey Lyman, Edith Messersmith, Peter Perrigo, Thomas Prentiss, George Stavros.

Meeting called to order at 7:35 p.m.

A Request made by Thomas J. Martin, III for the Conservation Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for soil testing for septic system upgrade at 24 Lufkin Point Lane, Assessors Map 20, Lot 29, was heard at 7:36 p.m.

Martin told the Board the property is being sold, but prior to selling it the septic system must be upgraded. The Board of Health does not feel there will be enough room on the side that it is at presently for the upgrade, so an engineer has been hired to dig test holes on the street side. Martin was asked whether they will be boring the holes. He replied they cannot bore a hole - it must be dug with a back hoe. The Board then reviewed the Request.

Brophy moved to issue a negative Determination to Thomas J. Martin, III, for soil testing at 24 Lufkin Point Lane, seconded by Prentiss, with Brophy, Messersmith, Perrigo, Prentiss and Stavros voting in favor; Lyman opposed.

Attorney Paul Shea, representing John Coughlin, PMC Realty Trust, owner of the property, met with the Board to discuss the denial of their Notice of Intent for Lot 1, Scot's Way. An appeal to the Commission's decision has been filed with the D.E.P. Coughlin said they would like to submit an amended plan for the property. He added that there has been some considerable concern regarding the use of the property, i.e. storage for sewage pumping trucks. He said that use has been completely abandoned - he has been told it is something he cannot do. Shea then submitted an amended plan, stating that they would rather reach a resolution on the plan with the Commission, rather than pursue a more expensive Superceding Order of Conditions. Perkins stated that at the last meeting the Board was told the structure would be an office building. He questioned if that was the case why a loading dock would be required. Coughlin wanted to know whether the Commission would reconsider their denial if the building was reduced in size. Lyman questioned why the plan had not gone to the Planning Board

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first. Shea said they were told that things had changed and that it was fine to go to the Conservation Commission first. Perkins said he would not have a problem looking at revisions to the plan, but the revisions would have to be creative in order to satisfy the Board. Variances also may be required from the Planning Board. He also indicated that the Board would take a very close look as to the use of the building. Shea said some criteria could be put together. Perkins then said the Board would need to see a really good buffer between the building and wetland. Lynpac had been mentioned, but Perkins said he felt it generally ended up in the wetland. Prentiss said he was rather startled by the size of the building on the lot. Shea said with regard to the denial, they can tell D.E.P. that they are negotiating with the Commission. Lyman said to his way of thinking, zoning variances under the Special Permit process or otherwise are directed to act first. He also noted that he would never be adverse to someone coming back with new ideas. It was the consensus of the Board to have further discussion on this issue. It was decided to schedule a discussion on the September 16th meeting.

A public hearing was held under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Peter Van Wyck covering the excavation of a trench for electrical service and grading in the buffer zone at Turtleback Road Extension.

Clay Morin, Morin Engineering, represented Van Wyck. Morin told the Board, "Mr. Van Wyck is improving his electric service to Turtleback Road and proceeded with the digging of the trenches. I came in halfway through the project. When Peter was digging, he noticed he was close to wetlands. It is my understanding that Massachusetts Electric required the electrical service be upgraded. Peter Perrigo told Peter to stop work, which Peter did, so we are filing a Notice of Intent with our proposal for siltation control." Van Wyck said two more cables should be in the trenches. Morin - "If it was backfilled it would be more stable. Right now there are piles of dirt which could flow down to wetlands." Van Wyck - "State-of-the-art goes beyond a single underground cable. I was told there should be a secondary cable. I want to update the existing service to the five existing homes that are there now. It's an old cable and it has gone beyond its life expectancy." Perkins asked Van Wyck what provisions he was going to put in the trench so that he does not have to dig this up again. Van Wyck - "The telephone

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is ready and cablevision is also. We were stopped from doing this and they are (electric company) waiting, and I am, for your approval." Prentiss - "Are they putting in an accessible conduit so they won't have to do this again?" Van Wyck - "The Power Company has two conduits coming out of the trench. Once we get the okay, we will start." Scottie Robinson, an abutter to the project, asked the Board what the hearing was for. Perkins told her Van Wyck had dug a trench in the buffer zone without filing, and the Commission stopped the project until a filing was made with the Board. Robinson - "The road is a mess at the moment. People used to like to walk there, but not at the moment. There are metal plates that we have to drive over. My concern is that if you give Peter permission, it will allow him to trench to the other subdivision." She indicated an area on the plan and stated that water ran down the road to that point. Perkins told her that was drainage. Kim Germain - "Obviously the work done precludes where you may require the work to be done. Do you just say close it up." Perkins - "We say, stop the work and file with us. This particular project is a utility - we cannot stop a utility, but we can say how we want the work to be done. We can say we want it over here or here. That is in our jurisdiction." Bill Robinson - "Where is the new line going to be tied into the old one. This area is right on our land and we didn't get a letter regarding this hearing." The Board then reviewed the List of Abutters. Van Wyck then noted that the tie-in will be right at the driveway. Morin then questioned whether all work that was outside of the buffer zone could be stabilized prior to receipt of the Order of Conditions. Perkins told him it could be.

Perrigo moved to close the public hearing for Peter Van Wyck, seconded by Lyman, with the Board voting unanimously in favor.

A public hearing was held at 8:50 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Andover Equity Developers covering the construction of a dwelling on Apple Street, Assessors Map 10, Lot 9A.

Ken LaRose, representing Andover Equity Developers, told the Board the project is for the construction of a single family dwelling with septic system within the 200 foot buffer zone. This lot and an adjacent lot will both use the existing driveway. Lyman asked why the structure was not placed outside of the 200 foot area. LaRose told him it was mainly because of

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the topography. Lyman again wondered why everything was not placed outside of the 200 foot area. He then asked if the applicant had an analysis as to the cost between the area chosen and the site further up the slope. Perkins then said he felt it might be better if the hearing was extended in order for the applicant to review the site to see if there were alternative sites for the structure. Lyman added that it was the applicant's job to show that there would not be an impact under the Rivers Act. Perkins noted that there was some direct drainage which comes off the property and sheets down. Kim Germain told the Board she knew the road quite well and the Schades (prior owners) would park their car at this point (pointing to the plan), because of the water sheeting, which in turn would become ice. She felt the applicant had to show the Board how the water flows. LaRose was also asked if there were plans for upgrading the driveway as it is now being used for three homes. Arthur Hodges - "I can confirm what Kim said, that the area can be flooded. I don't think you can ever stop all the water, even with culverts. It is the worst area for drainage. This is also a scenic road, so you have to take that into account."

Prentiss moved to continue the public hearing for Andover Equity Developers to September 9, 1997, at 7:35 p.m., seconded by Perrigo, with the Board voting unanimously in favor.

A public hearing was held under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Cape Ann Golf Course, John Wise Avenue, covering the extension of a pond at the 9th Fairway.

A letter was submitted by George Stavros stating the Cape Ann Golf Course would like to request a continuation to the public hearing so that minor revisions can be made to the plans.

Perrigo moved to continue the public for Cape Ann Golf Course to September 9, 1997 at 7:45 p.m., seconded by Messersmith, with the Board voting unanimously in favor.

A building permit application was submitted for Ted Smick for the construction of a garage at 31 Lufkin Point Road. Perrigo moved to sign the building permit application for Ted Smick for the construction of a garage at 31 Lufkin Point Road, seconded Prentiss, with the Board voting unanimously in favor.

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A Request for a Certificate of Compliance was submitted by Robert Dutton for a project on Ralston Lane. Commission member Brophy will make a site visit.

A Request for a Certificate of Compliance was submitted by the Robbins Island Committee. Commission member Brophy will make a visit to the site.

A Request for a Certificate of Compliance was submitted for a project on the property of Marcia Greenbaum, Apple Street. Messersmith will make a site visit for compliance.

A building permit application was submitted for Ivan Muise, Eastern Avenue, for an addition to the existing structure. Perkins will visit the property.

The Board reviewed the correspondence.

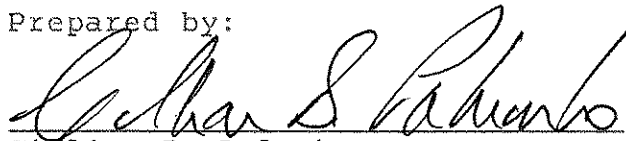
Commission member Lyman, recently appointed to the Board, submitted a copy of a letter sent to Trudy Coxe, Secretary of the Executive Office of Environmental Affairs, together with a State Ethics Commission Opinion EC-COI-92-25. Lyman is Assistant Secretary for M.E.P.A. and generated the letter to avoid the appearance of a conflict of interest between his work at E.O.E.A. and the Commission.

The Order of Conditions was written for Peter Van Wyck, Turtleback Road.

Prentiss moved to approve the project of Peter Van Wyck, Turtleback Road, as defined in the Notice of Intent, seconded Lyman, with Brophy, Lyman, Messersmith, Perrigo, and Prentiss voting in favor; Stavros had left the meeting prior to the vote.

Messersmith moved to adjourn the meeting, seconded by Brophy, with Brophy, Lyman, Messersmith, Perrigo,, and Prentiss voting in favor; as noted above, Stavros did not vote. Meeting adjourned at 10:00 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: