

Essex Conservation Commission

April 19, 2005 – Minutes

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

Due to the absence of the Administrative Clerk, the Minutes were taken by Commission member Shirley Singleton.

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

Meeting called to order at 7:37 p.m.

A continuation of a public hearing was held at 7:38 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 a sanitary disposal system, driveway, and grading at Lot 38, Turtleback Road.

Stephan Gersh moved to continue the public hearing for Lot 38, Turtleback Road, to May 3, 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 7:39 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 a sanitary disposal system, retaining wall and grading at Lot 39, Turtleback Road.

Stephan Gersh moved to continue the public hearing for Lot 39, Turtleback Road, to May 3, 2005, at 7:45 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 7:40 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 land off Essex Park Road, Assessors Map 9, Parcels 5, 5A, 8 and 9.

A continuation was requested to May 3, 2005 per the applicant's instructions to the Commission's Administrative Clerk during an earlier conference call.

Stephan Gersh moved to continue the public hearing for land off Essex Park Road, Assessors Map 9, Parcels 5, 5A, 8 and 9, property of Peter Van Wyck, to May 3, 2005, at 8:00 p.m., seconded by Philip Caponigro, with the Board voting unanimously in favor.

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Ronald Hemeon, 23 Rocky Hill Road, met with the Board at 7:42 p.m. He told the Board he did not get a maintenance clause on the fire pond when he originally filed a Notice of Intent on June 24, 1985 for its construction. Mr. Hemeon said he needs a spill pipe and a dry hydrant, which was recommended by the Fire Department. Material is falling back into the pond. Stephan Gersh noted that if the pond is below 10,000 square feet it is not under the Commission's jurisdiction. Mr. Hemeon said he dug until he hit ledge. The widest point of the pond is 40-feet, the narrowest is 20-feet, and the length is 250-feet, therefore averaging approximately 8,000 square feet. Wallace Bruce said Mr. Hemeon went through the whole process and recommends he file a Request for a Determination of Applicability, and then have a maintenance clause attached. Mr. Hemeon questioned whether the clause could be passed on and recorded with the deed. He said there were four problems: 1) weeds, 2) spill pipe, 3) dry hydrant, and 4) clean up edges. Wallace Bruce asked him if he was bordering any wetland. Mr. Hemeon said no. Chairman Bruce suggested he obtain a Request for Determination of Applicability from the Administrative Clerk, and then the Board could issue a negative Determination with a maintenance clause. Mr. Hemeon was told to show the pipe and the work to be done on a site plan.

7:54 p.m. A building permit application was submitted for review by the Commission for John and Michele Tognazzi for the installation of an above ground pool at 24 Harlow Street. The application was signed.

7:55 p.m. A building permit application was submitted for review by the Commission for Michael and Adriana Parianos, 10 Turtleback Road, to finish the basement and construct an 18'x24' shed. The application was signed.

7:57 p.m. Stephan Gersh moved to grant permission for the removal of hay bales installed for Sewer Contracts 2 and 3, seconded by Philip Caponigro, with the Board voting unanimously in favor.

7:58 p.m. The Board reviewed the letter from the Fisheries and Wildlife Department for the certification of two vernal pools on Turtleback Road, property of Peter Van Wyck. No action was necessary. Mr. Van Wyck stated that he was surprised that a third party could go on his land. He never gave permission for anyone to look at the vernal pools and wanted to know who did it and if they had a right to do it. He added that all of a sudden he receives a letter from the Fisheries and Wildlife certifying two vernal pools on his property. Stephan Gersh said that legally permission is needed, and added that the Commission did not ask for this to be done. He recommended that Mr. Van Wyck call Martha and the contact name on the letter – Wayne Lozzi.

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8:05 p.m. Peter Van Wyck agreed to continue the hearings for Lot 38, Lot 39, the rear of Lot 35, parcels 5, 5A, 8, and 9 and signed a continuance form. Mr. Van Wyck thanked the Board for the site visit.

Restoration – Mr. Van Wyck said he hired Derek Brown two years ago to put in bushes. He mulched and watered afterwards and thought it was the end of the subject. He never knew 80% died and said it was “tacky” how he heard about it. Mr. Van Wyck said he would like to get another wetland scientist other than Derek Brown. He indicated Derek Brown is a close friend of Stephan Gersh and felt he should have come to him with the issues. Stephan Gersh said a report was sent to the Commission, paid for by Peter, and although Derek does not want to work on the project the Commission should invite Derek in for the final report. Mr. Van Wyck said he would like to have Chris Gajeski from Apple Associates. Stephan Gersh said he would like a neutral party. Mr. Van Wyck said Apple Associates are professionals. Stephen Gersh said he should get a couple of people. Robert Brophy said he agreed with Peter Van Wyck, that for a small project he should be able to hire who he wants. Stephan Gersh said that in terms of legal jurisdiction, it is not a small project. Wallace Bruce said that if Mr. Van Wyck wants to hire Apple Associates, then apply the same standards. Philip Lake asked what was the context? Was it based upon violations of the Act. Shirley Singleton asked if Mary Rimmer would be acceptable. Mr. Van Wyck said he wants to hire Apple Associates. Wallace Bruce said the bottom line is that Mr. Van Wyck needs to get the area restored. Stephan Gersh said it would be a conflict of interest as Apple Associates represents Mr. Van Wyck on other projects, and therefore cannot be hired to represent the Commission. Mr. Van Wyck said he has paid his dues, and that the whole thing has been blown out of proportion. Mr. Van Wyck then suggested John Morin of the Neve-Morin Group. Stephen Gersh said that he was already doing work for Mr. Van Wyck on Turtleback Road.

Stephen Gersh moved to see if Mary Rimmer would be interested in working on the Enforcement Order at Turtleback Road and to also submit another name, seconded by Elisabeth Frye. Robert Brophy, Philip Caponigro and Elisabeth Frye abstained; Stephan Gersh, Philip Lake and Shirley Singleton voted in favor; Chairman Wallace Bruce abstained.

8:30 p.m. – The report from Mary Rimmer for the Abbreviated Notice of Resource Area Determination was passed out. It will be dealt with as business at the next meeting.

8:35 p.m. – Joseph Brain and Judith Brain, Wood Drive - Waterways License – non-commercial docking. No action needed to be taken.

8:36 p.m. Theodore and Charlotte Guldmond, 5 Ralston Drive – Board of Health Verification of Conservation Commission Jurisdiction - no knowledge of project. Robert Brophy will look at the site.

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8:37 p.m. Board of Health Verification of Conservation Commission Jurisdiction for Michael Burnham, 12 County Road. Philip Lake said all work is within 100-feet of the wetlands and therefore is within the Commission's jurisdiction. Wallace Bruce signed the form.

8:40 p.m. Letter to Board of Selectmen re: Peter Van Wyck's 10-acre parcel was supposed to be sent out.

8:42 p.m. Job description for the agent. Stephan Gersh said he would bring in edits to the next meeting. The agent cannot start before June 1, 2005. He also asked if the Administrative Clerk had a job description and said he will check with the Personnel Board. Wallace Bruce said he had a concern that the money for the agent will be funded through the Wetlands Fund. He had heard the Town will not be funding this position and would like the Board to give some thought to not spending all the Commission's money on an agent. Stephan Gersh said Ray Randall of the Finance Committee told him it passes muster. There are two sources of money: 1) fees into the Town - \$12,743, and 2) Wetlands Fund - June 1987 - \$24,960. He also noted that Ray Randall projected 4-5 years of 12 hours per week without raising additional monies. The position is already included in Personnel. The rate would be \$18-23 per hour. The agent would need a place to work, but there is no room in the Town Hall. There is a computer outside the Assessors Office on the second floor and a filing cabinet would also be necessary. It is acceptable to the Town Administrator. The telephone has not yet been resolved. Will present candidate to the Selectmen - will need to fill out personnel form - self insured - use own vehicle - needs some kind of expense account

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

Meeting adjourned at 8:54 p.m.

Shirley Singleton