

Essex Conservation Commission

October 28, 2003 - Minutes

Present: Wallace Bruce, Chairman, Robert Brophy, Stephen Gersh, Samuel Hoar, Philip Lake.

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

A continuation of a public hearing hearing was held at 7:41 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Kathrin Rueda for a septic repair at 12 Coral Hill.

The hearing was continued from the Commission's prior meeting as no D.E.P. File Number had been issued for the project at that time. The file number has now been issued and therefore all information has been received.

Stephen Gersh moved to close the public hearing for Kathrin Rueda, 12 Coral Hill, seconded by Samuel Hoar, with the Board voting unanimously in favor.

A request made by Thomas McClain for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for a change to the Order of Conditions from a paved driveway to gravel at 180 Southern Avenue (formally 168 Southern Avenue) was heard at 7:45 p.m.

Commission member Stephen Gersh said he made a site visit to the property upon the request of the applicant. In 1997, a previous Commission had issued an Order of Conditions with one of the requirements being that the driveway be paved. The applicant noted in a letter this was not done as it would have increased the water flow down the hill, thereby potentially increasing contaminants into the creek and wetland. The property is being sold and Mr. McClain wishes to waive the requirement of a paved driveway in order to have a Certificate of Compliance issued. Stephen Gersh said he spoke to the D.E.P. as to how to handle this issue, and they suggested Mr. McClain file a Request for a Determination of Applicability.

Stephen Gersh moved to issue a negative Determination to Thomas McClain, 180 Southern Avenue, to waive the requirement of a paved driveway as stated in the Order of Conditions D.E.P. File Number 21-305, seconded by Philip Lake, with the Board voting unanimously in favor.

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A request was made by Thomas McClain, 180 Southern Avenue, for the issuance of a Certificate of Compliance.

Stephen Gersh moved to issue a Certificate of Compliance to Thomas McClain, 180 Southern Avenue, certifying that work regulated by Order of Conditions D.E.P. File Number 21-305 has been satisfactorily completed, seconded by Samuel Hoar, with the Board voting unanimously in favor.

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 Robert Stover for a septic system upgrade and demolition and reconstruction of a dwelling at 50 Lakeshore Drive.

The hearing was continued from the Commission's prior meeting as no D.E.P. File number had been issued for the project at that time. The file number has now been issued and therefore all information has been received.

Stephen Gersh moved to close the public hearing for Robert Stover, 50 Lakeshore Drive, seconded by Samuel Hoar, with the Board voting unanimously in favor.

A building permit application was submitted for review by John Filias, 180 Southern Avenue, for the construction of a 2,400 square foot barn. Mr. Filias noted that the barn will be constructed in the existing riding arena which consists of a flat area of stone dust. Stephen Gersh indicated he had visited the site and there were no wetlands issues for this project. The building permit application was signed.

A continuation of a public hearing was held at 7:58 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Nick Pappas for the demolition and reconstruction of a dwelling at 18 Lufkin Point Lane.

Michael DeRosa, of DeRosa Environmental, represented the applicant. Mr. DeRosa submitted supplemental information to the Board regarding the pre and post conditions of the project, as this was a concern of abutters at the Commission's meeting on October 7, 2003. He noted there was a net decrease of 419 square feet of impervious surface from the existing condition, mainly because the existing pavement area is 1,689 square feet of impervious surface and the proposed condition will be a porous

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pavement. A letter was also included in the submittal of information from architect Adolfo Perez, who stated that he had designed the house in accordance with the relevant zoning by-laws. He has also spoken with past Chairman of the Planning Board Westley Burnham and current Chairman Susan Scott Robinson to confirm his interpretations of the zoning by-laws. He has also met with Building Inspector William Sanborn to review building codes as they pertain to building in a flood zone. The project has also been approved by the Board of Health. Mr. Perez stated that it was his belief that the project conforms to all building, health and zoning codes in the Town of Essex. Mr. DeRosa said he does need to confirm this with Mr. Perez. Mr. DeRosa also noted that the new proposal meets the current setbacks, so is less non-conforming than the original building. He asked the Board if they would prefer to make their decision after the Planning Board and the Board of Health have made their decisions. The Board said they would. Donald Burnham, 26 Lufkin Point Lane, asked whose jurisdiction was it as to where dumpsters are placed, as the area is small. He also questioned where all the demolition material will go. Mr. DeRosa told him the dumpster would go on the impervious surface. Mr. Burnham said he is very concerned with the logistics of the project because the area is very tight.

Stephen Gersh moved to continue the public hearing for Nick Pappas, 18 Lufkin Point Lane, to November 18, 2003, at 7:45 p.m., seconded by Samuel Hoar, with Robert Brophy, Stephen Gersh, Samuel Hoar, and Philip Lake voting in favor; Wallace Bruce voted present.

A continuation of a public hearing was held at 8:10 p.m. on a Notice of Intent filed by Peter Van Wyck for the construction of portions of leaching facilities and associated grading (Lot 35), construction of a single family dwelling, utilities and grading (Lot 38), construction of a single family dwelling, septic tank, driveway, utilities and grading (Lot 39) at Turtleback Road.

A letter was submitted by Peter Van Wyck requesting the Commission continue the public hearing until Tuesday, December 2, 2003.

Samuel Hoar moved to continue the public hearing hearing for Peter Van Wyck, for Lots 35, 38 and 39, Turtleback Road, to December 2, 2003, at 8:00 p.m. seconded by Robert Brophy, with the Board voting unanimously in favor.

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Emergency Certification - Dennis Condon, 10 Ralston Drive. Mr. Condon has a shallow well which went completely dry and he is, therefore, without water. Robert Brophy checked the site where they would like to drill a new well and said the dwelling is between the drilling area and the marsh. The Emergency Certification was signed.

A building permit application was submitted for Albert Sivo, 35 Lufkin Point Road, for the installation of a storage shed. As there were no wetlands issues, the application was signed.

A building permit application was submitted for review by Claire Spofford, 1 Tara Road, for the construction of a single family dwelling. An Order of Conditions was issued for this project, and upon reviewing the site plan submitted with the building permit application to that submitted with the Notice of Intent, the application was signed.

A public hearing was scheduled to be held for William Bruce for the manual breaching of a beaver dam at 51 Pond Street, but the applicant did not appear at the meeting. Present was David Lash of the Chebacco Lake Association, who noted that he was not at the meeting representing Mr. Bruce, and a representative from the Division of Fisheries and Wildlife. Stephen Gersh indicated that as the applicant did not attend the hearing and Mr. Lash was not representing him, as well<sup>as</sup> no D.E.P. File Number being issued for the project at this time, he felt the hearing could not be held. Mr. Lash said he would speak with Mr. Bruce with regard to being his representative and to speak for him on this project. An informal discussion followed on the breaching of the beaver dam. Mr. Lash told the Board the dam is 12 to 20 inches tall, deeper at the channel, and over 300 feet long. He noted they had enough people on Chebacco Lake who would be willing to monitor the dam each morning. Mr. Lash said they spoken about the feasibility of piping, but noted that alewives will not go through a pipe. He was asked if they needed to open up the entire length of the dam. The representative from the Fisheries and Wildlife said if they breach 5 to 10 feet in the middle that would be fine. The only impact would be the vegetation. He added that breaching the dam would probably kill the beavers indirectly, but there did not seem to be any other solution. The Board asked how far the level of Chebacco Lake have to drop. Mr. Lash indicated it would be somewhere in the range of 15 to 18 inches.

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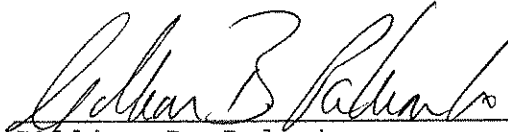
The public hearing will be held at the Board's next meeting on Tuesday, November 4, 2004, at 7:35 p.m.

The Orders of Conditions were written for Robert Stover, 50 Lakeshore Drive, and Kathrin Rueda, 12 Coral Hill. A motion was made, seconded, and unanimously approved to approve the projects of Robert Stover, 50 Lakeshore Drive, and Kathrin Rueda, 12 Coral Hill, as described in the Notices of Intent.

Philip Lake moved to adjourn the meeting, s seconded by Robert Brophy, with the Board voting unanimously in favor.

Meeting adjourned at 9:45 p.m.

Prepared by:



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Gillian B. Palumbo  
Administrative Clerk

Attest: