

Essex Conservation Commission

April 6, 2004- Minutes

Meeting held at the Essex Elementary and Middle School

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

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

A request made by Barry Ewing for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the demolition and reconstruction of a garage at 71 Southern Avenue was heard at 7:41 p.m.

Mr. Ewing told the Board he would like to demolish the present garage and reconstruct it on the same footprint. Stephen Gersh told the Board he met with Mr. Ewing on site and noted the proposed project is approximately 60-feet from a drainage ditch and fresh water wetland, but all work, demolition and reconstruction, will take place to the front of the property. Mr. Gersh added that he would like to see haybales placed approximately 45-feet from the ditch/20-feet from the garage, with no stockpiling of material.

Stephen Gersh moved to issue a negative Determination to Barry Ewing for the demolition and reconstruction of a garage at 71 Southern Avenue, seconded by Samuel Hoar, with the Board voting unanimously in favor. A condition will be placed on the Determination that haybales be placed 20-feet from the project site, with no stockpiling of material. It was requested of Mr. Ewing that he call Commission member Stephen Gersh as soon as the haybales are in place.

A public hearing was held at 7:47 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 single family dwelling at 18 Lufkin Point Lane.

Michael DeRosa, of DeRosa Environmental Consulting, Inc. represented the applicant. The Board reviewed the Notice of Intent and plan. Mr. DeRosa told the Board, "Essentially we filed a Notice of Intent for which an Order of Conditions was issued for the project, which was then appealed by abutters. It was remanded back to the Commission stating that the project proponent must provide an alternatives analysis with the Notice of Intent for the Commission to consider. It has to go as a new filing - it is not

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that the D.E.P. can ask for the analysis - it has to be remanded back and a new filing made." Mr. DeRosa noted that with the new filing they have moved the dwelling back to be greater than 50-feet from the edge of the wetland and have removed 218 square feet from the previous plan. There is now a 3:1 ratio for mitigation instead of a 2:1 mitigation. Mr. DeRosa indicated they have added the alternatives analysis as required, with the project now resulting in the reduction of impervious surface by 680 square feet under the original proposal and 898 square feet under the revised proposal. The 218 square feet reduction of impervious surface was originally the porch. Mr. DeRosa noted that this project is basically the same as before, but with the reduction of the impervious surface and moving the house back to 50-feet. He added he had spoken to Jill Provencal at D.E.P. who told him he needed to provide an alternatives analysis and move the house back from the riverfront area. Robert Brophy felt the Planning Board and Board of Health should review the revised plan. Mr. DeRosa was in agreement with Mr. Brophy and said he would check with both Boards. Shirley Singleton said she had been rather concerned with the house being configured closer to the riverfront, but now that it has been moved back she feels the project is more acceptable. Abutter Patricia DiBlasi, Lufkin Point Lane, submitted a copy of 310 CMR 10.58(5) for the Board to review. She stated that the following was missing from the revised Notice of Intent: "...Work to redevelop previously developed riverfront areas shall conform to the following criteria: (c) Within 200-foot riverfront areas, proposed work shall not be located closer to the river than existing conditions or 100-feet, whichever is less, or not closer than existing conditions within 25-foot riverfront areas, except in accordance with 310 CMR 10.58(5)(f) or (g)." Mrs. DiBlasi also quoted 310 CMR 10.58(5)(g) on mitigation. She said it is clear to her that it is not an existing structure if it is to be demolished and then rebuilt. Mr. DeRosa told her the riverfront regulation was not created to prohibit the building of a single-family dwelling within the riverfront area. A discussion followed on the interpretation of the riverfront regulation. Samuel Hoar said he felt they were all in agreement the Board needed more information and that the hearing should be continued.

Samuel Hoar moved to continue the hearing for Nick Pappas, 18 Lufkin Point Lane to April 20, 2004, at 8:15 p.m., seconded by Stephen Gersh, with the Board voting unanimously in favor.

Jud Lane, 21 Lane's Road, met with the Board to discuss the

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continuation of an aquaculture project he had begun a couple of years ago. He submitted a letter to the Board that he had directed to Jerry Moles of the Division of Marine Fisheries. The goal of the project is to determine if the natural seeding of soft-shell clams into sand and mud flats can be improved with the use of nets. Mr. Lane submitted a plan showing two areas where he wishes to test five different sized mesh nets, to determine which net type yields the best catch rate. Mr. Lane added that it may be that it cannot be done. The purpose of the nets is to prevent predators from eating the seeds. Mr. Lane noted he is working with the Army Corps of Engineers to be sure they do not have a problem with the project. The project is permitted through the Division of Marine Fisheries, who always request the participant of this kind of project review it with the Conservation Commission.

Larry Graham, of H.L. Graham, representing Turning Leaf Farm, 2 Andrews Street, met with the Board to discuss an amendment to the Order of Conditions issued to Turning Leaf Farm. Mr. Graham told the Board on March 26, 2004, he presented additional information to the Commission at their request. This was in response to the condition requiring that the applicant return to the Board with a new plan showing Conceptual Plan C. He noted they had two or three alternatives analysis plans and Conceptual Plan C was agreed upon. They have also worked with the Trustees of Reservations and have come up with a plan. Mr. Graham said the plan, in general, complies with the Order of Conditions - that is what alternate Plan C does, but there is a difference between what the Planning Board approved and what the Board is looking at. Stephen Gersh questioned whether the original plan is null and void. Mr. Graham said the plans are still outside of the Commission's jurisdiction. Stephen Gersh did not agree with Mr. Graham. He asked Mr. Graham which plan the Board was considering, as they have no knowledge as to what happened with the Planning Board. Mr. Graham said there is a management plan with the Trustees - it is in the works and will be administered by the Trustees. Samuel Hoar questioned if the Commission should not have an interest in the management plan, to which Mr. Graham replied that they should, but it was not in the Board's conditions. Attorney Brown, for Turning Leaf Farm, told the Board he has taken over negotiations but has no prediction as to how long it will take. Samuel Hoar questioned who was writing the plan. Attorney Brown indicated there was lot of irons in that fire. He said he could not predict how long that will take, even if it will be this year. He then read from the Order of Conditions regarding the agreement to Conceptual Plan C

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and that approval would be given if they returned with a plan. He noted the Planning Board had issued a Special Permit. Larry Graham said they went back to the Planning Board and the Trustees with Conceptual Plan C as it was the plan on which the Commission had based their Order of Conditions, and moved the barn further away from the riverfront area and did all the engineering again. There is no access off Southern Avenue - the only access is off Andrews Street. The north side of the horseshoe will be grass. They are coming up with a considerable reduction in impervious surface, and are now down to 2100-square feet of coverage. There is an increase in open space, open space being considered anything other than gravel surfaces, buildings, etc. The berms will keep run-off from running across Apple Street. Stephen Gersh indicated one of his concerns was the infiltration of manure to the resource area. Mr. Graham indicated that all of their tests, to date, did not show any pollution. Those tests were done on the property when there was a large manure pile in the area of concern. He felt they were going in the right direction with the mitigation measures with the berm and the management plan for the pasture. Only sixteen horses are contemplated. The manure will be stored in containers in a shed with a concrete pad and trucked away in the containers. Mr. Graham said he wants the Board to accept the plan as part of the conditions. They do not want to get away from the Order of Conditions as they do not want to file a new Notice of Intent. He noted that the barn across the street will not be used for horses but will just be used for storage.

A public hearing was held 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, Inc. submitted a letter stating that on behalf of his client, Marcella Albanese, Albanese Brothers, Inc., he respectfully requested to withdraw without prejudice the Notice of Intent application filed for property on Southern Avenue, Assessors Map 3, Parcels 17 and 20.

Samuel Hoar moved to accept the withdrawal without prejudice of the Notice of Intent filed by Marcella Albanese, Albanese Brothers, Inc. for property on Southern Avenue, Assessors Map 3, Parcels 17 and 20, seconded by Stephen Gersh, with the Board

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voting unanimously in favor.

A building permit application was submitted for Jill Martin, 24 Lufkin Point Lane, for the construction of a second floor addition to the existing dwelling. There will be no change in the footprint. Stephen Gersh said he would make a site visit.

A building permit application was submitted for North Star Realty Trust, 12 Scot's Way, for the construction of a cell tower. Wallace Bruce said he went to the site and found they were far enough away from the 100-foot buffer zone. The building permit application was signed.

A building permit application was submitted for Marion Keeler, 21 John Wise Avenue, for the construction of a three-season porch on an existing concrete slab. Wallace Bruce visited the site and found there were no wetlands issues. The building permit application was signed.


A building permit application was submitted for Northland Property Development for the construction of a single family dwelling on Lot 3, Arielle Lane. Review of the site plan indicated there were no wetlands issues. The building permit application was signed.

The Board reviewed the site plan of John Papps, 39 Wood Drive, for the possible construction of a garage. The buffer zone boundary line was shown on the plan - the Board indicated that any work outside of the 100-foot buffer would be outside of the Commission's jurisdiction, but any work within the 100-foot buffer would require a filing with the Board.

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

Meeting adjourned at 10:00 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: