

Essex Conservation Commission

March 19, 2002 - Minutes

Present: Edwin Perkins, Chairman, Robert Brophy, Wallace Bruce, Philip Caponigro, Stephen Gersh, Philip Lake, Judson Lane.

Meeting called to order at 7:30 p.m.

A public hearing was held at 7:35 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by the Town of Essex for the upgrade of a stormwater discharge pipe at 47 Southern Avenue.

Daniel Nitzsche, Baystate Environmental Consultants, Inc., and Town Administrator Brendhan Zubricki represented the Town of Essex. Dan Nitzsche told the Board, "The submitted Notice of Intent is for the extension of a stormwater outfall pipe at 47 Southern Avenue. That is the principal work area, with the installation of 80 feet of a 30 inch diameter reinforced concrete pipe within the existing stream/drainage channel. The heavy blue line on the plan is the proposed work; all the lighter colors are the existing conditions at the site. The head wall will end effectively at the end of the property at 47 Southern Avenue. There will be a concrete headwall constructed, per the requirements of the Department of Public Works. This is most likely an intermittent stream, although it doesn't flow very much. The accumulated sediments within the stream/drainage channel, approximately 55 cubic yards, will be removed." S. Gersh - "How are you going to get in there?" D. Nitzsche - "We will be coming in, most likely, off 47 Southern Avenue. It will probably be a backhoe, and the materials will be removed off site. We will not leave the dredge spoils. The backhoe will probably come in here (pointing to plan) - it's a little drier here. The bordering vegetated wetland edge is the blue line which does extend onto peoples' lawn; it's probably been growing because of the slow discharge here and there, but it's a wetland all the way to the edge, but it is a little drier on the higher side. The wettest point is probably down here at the confluence of these two systems. It's obviously very wet in the area just before it goes under Addison Street, but it's basically the BVW, bank, land under water and the stream system, also bank and land under water continuing down to the dredging there. I called D.E.P. and they didn't have any specific comments for the project. We are under the 5,000 square feet of riverfront, we are at 80 linear feet of bank, about 1,600 square feet of BVW impact, which is as proposed. It's basically going to be replaced in kind. There's a couple of

small shrubs along the ditch right now, but there is really no vegetation to speak of in terms of mature vegetation, that is going to be removed. When we cover this bank over, we will have 12-13 inches of material. The water table in that area is effectively zero, 1 or 2 inches below grade, so we have the hydrological regime that is going to support any wetland growth on the surface. Outside material will be brought in and they will top dress it." S. Gersh - "And mix it to a hydric consistency?" D. Nitzsche - "Yes. I think in that case, if they just brought in basic sandy loam material it will rise; as long as it's not sand and gravel. It will wick right up through almost all other soil types. So what is most likely going to happen, they will bring in clean sand fill and top dress the whole thing with, most likely, a loam material. It's all going to wick right up inside of that. So that will be our replication, or restoration, if that's what you want to call it." It was noted that the pipe will be permanent. On the cross section profile it shows the top of the new pipe at slightly above existing grade, in some cases it's right at existing grade and in another spot it's slightly above, but then to cover it over properly, it has to be covered with 12-13 inches of material. W. Bruce questioned whether the flow will be affected. D. Nitzsche said the natural flow will not be affected by the proposed work. The flow is actually going towards Addison Street and out towards the estuary. S. Gersh said "I met with the D.E.P. Circuit Rider, Gillian Davis, regarding this and it is exempt from the Rivers Act because 1) it's under the threshold, and 2) it's a municipal project. From Ms. Davis' point of view, all it's doing is moving water from one place to another, which is already flowing. Therefore this very simple project should not require anything extraordinary in terms of Orders of Conditions."

With no further questions from the Board or the public, S. Gersh moved to close the public hearing, seconded by P.Lake, with the Board voting unanimously in favor.

D. Nitzsche said he would like to speak to the Board regarding the proposed sewer line. He said a pump station was originally proposed for the Red Barrel property. It is now going to be moved across the street so it will be further away from the buffer zone, so he wanted to know how the Board wished to handle this change. It was noted that the pump station was actually going to be in Gloucester and not Essex. The new proposal will have the pump station 90 feet away from the buffer zone, whereas before it was almost to the resource area. D. Nitzsche said he would have the

Page Three
March 19, 2002 - Minutes

plan drawn showing the change and bring it back to the Board for their opinion as to whether the original Order of Conditions can be amended.

A continuation of a public hearing was held at 7:50 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by XLO Realty Trust for the construction of a 16-foot wide gravel road at 25 Apple Street.

Commission members P. Lake and W. Bruce removed themselves from any discussion because of a conflict of interest. Engineer Clay Morin represented the applicant. He told the Board the proposed granite or pressure-treated posts are shown on the plan. They will probably use pressure-treated posts because of the expense of granite posts. He submitted a revised plan showing stone in the swale. The conservation restriction is also shown, but C. Morin noted he could not put the restriction on Emerson Lane as it is a right-of-way, and people have a right to pass and repass. S. Gersh read to the Board the Special Conditions he felt should be attached to the Order of Conditions. C. Morin said what they will be doing is to stake out the house, stake out the erosion control, put in the erosion control barrier, and then call the Commission's representative. Mrs. Gloria Story questioned Commission member S. Gersh's interest with regard to the conservation restriction. S. Gersh said it is unheard of that a Commission does not require a wetland replication area and felt the restriction was necessary to protect that particular area.

R. Brophy moved to close the public hearing for XLO Realty Trust, 25 Apple Street, seconded by S. Gersh, with R. Brophy, P. Caponigro, S. Gersh and J. Lane voting in favor; P. Lake and W. Bruce abstained.

2 Brook Pasture Lane - Amendment to Order of Conditions. C. Morin told the Board he was submitting a revision to the plan. The garage will now be under the dwelling. The access driveway will also change slightly.

S. Gersh moved to amend the Order of Conditions for 2 Brook Pasture Lane to accommodate a change of site location for the house and change of driveway access and recharge area as specified on a plan dated July 10, 2001, revised March 19, 2002, seconded J. Lane, with the Board voting unanimously in favor.

A Request made by Lori Silva for the Conservation Commission to

Page Four
March 19, 2002 - Minutes

Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the installation of 10'x16' storage shed and a 500 gallon underground LP tank at 23 Gregory Island Road was heard at 8:10 p.m.

Lori Silva told the Board she would like to install a 10'x16' prefab storage shed, which will be placed on 2"x4"x8" cement blocks. There will be no digging for footings or a foundation. The shed will be placed more than 50 feet from Chebacco Lake. The Board reviewed the site plan.

S. Gersh moved to issue a negative Determination to Lori Silva for the installation of a storage shed, seconded by R. Brophy, with the Board voting unanimously in favor.

The Board then reviewed the site plan for the 500 gallon underground LP tank. The Board questioned why she wanted to install it underground. She said it was simply aesthetics, and that she did not want her neighbors to look at a propane tank. E. Perkins said his concern is that the bottom of the hole is below water level and so would require a concrete pad. L. Silva submitted specifications for the installation of the tank to the Board which included a concrete pad. The Board would like Mrs. Silva to submit a letter from the Fire Department stating their approval of the installation.

S. Gersh moved to continue the Request for a Determination of Applicability for Lori Silva, 23 Gregory Island Road, to April 2, 2002, at 7:35 p.m., for the installation of a 500 gallon underground LP tank, seconded by J. Lane, with the Board voting unanimously in favor.

Russell Ulrey, 36 Lakeshore Drive, met with the Board to request an amendment to his Order of Conditions D.E.P. File Number 21-417 for the construction of stairs to the deck area. The stairs would extend 5'8" towards Chebacco Lake. The Board questioned the accuracy of the drawing submitted with the Notice of Intent. The Board said they would like to see an as-built plan.

A letter was received from the Department of Public Works stating their approval of the revised plan for the driveway of Richard O'Donnell, 48 Belcher Street.

S. Gersh said he received a telephone call from the D.E.P. that Belcher Street was being widened and that a vernal pool had been

Page Five
March 19, 2002 - Minutes

filled in. The Board members said they had not heard anything to that effect.

A building permit application was submitted for review for Mark Cicoria, 8 Western Avenue, for the construction of a farmer's porch. E. Perkins said he will look at the property.

A building permit application was submitted for review for Michael Dainton, 39 Belcher Street, for the construction of a covered screened porch to replace the existing deck. It was noted that a stream runs through the property but there were no dimensions given from the brook to the construction site. It was felt the contractor should submit dimensions.

A police report was submitted to the Commission by Roger Hardy, 60 Island Road. It reports that someone has been clearing brush, undergrowth and tree branches from his property. The area of cutting is along the marsh behind 72 Island Road. This area is a buffer from the upland to the marsh area and R. Hardy is concerned due to past problems with a neighbor. R. Hardy reported this incident to have it put on record and to have the police take further action if it is required.

A request was made by William and Alice Bancroft, 189R John Wise Avenue, to extend their Order of Conditions D.E.P. File Number 21-276 for another three years. They would like to start building their house this summer.

R. Brophy moved to extend the Order of Conditions for William and Alice Bancroft, 189R John Wise Avenue, for three years, seconded by W. Bruce, with the Board voting unanimously in favor.

The Order of Conditions was written for XLO Realty Trust, 25 Apple Street.

R. Brophy moved to approve the construction of a 16' gravel roadway for XLO Realty Trust, 25 Apple Street, as shown on the site plan for Tara Road dated January 9, 2002, revised March 11, 2002, seconded by J.Lane, with R. Brophy, P. Caponigro, S. Gersh, and J. Lane voting in favor; W. Bruce and P.Lake abstained.

The Order of Conditions was written for Essex Fortune Palace, 99 Main Street.

S. Gersh moved to approve the project as submitted for Essex

Page Six
March 19, 2002 - Minutes

Fortune Palace, 99 Main Street, seconded by J. Lane, with R. Brophy, W. Bruce, P. Caponigro, S. Gersh, P. Lake and J. Lane voting in favor; E. Perkins abstained.

Approval of Minutes - S. Gersh moved to approve the Minutes as read for October 16, 2001, November 6, 2001, November 20, 2001, December 4, 2001, January 8, 2002, and January 22, 2002, seconded by J. Lane, with the Board voting unanimously in favor.

A request was made for a Certificate of Compliance for 7 Lufkin Point Road, property of Jerome Crepeau and Louis Lima.

W. Bruce moved to issue a Certificate of Compliance certifying that work regulated by Order of Conditions D.E.P. File Number 21-376 has been satisfactorily completed, seconded by S. Gersh, with the Board voting unanimously in favor.

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

Meeting adjourned at 9:30 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: