

Essex Conservation Commission

October 5, 2004 - Minutes

Meeting held at T.O.H.P. Burnham Public Library

Present: Wallace Bruce, Chairman, Robert Brophy, Philip Caponigro,
Philip Lake, Shirley Singleton.

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

A request made by Catherine Monahan for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the repair of a sewage disposal system at 44 Lakeshore Drive was heard at 7:36 p.m.

Richard Clarke, EPS Associates, represented the applicant. Mr. Clarke told the Board the proposed system is a state-of-the-art system located 85-feet from Chebacco Lake. The proposed project is considered a repair - there will be the same number of bedrooms. All fill from installing the system will be placed on the driveway. The lot also has stockpiling capabilities outside of the 100-foot buffer. The well location is over 50-feet from the septic system, but the owner is bringing in water from Hamilton. All homeowners around the property are connected in to the water line except for the applicant. The Board reviewed the Request and plan.

Philip Caponigro moved to issue a negative Determination to Catherine Monahan, 44 Lakeshore Drive, for the repair of an existing septic system, seconded by Robert Brophy, with the Board voting unanimously in favor.

Robert Stover, 50 Lakeshore Drive, met with the Board to request a sign-off for an occupancy permit. Mr. Stover had demolished his existing dwelling and reconstructed a modular home on the property, a project for which the Board had issued an Order of Conditions. He was told the Commission did not need to sign off on the occupancy permit.

The Board felt a letter should be submitted to the Board of Selectmen stating that a number of people have approached Board members interested in becoming a member of the Commission, and that the Board would like to be involved in the choice of candidates. They would like to know the procedure for appointing interested parties.

Joseph Ginn, Northern Essex, informed the Board that Allan Waller

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has approached him to construct a roadway access to his property on Southern Avenue (Bothways Farm). The Board noted the property is under a conservation restriction with the Trustees of Reservations and suggested to Mr. Ginn that Mr. Waller check with them regarding this project. The Board also stated a stream runs through the property, which may necessitate filing with the Commission for the proposed project.

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 Rosemarie Parsons for the removal of trees and brush to create a lawn at 91 Pond Street.

Attorney Thomas Babcock, representing Ms. Parsons, together with the applicant, met with the Board. Attorney Babcock told the Board Ms. Parsons would like to cut down two trees that have no limbs and clear out the brush within the buffer zone. She would also like to do some grading and remove tree stumps. The Board said their concern was to make sure there is a haybales area off the screened porch to create a work area. Robert Brophy said he would like to see a brush buffer zone between the brook and the lawn. Ms. Parsons indicated that all she wants to do is to clean up the area. The Board said they would like to see the 90' marker paralleled which would be the limit of work. Philip Lake said he had a concern about cutting down all of the trees as they provide shade for the wetland area. Wallace Bruce said he had no problem with using the 90' line as the limit of work. Ms. Parsons told the Board the reason she would like to cut down some of the trees was to bring light into her house. Robert Brophy said he would like to see the trees kept in one corner of the property and told Ms. Parsons he would make a site visit to check the trees and mark which ones could be cut down. Ms. Parsons agreed to this.

Robert Brophy moved to continue the public hearing for Rosemarie Parsons, 91 Pond Street, to Tuesday, October 19, 2004, at 7:55 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:22 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Mark Gallagher for the construction of a 20-foot driveway at 147 Eastern Avenue.

John Judd, Gateway Consultants, representing Mark Gallagher, together with the applicant, met with the Board. Mr. Judd told

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the Board he has increased the replication area as required by the D.E.P. and he has also added an extra culvert for overflow. He noted the rip-rap and driveway are accounted for within the replication area. They will be excavating up to the water level so they will have hydric conditions. Mr. Judd then pointed out on the plan an area which will have the existing grade brought down by two feet. Mark Gallagher told the Board he would like Michael DeRosa, DeRosa Environmental, to do the replication area, but was told there may be a conflict as Mr. DeRosa did the wetlands flagging. The Board questioned Mr. Judd regarding the maintenance of the level spreaders. He indicated the Commission could limit the amount of salt and sanding of the road in winter to prevent blockage of the level spreaders.

With no further questions, Philip Caponigro moved to close the public hearing for Mark Gallagher, 147 Eastern Avenue, seconded by Robert Brophy, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:35 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for an Abbreviated Notice of Resource Area Delineation filed by Peter Van Wyck for Low Land Farm, off Apple Street, Assessors Map 9, Lot 12.

Chris Gajeski, Apple Associates, together with Brian Buia, president of Apple Associates, and Peter Van Wyck met with the Board. Mr. Gajeski indicated a site visit was scheduled to be made on September 18, 2004, with Commission members Robert Brophy and Wallace Bruce attending, together with the applicant and Mr. Gajeski. Some Board members were told the site visit was cancelled. Mr. Gajeski indicated he had received an e-mail from Michael DeRosa, the Commission's wetland scientist hired to verify the wetlands flagging, asking how he could get out of the site visit. Mr. Gajeski submitted a copy of the e-mail to the Board. Robert Brophy said changes that were indicated at the site visit were now on the plan submitted by Apple Associates. He said he felt it was not a connecting wetland. A history of Low Land Farm was presented by Brian Buia, with a discussion on the history and the Consent Decree and Agreement for Judgement. It was noted the area in dispute was shown as part of Area B on James Sprague's plan that was submitted into the record as part of the Criminal and Administrative Proceedings and also incorporated into the Consent for Judgement concluding those proceedings. Robert Brophy then stated he felt Mr. Van Wyck had provided sufficient information for the Board to make a decision. He added that Mr. Gajeski had drawn a plan, Mr. DeRosa did not like some of it and

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requested some changes - these were done and another site visit was made. Robert Brophy then questioned whether the Town dump was leaching on to the property -it was determined that if there was any leaching it was outside of the area of concern. Shirley Singleton apologized for the Board to Mr. Van Wyck for not notifying him of the cancellation of the site visit. She said at the Board's last meeting she felt there was some question as to some of the flagging at Area B. She also asked for Wallace Bruce's point of view as he attended the site visit. Wallace Bruce wanted to know if there were hydric soils in the area, which he had heard was the way to determine wetlands. He said to his untrained eye he saw very little wetland vegetation in Area B.

With no further questions, Robert Brophy moved to close the public hearing for Peter Van Wyck, Low Land Farm, seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Wallace Bruce and Shirley Singleton voting in favor; Philip Lake abstained from voting.

Planning Board member Kim Jarvis, liason between the Planning Board and Conservation Commission, told the Board Peter Van Wyck has a pile of debris, i.e. building material, plastic and fiberboard, within 50-feet of a pond. Robert Brophy said he will visit the site to check.

Robert Brophy moved to approve the Abbreviated Notice of Resource Area Delineation filed by Peter Van Wyck for Low Land Farm, off Apple Street, seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Wallace Bruce, Shirley Singleton voting in favor; Philip Lake abstained from voting.

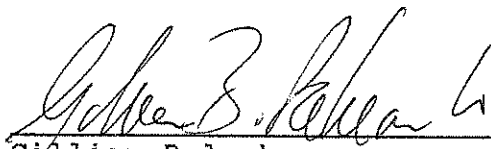
A request was made for a Certificate of Compliance for XLO Realty Trust, 1 Tara Road, off Apple Street, for Order of Conditions D.E.P. File Number 021-0437.

Robert Brophy moved to issue a Certificate of Compliance to XLO Realty Trust, 1 Tara Road, pending his visit to the site to verify installation of markers for the no-cut zone and confirmation of the existence of a conservation restriction, seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, and Shirley Singleton voting in favor; Philip Lake voted present.

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Robert Brophy moved to adjourn the meeting, seconded by Philip Caponigro, with the Board voting unanimously in favor. Meeting adjourned at 10:15 p.m.

Prepared by:



Gillian Palumbo
Administrative Clerk

Attest: