

Essex Conservation Commission

February 15, 2005 - Minutes

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

Present: Wallace Bruce, Chairman, Robert Brophy, Philip Caponigro, Elisabeth Frye, Stephen Gersh, Philip Lake, Shirley Singleton.

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

A request made by Stephen Payne for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the installation of a culvert parallel to Grove Street at 33 Grove Street, Map 34, Lot 62, was heard at 7:36 p.m.

Stephen Payne told the Board the proposed project is to install a culvert parallel to Grove Street between numbers 31 and 35 Grove Street. The culvert will go directly across the entrance to the property. Water is emptying from an existing culvert and when that is connected to the proposed culvert it should correct the problem. He noted that he had had Michael DeRosa, DeRosa Environmental Consulting, look at the property. The Board reviewed the Request and plan.

Stephen Gersh moved to issue a negative Determination to Stephen Payne, for a proposed culvert at 33 Grove Street, seconded by Shirley Singleton, with the Board voting unanimously in favor.

A building permit application was submitted for review by Philip Caponigro for the construction of a second story to an existing dwelling at 10 DeSoto Road. The building permit application was signed.

A public hearing was held at 7:45 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by August Meyer for the installation of a 2-inch low-pressure sewer main at 23 LeBaron Road.

John Judd, Gateway Consultants, together with August Meyer, met with the Board. Mr. Judd told the Board that Mr. Meyer, along with six other residents on LeBaron Road, would like to tie into the sewer that was installed on Lufkin Street. Mr. Judd said there is a 4-inch line in the road presently, and at the recommendation of Damon Boutchie, former Superintendent of the Department of Public Works, they pressure tested the pipe, which

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did not hold. Mr. Judd noted there are seven houses on LeBaron Road and five have septic systems that are failing. The Husains, at the very end of LeBaron Road, will be a separate issue, as the line is only being taken as far as Mr. Meyer's property. They would like to pull out the 2-inch pipe from the sleeve and install another pipe within. All activity will be in the existing roadbed except for the hook-up to the house. The pipe will have to go down four feet. Wallace Bruce asked Mr. Judd if he could foresee any work taking place outside of the roadway. Mr. Judd said he could not see that happening. A site visit will be made to the property on February 26, 2005, at 9:00 a.m.

Steph Gersh moved to continue the public hearing for August Meyer, 23 LeBaron Road, to Tuesday, March 1, 2005, at 7:35 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:05 p.m. for an Abbreviated Notice of Resource Area Delineation filed by Peter Van Wyck for land off Essex Park Road, Assessors Map 9, Parcels 5, 5A, 8 and 9.

Peter Van Wyck, together with his attorney, Orestes Brown, met with the Board. Copies of the proposals from wetland scientists were given to Mr. Van Wyck, namely Mary Rimmer and William Manuell. Mr. Van Wyck felt the Board should have three proposals so a request for a proposal will be sent to LEC located in Wakefield.

Robert Brophy moved to continue the public hearing for Peter Van Wyck for property off Essex Park Road to Tuesday, March 15, 2005, at 7:45 p.m., seconded by Shirley Singleton, with the Robert Brophy, Philip Caponigro, Stephen Gersh, Philip Lake and Shirley Singleton voted in favor; Elisabeth Frye and Wallace Bruce abstained.

Low Land Farm, Apple Street - Mr. Van Wyck asked the Board at what point they were at with gathering information for the D.E.P. He said he felt any information from wetland scientist Michael DeRosa should be sent to the entire Board and not to just a single member. He added that he had heard of some irregularities from his engineer regarding Michael DeRosa contacting the D.E.P. directly. Mr. Van Wyck felt that Mr. DeRosa was hired by the Commission and therefore he should report to the Commission. Mr. Van Wyck's attorney said the Commission should send a copy of

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their information to the D.E.P., with a copy to Mr. Van Wyck and Apple Associates. Mr. Van Wyck will send his package of information to D.E.P. with a copy to the Commission.

James Richardson met with the Board to submit a building permit application for review for the reconstruction of an existing agricultural barn at 32 Island Road. The application was signed.

Peter Van Wyck - 10-acre site off Turtleback Road Extension - Conservation Restriction. Planning Board member Kim Jarvis, the liaison between the Planning Board and the Conservation Commission, was present for this discussion. Stephen Gersh said he has serious issues with what the Planning Board has accepted as the Conservation Restriction. He noted the Essex County Greenbelt had offered to work on the restriction for free, which is what they do. He said he will not sign the Conservation Restriction and wants a joint meeting with the Planning Board regarding this. He said the Planning Board is assuming that the care of the area will be the Conservation Commission's responsibility and the Commission has not done this before. Stephen Gersh noted that Marth Hoar from the Open Space Committee has made two site visits to the property and indicated the land that Mr. Van Wyck is offering is not the best area. Kim Jarvis said the Planning Board would be happy to have a joint meeting. Jud Lane, Joint Chairman of the Planning Board, has been communicating with Wallace Bruce, Chairman of the Commission. As to the writing of the agreement, the Planning Board was aware of the offer by the Essex County Greenbelt, but Kopelman and Paige (Town Counsel) said they would do it with Mr. Van Wyck's attorney, Orestes Brown. It was the decision of the Board of Selectmen to do it this way. Shirley Singleton said on a site visit they had discussed the Greenbelt holding the restriction and spoke to Mr. Van Wyck about it. It is her understanding that the area needs to be cleaned up prior to taking it. Ms. Jarvis indicated the Planning Board has been instructed by Town Counsel to release all lots except one because of a potential lawsuit. Ms. Jarvis noted there were pieces of land the Planning Board preferred, but they were given this land and had no objection to it.

Pond Street Water Betterment - The D.P.W. had asked the Commission to review the list of betterments for the water line on Pond Street to indicate whether some properties that were being assessed for more than one betterment would not be subdividable because of wetlands. The Board felt a letter should be sent to the D.P.W. indicating the Commission is not in a position to make

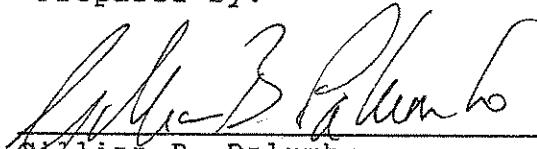
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a decision as to whether a lot is buildable or not if it contains wetlands for the following reasons: 1) the Commission does not have sufficient information about the existence of wetlands to make a decision, and 2) the Commission does not believe they have the authority to make a decision about the existence of wetlands without an application before them and the applicant supporting that application.

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

Meeting adjourned at 9:50 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: