

Essex Conservation Commission

May 10, 2005 – Minutes

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

Present: Wallace Bruce, Chairman, Robert Brophy, Elisabeth Frye, Stephen Gersh,
Philip Lake, Shirley Singleton, Philip Caponigro (8:45 p.m.).

Meeting called to order at 7:34 p.m.

7:35 p.m. – Jack Brown of the North Shore Bible Church met with the Board for an informal discussion on property owned by Raymond Ramsdell, Southern Avenue, as to whether a church building could be constructed on the property. A single family dwelling already exists on the property. The issues were where the building could be constructed and how much parking would be required for the church. Mr. Brown also questioned whether a church could be built at the rear of the South Essex Village behind the storage sheds. Robert Brophy told Mr. Brown the Board had made John Coughlin, owner of the property, reduce the size of one of the storage sheds so that it would not interfere with the wetland on the property. Mr. Brown was told to come in with more definitive information.

A Request made by Ronald Hemeon for the Commission to Determine the Applicability of the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, for the removal of rocks, debris, weeds from a fire pond and the installation of a fire hydrant at 23 Rocky Hill Road.

Mr. Hemeon said he would like to put in a pipe but to do so he would have to remove some trees. Stephen Gersh told him because his fire pond is less than the 10,000 square feet required under the Wetlands Regulations, CMR 10.00, it was out of the Board's jurisdiction and therefore did not require Mr. Hemeon to file. Wallace Bruce said it was noted at the last meeting that due to the sensitive nature of the area Mr. Hemeon was concerned about doing the work without some positive/negative feedback from the Commission. Mr. Hemeon said he knows he will have to remove some trees just to get the machinery into the area and feels someone may have issues with that. He added that when they dug the pond there was a problem along the eastern side because they hit ledge and they stopped digging. They then put all the fill on top of the ledge and that has slowly fallen back in, so they would like to try and remove all of that and get down to ledge again.

Stephen Gersh moved to issue a negative Determination to Ronald Hemeon, 23 Rocky Hill Road, seconded by Robert Brophy, with the Board voting unanimously in favor.

A public hearing was held at 7:52 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by David Lane for grading with 10-foot of a pond at Lot 6A, Lane's Road.

David Lane and Jud Lane, Trustees of Curlew Cove Realty Trust, met with the Board. David Lane told the Board they had to put in an elevated septic system to service the buildings they own on John Wise Avenue. They had placed some fill in the area but it was not enough. Mr. Lane said the Town is looking for places to put fill generated from the installation of the sewer system and so they told the Town they were looking for fill as they would like to grade the field. The contractor said he would put the fill on their property and started to fill the area beyond the 100-foot line, but Mr. Lane said it would be helpful if they could put it closer to the wetlands and that is why they filed the Notice of Intent. He noted it was primarily a grading issue of making the slope at a 15% grade. Presently, there is a steep slope there and they thought it would be better to have a gradual slope which would help to moderate the run-off in the area and would also provide more area for the contractor to put in the fill. Mr. Lane said they would like to bring the grade level to the top of the septic system, which would probably use most of the fill that is presently piled behind the Town Hall. He felt it was a win-win situation for them as they can build up the field, and the Town will save money by not having to pay to truck the fill out of Town. Wallace Bruce asked if Mr. Lane was going to be grading closer than the 50-foot line. Mr. Lane said he would, and that was the purpose of filing the Notice of Intent. Michael DeRosa did the delineation and Meridian Engineering did the topographical map. Stephan Gersh asked how long it would take to change the elevations and stabilize it and had the contractor estimate it. Mr. Lane said the contractor wants to do it quickly and so does the Town. They are already hauling in the fill beyond the 100-foot mark and so he felt it would not be a long time.

Stephan Gersh moved to close the public hearing, seconded by Shirley Singleton, with the Board voting unanimously in favor.

A public hearing was held at 7:55 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Charles Swanson for the installation of a tight tank at 16 Lufkin Point Lane.

John Morin of the Neve-Morin Group represented the applicant. Mr. Morin said Mr. Swanson was involved with the Board of Health when a number of residents of the area had to have their septic systems inspected, and in his case there is an existing cesspool next to the 3-bedroom dwelling. It failed a Title V inspection and therefore Mr. Swanson had two years to upgrade it. Soil testing was done by others, not Neve-Morin, and last summer the Board of Health went out and conducted soil testing and did not find any soils on his property. Mr. Morin said they were retained by Mr. Swanson to design a tight tank for this property because of the fact they could not get a septic system – the soil just would not allow it. The lot is approximately 11,000 square feet and the salt marsh exists to the rear of the property – the entire lot is within the buffer zone. They are proposing the installation of a tight tank 51-feet from the edge of the wetlands; the existing cesspool is about 40-feet from the edge of the wetlands. The Board of Health has approved the installation of the tight tank. In order to install the tight tank they have

to fill 1.5 feet to get the cover required over the tank and the piping. The closest point from the hay bale line to the wetland is 31-feet. The area is currently open and there are no trees that need to be removed. The water service is on the left-hand side when you are looking at it from the street. Mr. Morin noted that under tight tank regulations they are required to have a maintenance agreement with a licensed hauler; that has been signed and is on file with the Board of Health. There is an alarm inside the tight tank and when it is at 60% capacity an alarm will go off to alert the homeowner to have it pumped. The tank capacity is 2,000 gallons. Robert Brophy asked if there had been some digging on this lot. Mr. Morin noted that in 1999, Mary Godwin tested the lot and then in 2004 Alex Parker tested the lot in order to try and find a spot for a septic system, but after the testing in 2004, the Board of Health issued a letter mandating a tight tank.

Stephan Gersh moved to close the public hearing for Charles Swanson, seconded by Philip Lake, with the Board voting unanimously in favor.

A continuation of a public hearing was held at 8:10 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, driveway and grading within the buffer zone at Lot 38, Turtleback Road.

John Morin, of Neve-Morin Group, represented the applicant. Mr. Van Wyck was also present. Mr. Morin stated they had appeared before the Commission at one meeting and also had a site visit; the only issue remaining was the D.E.P. File number and comment sheet that has now been received. They also have Board of Health approval.

Stephen Gersh moved to close the public hearing for Peter Van Wyck for Lot 38, Turtleback Road, seconded by Shirley Singleton, with Robert Brophy, Stephan Gersh, Philip Lake, and Shirley Singleton voting in favor; Elisabeth Frye abstained.

A continuation of a public hearing was held at 8:13 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 within the buffer zone at Lot 39, Turtleback Road.

John Morin, of Neve-Morin Group, represented the applicant, who was also present. Mr. Morin indicated that the issues were the same as for Lot 38, and that a site visit was made and all questions answered; the only issue was the D.E.P. File number and comment sheet that has now been received. The Board of Health has also approved the design.

Stephan Gersh moved to close the public hearing for Peter Van Wyck for Lot 39, Turtleback Road, seconded by Shirley Singleton, with Robert Brophy, Stephen Gersh, Philip Lake, and Shirley Singleton voting in favor; Elisabeth Frye abstained.

A continuation of a public hearing was held at 8:20 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 two dwellings, driveway, septic components and grading within the buffer zone at Low Land Farm, Assessors Map 9, Parcel 12(1).

Chris Gajeski of Apple Associates represented the applicant, who was also present. Wallace Bruce said the Order of Resource Area Delineation was denied by the D.E.P. and he felt the hearing could not continue. Chris Gajeski said the resource area delineation south of the site, was agreed upon, except for the area on Lot 4 and a little bit on Lot 3; in terms of where those two contested areas are, the site has been reviewed and the Commission knows where they are and what lots they are on, and those areas really do not apply to Lots 1 and 2. Chris Gajeski asked whether they could not continue the public hearings or could not continue to hear further information. Wallace Bruce said they were continuing a public hearing based on an assumption that the delineation that the Commission approved was accepted; the Board has been superceded by the Department which was a denial of the delineation. Stephen Gersh said his understanding is that the whole process has to be completed before they can do anything on any lots on Low Land Farm. The Board needs a totally acceptable delineation of the property – that is why Mr. Van Wyck filed for a delineation – and even though there is only a section that is in disagreement, it invalidates the entire fact of a completed delineation, so the Board cannot continue with anything on that property until that issue is resolved. Mr. Gajeski said that since that time the parcel has been subdivided and the questionable areas are far away from Lots 1 and 2. He felt they should be considered independent permit applications, independent of the Superceding ORAD, as they are presently separate lots, whereas the contested areas are Lot 3 and 4. He added that he did read the D.E.P. comment sheet that stated the Commission should hold off on the hearings, but he did not read anything on the comment sheet that the hearing process had to be halted. He felt as the delineation on Lots 1 and 2 were agreed upon, there was no reason not to continue. Stephen Gersh said the original ANRAD was based on Low Land Farm, and not on Lots 1, 2, 3 and 4. After that fact, lots were created and defined, but in his mind, what the original ANRAD applied to was the entire property, not any one particular lot. Stephen Gersh said his reading of it is that it should be a new filing for a resource area delineation. Mr. Gajeski said he could not speak about the superceding order, but what he could say was that a Notice of Intent does not require an approved ORAD. Wallace Bruce said when a superceding ORAD is given the Commission loses control of the process and his concern is that this is now the jurisdiction of the D.E.P. He feels he would like to get clarification as to whether the Commission can proceed with the hearings on Lots 1 and 2. Stephen Gersh said he concurs with Wallace Bruce and felt a letter should be sent to D.E.P. requesting clarification. Shirley Singleton said she also agreed. A letter will be sent to D.E.P. requesting a clarification on this issue.

Stephen Gersh moved to continue the public hearing for Peter Van Wyck for Assessors Map 9, Parcel 12 (1) to Tuesday, May 24, 2005, at 7:35 p.m., seconded by Robert

Brophy, with Robert Brophy, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye and Philip Lake abstained.

A continuation of a public hearing was held at 8:30 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 dwelling, driveway, septic field, septic tank and components and grading within the buffer zone at Low Land Farm, Assessors Map 9, Parcel 12(2).

Stephan Gersh moved to continue the public hearing for Peter Van Wyck for Assessors Map 9, Parcel 12(2) to Tuesday, May 24, 2005, at 7:45 p.m., seconded by Robert Brophy, with Robert Brophy, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye and Philip Lake abstained.

A continuation of a public hearing was held at 8:33 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 construction of two dwellings, driveway, septic tank and components and grading within the buffer zone at Low Land Farm, Assessors Map 9, Parcel 12(3).

Stephan Gersh moved to continue the public hearing for Peter Van Wyck for Assessors Map 9, Parcel 12(3) to Tuesday, May 24, 2005, at 7:55 p.m., seconded by Robert Brophy, with Robert Brophy, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye and Philip Lake abstained.

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 land off Essex Park Road, Assessors Map 9, Parcels 5, 5A, 8 and 9.

Chris Gajeski, Apple Associates, represented the applicant, who was also present. He told the Board that Mary Rimmer, representing the Commission for the verification of the wetlands delineation, has put together a grid, and he has taken all the recommended changes. Mr. Gajeski noted that Ms. Rimmer wanted to bump down the mean high water line as she thought it was too high. Stephan Gersh asked if Mary Rimmer reviews Chris Gajeski's new plans, does the Board need her to come in if she sends a report. The Board felt another site visit would be necessary. A site visit will be made to Essex Park Road on Saturday, May 21, 2005 at 8:30 a.m. The Board said they would like her report prior to the site visit if possible. Kim Jarvis, liaison between the Planning Board and the Commission, stated that at the last meeting Mr. Van Wyck had two vernal pools certified on his property and questioned if they were shown on the plan. Mr. Gajeski said they were. Mr. Van Wyck said one of the vernal pools was right on the gas line. He added there would be a further investigation as to whether one of them is a vernal pool.

Stephan Gersh moved to continue the public hearing for Peter Van Wyck for property off Essex Park Road, seconded by Philip Caponigro, with Robert Brophy, Stephan Gersh, Philip Caponigro, and Shirley Singleton voting in favor; Elisabeth Frye and Philip Lake abstained.

A continuation of a public hearing was held at 8:45 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Peter Van Wyck to filter surface water run-off prior to entry into an existing pond at 9 Turtleback Road, Assessors Map 9, Parcel 11R.

Mr. Van Wyck told the Board he has not done anything on this, and thinks he will withdraw the filing.

Stephan Gersh moved to accept Peter Van Wyck's withdrawal of a Notice of Intent without prejudice for property on Assessors Map 9, Parcel 11R, Turtleback Road, seconded by Robert Brophy, with Robert Brophy, Philip Caponigro, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye and Philip Lake abstained.

A building permit application was submitted for review for Philip Lake, 35 Apple Street, for the construction of a 24x10-foot addition. The building permit application was signed.

A potential purchaser of property at 53 Choate Street discussed with the Board the possibility of keeping two horses on the property and the clearing of brush. She said she did not wish to remove any trees. Stephan Gersh said he would like to see it kept in a natural state, but that buckthorn could be removed.

Dr John Stavros, 60 Pond Street, met with the Board for review of a plan relative to an Application for an Abatement of a Betterment Tax (water line). A letter was sent to the Commission from Joseph Orzel of Gulf of Maine Research Center, retained by Dr. Stavros for wetland consulting services. Mr. Orzel stated that 80, 500 square feet of upland was present containing the existing house, garage and septic system. The only undeveloped portions of this upland area include approximately 13,000 square feet just north of the garage, and approximately 13,000 square feet just south of the septic system. Both areas are too small individually, or together, for an additional dwelling and septic system. Mr. Orzel noted there appeared to be some upland at the very northern end of the property, but the total area north of the swale is approximately 22,000 square feet, including wetland; therefore, the potential upland area at the north end of the site is well under 20,000 square feet, and not sufficient for a dwelling and septic system. There were two other areas that Mr. Orzel indicated were not adequate for a single-family dwelling and septic system. The Board reviewed Mr. Orzel's letter and the plan that accompanied Dr. Stavros' Notice of Intent D.E.P. File Number 21-306. The Board felt a letter should

go to the D.P.W. stating that in their opinion because of the delineation of wetlands the site is only suitable for the one existing dwelling and may not be further developed.

A building permit application was submitted for review for Jeffrey and Shannon Crompton for the construction of a 16'x16' deck at 2 Lakeview Road. The application was signed.

A building permit application was submitted for review from Kevin and Cindy Donaldson for the construction of a 20'x14' pool house at 3 Deer Hill Farm Road. The application was signed.

A building permit application was submitted for review by Friedl Brosch for a 16'x16' workshop addition to the barn at 143 Main Street. The building permit application was signed.

Robert Brophy stated his objection to the purchase of a tape recorder without the approval of the Board.

Essex Park Road – Peter Van Wyck wanted to submit a preliminary plan, but it was not accepted as it only gave the Planning Board a 60-day review period. Peter Van Wyck was asked to re-file.

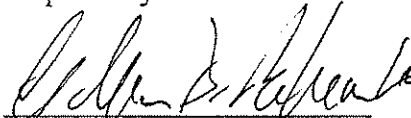
Philip Lake moved to approve the project of David Lane at Lot 6A, Lane's Road, as submitted in the Notice of Intent, seconded by Robert Brophy, with the Board voting unanimously in favor.

Philip Lake moved to approve the project of Charles Swanson, 16 Lufkin Point Lane, as submitted in the Notice of Intent, seconded by Elisabeth Frye, with the Board voting unanimously in favor.

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

Meeting adjourned at 10:00 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: