

Essex Conservation Commission

June 1, 2004 - Minutes

Meeting held at the Essex Elementary and Middle School

Present: Philip Lake, Acting Chairman, Robert Brophy, Philip Caponigro, Stephen Gersh

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

Lawrence Shanks, Western Avenue, met with the Board for an informal discussion on property off Western Avenue owned by his mother. Mr. Shanks told the Board the Planning Board had deemed it a buildable lot when they were asked by the Town Administrator to review the existing vacant lots for sewer hook-up, and consequently are now paying a sewer assessment on the lot. Apple Associates has flagged the property and has shown on a plan the location of the driveway. They used the core sample method to determine the wetland areas and have placed approximately 90 flags. Mr. Shanks asked the Board what he needed to do to obtain a building permit for the construction of a new dwelling. He noted that he will not be able to do anything on the lot until the sewer goes in, in 2006. He added there is a storm drain on Western Avenue and water from that flows down by the stone wall and eventually flows to Chebacco Lake; the flow of water, therefore, is not a brook but surface water from the storm drain. The Board told him a Notice of Intent would have to be filed for the proposed project. Stephen Gersh said he would also like to make a site visit.

A request made by Eugene and Muriel Feener for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the reconstruction of a retaining wall at 110 Western Avenue was heard at 7:54 p.m.

The Board reviewed the request. Mr. Feener told the Board the retaining wall extends from the corner of the garage to the house. The base of the wall is granite and does not require any work, but the cement blocks on top of the granite are collapsing and need to be replaced. Mr. Feener noted they have contracted Paul Wright to do the work, and submitted a letter from Mr. Wright stating how he will do the work. Mr. Feener reiterated the wall is all granite up to 6-feet, and he just wants to replace the top wall which is cement blocks.

Stephen Gersh moved to issue a negative Determination to Eugene and Muriel Feener, 110 Western Avenue, with a condition that all

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work will be done from the front of the wall, seconded by Philip Caponigro, with the Board voting unanimously in favor.

A request made by Marc and Kristin Fagan for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the construction of an addition at 48 Southern Avenue was heard at 8:00 p.m.

Marc Fagan told the Board the proposed project is the construction of an addition to his house. The Board reviewed the Request. Stephen Gersh told the Board he made a site visit to the property because of the submittal of the building permit application at the Board's last meeting. He found there was a drainage ditch running along the existing gravel drive, and estimated the proposed project would be approximately 80 to 100-feet away. He added that in order to define the work area, he would like to have a row of haybales place 15-feet from the project site. He noted there was an extended, well developed grass area between the project site and drainage ditch.

Stephen Gersh moved to issue a negative Determination to Marc and Kristin Fagan, 48 Southern Avenue, with a provision that a row of haybales be placed 15-feet from the construction, seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:07 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Theodore Smick for a septic system upgrade at 31 Lufkin Point Road.

Daniel Ottenheimer, Mill River Consulting, represented the applicant. The hearing was continued, as no D.E.P. File Number had been issued at the time of the Board's meeting on May 11, 2004. Mr. Ottenheimer told the Board a D.E.P. file number has now been issued, and then reviewed the project again with the Board.

Stephen Gersh moved to close the public hearing for Theodore Smick, 31 Lufkin Point Road, seconded by Robert Brophy, with the Board voting unanimously in favor.

Rosemary Parsons, 91 Pond Street - Ms. Parsons, together with her Attorney, J. Thomas Babcock, met with the Board to discuss a complaint that had been filed against her. The Board reviewed a letter submitted to the Board by Martha Hoar stating that she had observed extensive clear-cutting in what appeared to be a wetland.

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It was noted in the letter that piles of brush and cut tree trunks attest to the cutting. Ms. Parsons said she would like to file so she can do further cutting. Stephen Gersh said he had had a conversation with Ms. Parsons regarding making a site visit but decided to first discuss it with the Board. He added that he would like to have a minimum of three members make the site visit, which is scheduled for Saturday, June 12, 2004, at 11 a.m.

A public hearing was held at 8:25 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, to consider an amendment to the Order of Conditions D.E.P. File Number 21-0427 issued to Suzanne Perlman, 8 Deer Hill Farm Road.

Richard and Victoria Stevens, potential buyers of property at 8 Deer Hill Farm Road, told the Board they are picking up where Ms. Perlman left off. An Order of Conditions had been issued to Ms. Perlman on August 7, 2001, for the construction of a swale and barn, but the building permit application denied was denied by the Board of Health because of the proximity of the barn and manure pile to the well. Mr. Stevens said he would like to move the barn back in order to comply with Board of Health regulations. He noted that he had been before the Board of Health earlier in the evening for the relocation of the barn and manure pile and had received their approval. The Board reviewed the revised plan.

Stephen Gersh moved to approve the amendment of the Order of Conditions D.E.P. File Number 21-0427 issued to Suzanne Perlman, 8 Deer Hill Farm Road, with the condition that 12(i) be stricken from the Special Conditions and the area of wetlands restriction be completed and signed off by the Conservation Commission prior to the barn being constructed, seconded by Robert Brophy, with Robert Brophy, Philip Caponigro and Stephen Gersh voting in favor; Philip Lake voted present.

A request was made by Suzanne Perlman, 8 Deer Hill Farm Road, for an extension to the Order of Conditions D.E.P. File Number 21-0427, dated August 7, 2001.

Stephen Gersh moved to issue an extension to the Order of Conditions issued to Suzanne Perlman, 8 Deer Hill Farm Road, until August 7, 2007, seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:55 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a

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Notice of Intent filed by Albanese Brothers for site clearing and grading for temporary use of equipment storage, stockpiling of materials and rock processing at 34 John Wise Avenue.

Based on a written request for a continuation of the public hearing, Stephen Gersh moved to continue the hearing to Tuesday, June 15, 2004, at 8:15 p.m., seconded by Robert Brophy, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:58 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section, 40, on a Notice of Intent filed by David Savoie for the construction of a garage and front porch at 169 Eastern Avenue.

Stephen Gersh moved to continue the public hearing for David Savoie, 169 Eastern Avenue, to Tuesday, June 15, 2004, at 8:25 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

Paul Buttrick submitted a building permit application for review for Dr. Timothy Isobel, 9 Pickering Street, for the replacement of a 6x8-foot deck with a 10x12-foot deck at the rear of the property. As there were no wetland issues, the building permit application was signed.

A continuation of a public hearing was held at 9:15 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, Lot 11M.

Peter Van Wyck appeared before the Board and requested a continuation of the public hearing.

Stephen Gersh moved to continue the public hearing until Tuesday, June 15, 2004, at 8:40 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

Peter Van Wyck then requested the Board make a site visit to Lot 34, Turtleback Road. Mr. Van Wyck said he would like to add a porch to the dwelling that is being constructed. The foundation is in but he did not add the porch to the original plan. He noted

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he could stay at the 50-foot line. He then said he would like the Board to look at the 50 to 100-foot buffer zone as he would like to grade the area and plant species that the Board would like to see. Stephen Gersh told him the Board had specifically spoken about no grading with the first 50-feet. He added that he will not go to the site until there is a report from Derek Brown of Wetlands Assessment and Restoration, giving the status of the restoration area and his recommendation. He told Mr. Van Wyck he would not approve grading the first 50-feet. Mr. Van Wyck was advised to contact Derek Brown.

Nick Pappas, 18 Lufkin Point Lane - The Order of Conditions was signed.

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

Meeting adjourned at 9:55 p.m.

Prepared by:


Gillian B. Palumbo

Attest: