

Essex Conservation Commission

June 19, 2001 - Minutes

Present: Edwin Perkins, Chairman, Robert Brophy, Wallace Bruce,
Stephen Gersh, Judson Lane, Peter Perrigo.

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

Charles and Mimi Storey, 143 John Wise Avenue, met with the Board to discuss their application to the State for the Agricultural Preservation Restriction (APR) Program, as it needs the support and approval of the Commission. A description of how the preservation of the Storey's farm fits into the Commission's or the Town's Open Space Plan is as follows: "This property is identified on Map #5 of the 1997 Open Space Plan of the Town of Essex. This map designates important properties for preservation as part of the greenway on the west and east sides of Route 133 between Essex and Ipswich. This scenic corridor is a unique example of traditional New England farmland. It deserves permanent protection to preserve the character of Essex and provide much needed Open Space. Section 6 of the Open Space Plan states that the preservation of farmlands as open space is one of many of the long term community goals of the Town of Essex. As such, the property is appropriate for protection afforded by the APR Program."

Robert Brophy moved to accept and approve the APR Program for the property of Charles and Mimi Story, 143 John Wise Avenue, seconded by Peter Perrigo, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 7:40 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Eric Mears covering the construction of a single family dwelling, driveway, and septic system at 2 Brook Pasture Lane.

A letter was received from Cynthia Cameron, Executrix for the Estate of Blanche Nelson, requesting a continuance of the public hearing to the next meeting of the Conservation Commission.

Stephen Gersh moved to continue the public hearing for Eric Mears to Tuesday, July 10, 2001, at 7:35 p.m. at the Essex Fire Station, seconded by Peter Perrigo, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 7:45 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a

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Notice of Intent filed by Russell and Deborah Ulrey covering the construction of an addition and septic system upgrade with associated grading at 36 Lakeshore Drive.

Russell Ulrey told the Board the prior plan was without the pumpout tank. The pump chamber is 1000 gallons precast concrete. The sill height is eight feet above ground level. The proposed deck will be open underneath, so grass will be able to grow. The Board felt the area beneath the deck should be stabilized.

Stephen Gersh moved to close the public hearing for Russell and Deborah Ulrey, seconded by Wallace Bruce, with the Board voting unanimously in favor.

The Order of Conditions was written for Russell and Deborah Ulrey, 36 Lakeshore Drive.

Stephen Gersh moved to approve the project for Russell and Deborah Ulrey, 36 Lakeshore Drive, seconded by Wallace Bruce, with the Board voting unanimously in favor. Special conditions to be added to the boilerplate are as follows: A bio fence backed with staked haybales should be placed on the erosion control line as depicted on the plan dated June 11, 2001. Beneath the deck, the area should immediately be stabilized with densely distributed shade grass. Said area must be permanently maintained to prevent run-off. Wallace Bruce is the Commission's representative for the project.

A continuation of a public hearing was held at 8:00 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Thomas and Joseph Pallazola for the construction of a driveway, parking area, and storage building at 142 Eastern Avenue.

Attorney Thomas Beatrice represented the applicants, together with engineer Edward Eisenhaure. E. Eisenhaure told the Board the site visit was made with wetlands staked out. He realized from the site visit with the Commission and a botanist that there was an additional wetland area that he was not aware of. They have reduced the size of the parking lot, and have included an oil and gas separator trap within the parking area. Run-off from the parking area runs out into a filtering bed of stone, and then flows into a grass swale. They have also provided some leaching basins, in order to drain run-off from the storage building. Essentially, everything is the same, but it has been down-sized.

The septic system has also been upgraded. The areas delineated for storage of mulch, etc., have also been shown on the plan. An area, pointed out on the plan by Eisenhaure, will remain essentially undisturbed. On the west side the swale will slope and the naturally occurring vegetation will take care of the run-off. They are not planning on cutting the naturally occurring vegetation. S. Gersh noted that the D.E.P. policy has a 25-foot no-cut zone. On the east side of the property, the storage building will have a solid concrete floor. They will be looking for a way in which to get rid of the oil, gas, etc. Trucks will be moving in and out, but they will not be washed on the property. Any washing would have to be outside of the buffer zone on the east side, between the parking area and septic system. S. Gersh indicated that all areas shown on the plan that will be used for stockpiling are outside of the buffer zone, and therefore, outside of the Conservation Commission's jurisdiction. E. Eisenhaure noted for the roof run-off they will use a couple of leach basins tying in with the area.

Ruth Ann Savage, 138 Eastern Avenue, said her concern was the 100-foot buffer zone, and wondered where any waste, such as grass cuttings, brush, etc., brought back from jobs would be stored. She was told that nothing can be stored within the buffer zone. The Pallazolas told her they would store sand and salt in the winter. S. Gersh said salt and sand can leach with a January thaw, so an impervious surface should be constructed. John Matson, Harlow Street, asked if the Order of Conditions runs with the site, should the Pallazolas become successful and move to another property. S. Gersh said the Order of Conditions runs with the title. S. Gersh indicated he would like to have soil testing done in one area for contamination. He also wanted to ask for a continuation of the public hearing in order for him to review the filling of a wetland on the property in 1986. Attorney Carl King, representing Kim and Tudi Bartlett questioned if there was an intermittent stream that may have been connected to the wetland area. Attorney Beatrice indicated he had not heard about this issue before. He did not feel it was up to his clients to find a connection. Attorney King read from the Order of Conditions issued to a Philip Cole, owner of the property prior to Anthony Taliadoros, which was issued for removal of brush and debris from the brook. A discussion followed concerning the brook relative to the Soil Conservation brochure. Letters were then read into the record from Lucy Poole, Harlow Street, Lysa Leland, Eastern Avenue, and Rebecca and Todd Dawson, Eastern Avenue.

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S. Gersh moved to close the public hearing for Joseph and Thomas Pallazola, seconded by W. Bruce, with the Board voting unanimously in favor.

Valda Schreiber, 8 Lufkin Point Lane, met with the Board to discuss a dispute between her and her neighbor, Bruce and Sandy Shaw. Mrs. Schreiber said "I bought my house in 1994 when the property across the street was a field. The field was subdivided into two lots and two homes were built on the lots. This dispute does not involve the Sivos, who purchased one of the lots. Prior to the subdivision, the field used to be called 'Lake Zaffiro'. After the development the area changed. My neighbor, Mr. Fitts, asked if I had noticed a change in the marsh. Based on that, I asked the Conservation Commission and the Board of Health to take a look, which they did. (A letter which Mrs. Schreiber received from the Conservation Commission at that time was shown to the Board). I saw Sandy Shaw digging and I asked her what she was doing. She said she was digging out the old culvert. Since then I have received flooding to my property. I then found out the Lufkin Point Association had made a hole from the Zaffiro field and ran a pipe under the road to discharge the water into the marsh. The crux of the matter is the Shaws insist they have a right to open the culvert. We have told them to go to the Conservation Commission, which they consistently refuse to do. The culvert was put in by the Lufkin Point Association and never maintained. It extends across my property - from the edge of the road to the marsh is 86 feet. We told the Shaws that even in 1970 it was illegal to pipe water to the marsh. The run-off is not affecting their house as it is seasonal. It is our opinion there is a lot of difference between an open field and two houses with two septic systems, etc. Was this legal in the 1970's to punch a hole and pipe run-off to the marsh." S. Gersh said he could not speak for the 1970's, but currently it requires permission from the Conservation Commission. E. Perkins felt it would come under a Chapter 91 License. Mrs. Schreiber said she blocked the culvert, which E. Perkins said was also illegal. She would like a letter stating that it is not legal to reopen a culvert and discharge water into the marsh. E. Perkins felt the Commission should issue an Enforcement Order so that Mrs. Schreiber opens up the culvert and Mrs. Shaw puts back what she dug up. It was felt that Mrs. Schreiber needed to seek legal counsel to settle the issue with her neighbor.

Michael Roy, 46 Main Street, told the Board he has bought the Doucette's house and would like to fill in a pit and build a wall.

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The pit is about 7'-8' deep. Review of the plan indicated the work was out of the Commission's jurisdiction.

The Order of Conditions was written for Lori Silva, 23 Gregory Island Road.

S. Gersh moved to approve the project for Lori Silva, 23 Gregory Island Road, as submitted in the Notice of Intent, seconded by W. Bruce, with the Board voting unanimously in favor. W. Bruce will be the Commission's representative for the project. The Board also requested the siltation barrier consist of a Bio-fence backed with staked haybales.

The Board of Health Verification of Conservation Commission Jurisdiction Form was submitted for Scott Martell, 21 Choate Street. The Board found the project was outside of their jurisdiction.

A request for a modification to the Order of Conditions was submitted for John Davis and Nancy DeVille, 18 Coral Hill, for work on the septic system.

S. Gersh moved to approve the modification to the Order of Conditions D.E.P. File Number 21- issued to John Davis and Nancy DeVille, 18 Coral Hill, seconded by R. Brophy, with the Board voting unanimously in favor.

The Board reviewed a Notice of Intent submitted by Susanna McLaughlin for a septic system upgrade and to raise the existing dwelling at 40 Lakeshore Drive. The hearing will be held at the Board's next meeting on July 10, 2001.

The Board reviewed a Request for Determination of Applicability submitted by Woodman's, Inc., for the maintenance of a storm drain at 119 Main Street. The request will be heard at the Board's meeting on July 10, 2001.

The reappointments of Commission members Peter Perrigo and George Stavros are due at the end of June. Both declined to be reappointed. As P. Perrigo was present at the meeting, the Board thanked him for all his time and effort working for the Commission. The Board of Selectmen will interview Philip Caponigro and Philip Lake for the positions.

R. Brophy moved to approve the Minutes of November 7, 2000, April

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3, 2001, and May 1, 2001, as read, seconded by P. Perrigo, with the Board voting unanimously in favor.

The Order of Conditions was written for Joan DiFluri, 10 Gregory Island Lane, for a septic system upgrade and construction of additions.

S. Gersh moved to approve the project of Joan DiFluri, 10 Gregory Island Road, as submitted in the Notice of Intent, seconded by P. Perrigo, with the Board voting unanimously in favor.
W. Bruce will be the Commission's representative for the project.

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

Meeting adjourned at 9:55 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: