

Essex Conservation Commission

September 10, 2002 - Minutes

Present: Wallace Bruce, Chairman, Robert Brophy (8:00 p.m.),  
Philip Caponigro, Stephen Gersh, Samuel Hoar,  
Philip Lake.

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

A request made by Allen and Charles Dalton for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the removal of an underground oil tank and installation of an above ground oil tank at 158R Western Avenue was heard at 7:41 p.m.

Allen Dalton, together with Paul Wright, the contractor for the proposed project, met with the Board. Mr. Dalton told the Board the 2000 gallon oil tank was installed underground in 1972, and he would like to have it removed and replaced with a 1000 gallon above-ground oil tank. He submitted the proposal to the Fire Department, who came and checked the site. Paul Wright was then asked what the procedure was for the tank's removal. He said he digs two feet around the tank and removes the soil. The soil is stockpiled, then tested and screened at intervals as the project proceeds.

Stephen Gersh moved to issue a negative Determination to Allen Dalton, 158R Western Avenue, with the condition that a siltation barrier be placed between the project site and the resource area, and a tarpaulin be placed under the stockpiled soil, seconded by Samuel Hoar, with Philip Caponigro, Stephen Gersh, Samuel Hoar and Philip Lake voting in favor.

A request made by Peter Levasseur for the Conservation Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the removal and reconstruction of an addition at 6 Water Street was heard at 7:50 p.m.

Mr. Levasseur told the Board the proposed project is to remove a 1950's addition, which is in poor condition, and reconstruct a new 2-story addition, slightly increasing the size of the footprint, which will bring the addition closer to the marsh by 1.5 feet. The total increase in size of the footprint will be 50 square feet.

Stephen Gersh moved to issue a negative Determination to Peter Levasseur for the removal and reconstruction of an addition at 6

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Water Street, seconded by Samuel Hoar, with the Board voting unanimously in favor.

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 Samuel Appleton to refurbish an existing path at 82R Eastern Avenue.

Mr. Appleton told the Board he would like to refurbish an existing path, three feet wide, approximately 200 feet in length, with 1"x4" wooden rails, and a landscape cloth base under crushed stone. All work will be done by hand. Mr. Appleton added that nothing needs to be removed, but will just be additional stone and rails. The Board reviewed the Notice of Intent.

With no further questions from the Board or the public, Samuel Hoar moved to close the public hearing for Samuel Appleton, 82R Eastern Avenue, seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:10 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Trescott L. DeWitt, Trustee of Pondview-Realty Trust, for the construction of an addition and decks to an existing building, driveway paving and grading of the lot at 199 Western Avenue.

Trescott DeWitt, together with engineer Clay Morin, met with the Board. Clay Morin told the Board they had found the existing drainage system to be completely clogged. The Town's D.P.W. said they will fix it, but they need to have an easement of ten feet on either side. A revised plan was submitted showing the proposed drainage. Clay Morin added that they have brought the driveway into the easement area in order to save the trees in front.

Robert Brophy moved to close the hearing for Trescott DeWitt for property at 199 Western Avenue, seconded by Stephen Gersh, with the Board voting unanimously in favor.

James Richardson, 38 Island Road, met with the Board for their review of the location of a proposed dwelling. Mr. Richardson told them the property is under a conservation restriction, which limits construction to one dwelling, which is his proposed project. He noted the septic system was approved by the Board of Health and the Conservation Commission. The Board reviewed the

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site plan and then signed the building permit application.

The appointment scheduled with Bruce Fortier, 47 Southern Avenue, did not take place. He said he had been told his appointment would be at 8:00 p.m. and as the Board was approximately fifteen minutes late said he would not wait any longer.

A request made by Shaheen Husain for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the cleanup and assessment of heating fuel release at 47 LeBaron Road was heard at 8:25 p.m.

James DeCoulas of DeCoulas and Company, represented Shaheen Husain. He told the Board, "Paul Wright and I were involved in the removal of a 1,000 gallon underground storage tank, used to store heating fuel oil. The property consists of two houses and a cottage. The tank, itself, was removed outside of the buffer zone, but it was found to be leaking oil. The D.E.P. Bureau of Waste Site Cleanup was notified of the release because it exceeded 100 parts-per-million by volume of total organic vapors "as benzene". The work falls under Chapter 21E. Whenever we are close to the river we need to collect sediment samples. The purpose of the Request is to collect additional samples. The work includes the removal of up to 200 cubic yards of petroleum contaminated soil, the monitoring of indoor air in the main residence, the advancement of ten soil borings, the installation of up to five monitoring wells on the property, and the collection of sediment from Ebben Creek. We need to identify where the heating oil is going under the house and to the marsh."

Robert Brophy moved to issue a negative Determination to Shaheen Husain, 47 LeBaron Road, for cleanup and assessment of heating fuel release, seconded by Stephen Gersh, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:37 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Peter Van Wyck for clearing land for a house lot and construction of a dwelling at Lot 34, Turtleback Road.

Following a site visit to the above property, an Enforcement Order was issued to Peter Van Wyck requesting him to meet with the Board this evening to discuss the details of the restoration of the first fifty feet of the buffer zone. Stephen Gersh told Mr. Van

Wyck that if he had proposed the removal of the trees, the Board would have set a fifty foot area as a no-cut zone. He noted, "We, as a Commission, have discussed this and spoken with the Department of Environmental Protection, and we will require the planting of trees, shrubs, and herbaceous plants in the first fifty feet of the buffer zone. The restoration will have to take place before we will sign off." Peter Van Wyck said he would like to suggest the time to remove trees is in the fall. He was told that the first fifty feet has to be cleaned up, the chippings must be removed, and then the Board will have someone go to the site to advise them on the density of the trees to be planted - this was part of the Enforcement Order.

Robert Brophy moved to continue the public hearing for Peter Van Wyck to Tuesday, October 22, 2002, at 7:55 p.m., seconded Stephen Gersh, with the Board voting unanimously in favor.

A building permit application for James Conway, 174 Western Avenue, for the construction of an addition, was submitted for the Board's review. The addition will extend the front of the existing building by 15-feet. Stephen Gersh made a site visit and told the Board the addition will be constructed on an existing pervious surface. The building permit application was signed.

A building permit application for James DiGregorio, 32 Pond Street, for the construction of an addition, was submitted for the Board's review. Wallace Bruce viewed the site and indicated there were no wetlands issues. The building permit application was signed.

A request for a Certificate of Compliance was made by Ryen Munro, 67R Pond Street. Philip Caponigro viewed site and said all work had been completed.

Robert Brophy moved to issue Ryen Munro, 67R Pond Street, a Certificate of Compliance certifying that work regulated by Order of Conditions D.E.P. File Number 21-333 has been satisfactorily completed, seconded by Stephen Gersh, with the Board voting unanimously in favor.

A letter was sent to the Board from Kathrin Rueda, 12 Coral Hill, asking whether any local filing is necessary for the Chapter 91 License application. Philip Lake felt a full Notice of Intent was necessary, but said he would check with the D.E.P.


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The Order of Conditions was written for Samuel Appleton, 82R Eastern Avenue. The project was approved subject to the following Special Conditions: Approved work only to be done. No stockpiling of materials. Any changes subject to the Board's review and amendment of the Order of Conditions. Robert Brophy is the Board's representative for the project.

Robert Brophy moved to close the meeting, seconded by Stephen Gersh, with the Board voting unanimously in favor.

Meeting closed at 10:00 p.m.

Prepared by:

A handwritten signature in cursive script, appearing to read "Gillian B. Palumbo", written over a horizontal line.

Gillian B. Palumbo  
Administrative Clerk

Attest: