

Essex Conservation Commission

March 23, 2004 - Minutes

Meeting held at the Essex Elementary and Middle School

Present: Wallace Bruce, Chairman, Robert Brophy, Stephen Gersh,
Shirley Singleton

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

A continuation of a public hearing was held at 7:36 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Josefa Febiger for the installation of a septic tank, pump chamber and soil absorption system at 83 Forest Avenue.

Daniel Ottenheimer, of Mill River Consulting, represented Mr. Febiger. Mr. Ottenheimer reviewed the project with the Board by stating they are dealing with an existing house with a sub-standard septic system. The placement of the system and pump chamber will be in front of the house, and then there will be a 600-foot run to the soil absorption area that is possibly in the 200-foot Riverfront Area. The usual erosion control standards will be used for the installation of the system. Mr. Ottenheimer submitted a letter to the Board in response to the request made at the prior meeting for a riverfront alternatives analysis. The letter stated that 310 CMR 10.58(6)(c) provides for an exemption for septic system replacement projects when the septic system upgrade is replacing a current septic system in the Riverfront Area with another one in the Riverfront Area. Mr. Ottenheimer noted that the soil testing for the septic system upgrade was completed in 1996 by another septic system designer and records show that 23 soil tests and 6 percolation tests were performed to find a suitable location for the septic system replacement. The area located approximately 600-feet from the house was found to be the only suitable site and the soil absorption system was designed in that area. Stephen Gersh said he reviewed 10.58 and said Mr. Ottenheimer is correct and therefore feels there are no issues.

With no further questions from the Board or the public, Stephen Gersh moved to close the public hearing for Josefa Febiger, 83 Forest Avenue, seconded by Robert Brophy, with the Board voting unanimously in favor.

Jerome French met with the Board to discuss an area of land on property he owns at 86 Southern Avenue. Mr. French showed the Board a plan of the property and questioned whether an area on one

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side of the right-of-way would be considered wetlands as he would like to fill that section. Robert Brophy told Mr. French if he wants to maintain the right-of-way he can, but if he wants to fill outside of the road it may be questionable. Robert Brophy said he would make a visit to the site with Mr. French.

A public hearing was held at 7:55 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Marcella Albanese, Albanese Brothers, Inc. for the upgrade of two existing driveways and site clearing for equipment storage and processing rock on Southern Avenue, Assessors Map 3, Parcels 17 and 20.

Patrick Seekamp of Seekamp Environmental Consulting represented the applicant. Marco and Marcella Albanese were also present at the meeting. Patrick Seekamp told the Board Albanese Brothers have filed the Notice of Intent on a piece of property to use as a temporary site for rock crushing. It is a 4-acre undeveloped site on Southern Avenue with two parcels, one owned by Stephen Demeter and the other by David Mears. Each of the two parcels are serviced by a driveway from Southern Avenue. Both driveways are gated and provide access to both the north and south portions of the site. The A,C, and D series of flagging denotes the boundary of a bordering vegetated wetland, and the B series represents the boundary of an isolated vegetated wetland. The delineation was made by Donohoe and Parkhurst. The proposed project is to upgrade the two existing driveways for trucks, as it gives a nice flow through to the site. A silt fence and staked haybales will be installed for erosion control, which will define the limit of the work area. The applicant is proposing to cut and clear within that area to prepare it for the rock crusher. The site is ideal because it is rural, with very few homes within its vicinity. The proposed project is being generated because of the sewer project and is, therefore, temporary in nature. They will be providing a 15-foot no cut/no clear zone at the rear of the site and around the isolated vegetated area. Mr. Seekamp added that the site is flat and does not expect to see any soil movement or sedimentation problems. He then showed a photograph of the rock crusher and explained how it functions. Stephen Gersh asked what would happen to the site when the project was through, as Patrick Seekamp had indicated it was to be a temporary site. Mr. Seekamp felt that some kind of close-out plan would be acceptable, and said he would wait to hear from the Commission as to what they expect. He felt it would be better served for a close-out document to be presented at the end of the project. Stephen Gersh said, "There was a

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necessity to skim almost everything at John Wise Avenue. Is the same thing going to happen here?" Marco Albanese said they do not need to use all of the land, and it could be solid ground there, in which case they would not have to do much. Patrick Seekamp said he felt it would have to be skimmed and the loam stockpiled. Stephen Gersh questioned where the loam would be stockpiled. Mr. Seekamp pointed out on the plan two areas that he thought might be suitable. Shirley Singleton questioned how many sites Albanese Brothers require for this project - the Town came in with one and then there was Grove Street. Marco Albanese said they need one site, but the site behind the Police Station is not large enough, and it is not a good site because there are children there. When the project begins, there will be large trucks in and out. Stephen Gersh asked Mr. Albanese why he did not consider the land owned by Peter Van Wyck off Essex Park Road. Mr. Albanese indicated he was not aware of that site. Stephen Gersh said he had walked the site with a member of Mr. Albanese's company and there were no wetland issues to be concerned about. Stephen Gersh then said he was not questioning the delineation, but was questioning the notes on the plan submitted with the Notice of Intent, which stated, 1) Approximate property lines are shown based on information furnished by Albanese Brothers, Inc., and 2) A boundary survey has not been conducted by Donohoe and Parkhurst. Two letters were submitted to the Commission from the Manchester-Essex Conservation Trust. The first letter, dated March 8, 2004, stated, "The Manchester-Essex Conservation Trust has reviewed the above-referenced Notice of Intent and Plan. We take strong exception to the filing on two counts: 1) The ownership and lot lines shown on the Plan are incomplete and, in part, inaccurate. On the basis of records at the Registry of Deeds, we have cause to believe that the Manchester-Essex Conservation Trust owns land in the area where work is proposed on the plan - land that is not shown on the plan, and 2) If an accurate plan showing our land were to be prepared, we could not support the use proposed in the Notice of Intent." A follow-up letter was submitted, dated March 19, 2004, outlining the land ownership in the area covered by the Notice of Intent. Stephen Gersh felt the Manchester-Essex Conservation Trust should get together with Stephen Demeter and David Mears to determine ownership, and added that he could not act on this until the Commission receives information as to the ownership of the property. He feels they need to be rid of all ambiguities. Stephen Gersh then asked David Mears if this was a contentious issue. David Mears replied that all land issues are contentious. Mr. Seekamp wanted to know whether the Commission would decide on the concept of the plan providing they can get the

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ownership issue resolved. Stephen Gersh said he had no intrinsic problem with the project. It was then decided that a site visit should be made to the property on Saturday, April 3, 2004, at 9:30 a.m.

Stephen Gersh moved to continue the public hearing for Albanese Brothers, Inc. for property on Southern Avenue, Assessors Map 3, Parcels 17 and 20, to Tuesday, April 6, 2004, at 7:35 p.m., seconded by Robert Brophy, with the Board voting unanimously in favor.

Kelly Whalen, who is currently working for the Town on the sewer project, told the Board he has been working with Albanese Brothers for one and a half years and that they will do their best to comply. They were the lowest bidder on the sewer project because of the rock crusher -it saves the Town money because they crush the rock instead of having to buy the material.

A continuation of a public hearing was held at 8:45 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 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, Assessors Map 9, Parcel 11M.

John Morin of the Morin-Neve Group, together with Peter Van Wyck, met with the Board. John Morin submitted a revised plan for Lot 35, stating that the only change to the plan was the addition of a benchmark in the field that was required by the Board of Health. Mr. Morin noted that the Planning Board has the Form A plan and should make a decision on it at their next meeting. The Board of Health, as well as the Commission, will take no action on the plans for Lots 35, 36, 37, 38, and 39, until such time the Planning Board approves the lot lines. Lot 36 - There was an addition of a grading easement, also shown on the Form A plan, and an addition of a survey benchmark. Lot 38 - There are lot line issues and grading issues. Lot 39 - There are lot line issues. John Morin commented on the pool construction - the Board of Health has a separate form for a pool so they need to go back to them for a permit for the pool, but he did not want to come back with an Order of Conditions for the pool, so he is hoping to have as part of the Order of Conditions that the pool is approved pending Board of Health approval. He noted that he has also

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slightly raised the proposed curbing at the culvert site. Mr. Morin then asked the Board if they had considered using a Filtrex Sock as an erosion control barrier, and wondered if the Commission was acceptable to having other siltation devices.

Stephen Gersh moved to continue the public hearing for Peter Van Wyck, Turtleback Road, to Tuesday, April 20, 2004, at 7:45 p.m., seconded by Robert Brophy, with the Board voting unanimously in favor.

Open Space Committee - Rebecca Dawson and Jay Sweet met with the Board regarding a draft article for the Annual Town Meeting transferring approximately 78 acres from Tax Title to the Conservation Commission. Jay Sweet said the draft article was submitted to Town Counsel, who said as the article reads it is fine to go on as an article at the Annual Town Meeting. Stephen Gersh said he would be in favor of the article.

A building permit application was submitted for review by Barry Ewing for the demolition and reconstruction of a garage/barn at 71 Southern Avenue. Stephen Gersh said he will make a site visit.

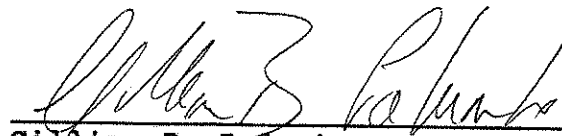
A building permit application was submitted for review by North Star Realty Trust, 12 Scot's Way, for construction of a cell tower.

As the Board was reviewing the above application, the Commission's meeting was interrupted by the school custodian indicating he was filling in for the evening custodian and needed the Board to leave so he could lock up the school.

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

Meeting adjourned at 9:15 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: