

Essex Conservation Commission

June 21, 2005 – Minutes

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

Present: Wallace Bruce, Chairman, Robert Brophy, Philip Caponigro, Elisabeth Frye, Stephan Gersh, and Shirley Singleton; absent – Philip Lake

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

A continuation of a public hearing was held at 7:35 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 with the buffer zone at Low Land Farm, Assessors Map 9, Parcel 12(1).

Shirley Singleton said she was at the Planning Board meeting last week and was not sure if the Board should be addressing this. She felt the Board should have something from the Planning Board for them to look at. Wallace Bruce said the other outstanding issue is the requirement from D.E.P. for Mr. Van Wyck to withdraw his appeal. Mr. Van Wyck said he has a plan that was signed. Shirley Singleton said there must be a disconnect, as they were at the Planning Board meeting last week and asked that specific question and they said they did not know what the Commission was talking about, and that they did not have any signed plans in front of them. Peter Van Wyck said he has a plan for three lots signed by the Planning Board – he did not realize this was going to be an issue, but will bring it to the next meeting. Mr. Van Wyck then said that as far as the D.E.P. goes, he is getting closer to a resolution. Once a letter is sent to them it will be quite clear and he feels the issue will be resolved by the next meeting. Wallace Bruce said the Board would need to have a letter from the D.E.P. Mr. Van Wyck said he met with D.E.P. that morning and now has a direction in which to go. Jill Provencal of the D.E.P. was very clear as to what he has to do. Stephan Gersh said the D.E.P. would write a letter directly to the Board instructing them that whatever D.E.P. required has been completed. Shirley Singleton said the two critical items the Board will be looking for, in order for them to act on any project Mr. Van Wyck will be doing in the future, will be signatures on plans from the Planning Board so that both Boards stay in sync; if it is not there then it would be helpful if it was not put on the agenda so as not to waste everyone's time. Mr. Van Wyck felt the Board should also communicate with the D.P.W. Shirley Singleton said she felt the Board's immediate goals are the Town first and what they need to work on for communication with the Essex Boards and to get that streamlined.

Stephan Gersh moved to continue the public hearing for Low Land Farm, Assessors Map 9, Parcel 12(1), to Tuesday, July 12, 2005 at 8:00 p.m., seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Stephan Gersh and Shirley Singleton voting in favor; Elisabeth Frye abstained.

A continuation of a public hearing was held at 7:50 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 Low Land Farm, Assessors Map 9, Parcel 12(2), to Tuesday, July 12, 2005 at 8:05 p.m., seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye abstained.

A note will be sent to the Planning Board stating the Board discussed communication with the Planning Board and that the Commission will be looking for signed plans for them to act on and thereby reducing the confusion as to which plan is the correct plan.

A building permit application was submitted for review for Mark Jordan, 164 Western Avenue, for the installation of a shed. Chairman Bruce said he had looked at the site when Mr. Jordan demolished the existing house and constructed another, and stated the wetlands were down on the property line, far from the dwelling. The building permit application was signed.

Mark McKay, 7 Prospect Street – Chairman Bruce said he had been contacted by Paul Goodwin of the Essex Department of Public Works regarding a drainage area on Mr. McKay's property, who felt that Mr. McKay should meet with the Board to explain what he was going to do. Mr. McKay said he and the D.P.W. have come to a verbal agreement on how to fix the drainage problem and they would like to fix 'in-house'. There are no easements for this type of drainage. He said he was willing to do the work to upgrade this. He showed photographs of the pipe that drains the whole street. The D.P.W. and Mr. McKay had discussed putting a sump in place, something that could be maintained when the D.P.W. maintains the catch basins, replacing the line and upgrading it with some 12" ADS pipe. Wallace Bruce asked if this was all in his yard. Mr. McKay said no, it was also in Mrs. Caponigro's property on Brook Pasture Lane. Wallace Bruce asked if Mrs. Caponigro had any problems with this work being done on her property. Mr. McKay said Paul Goodwin had talked to her and said she was fine with everything. He then told the Board that it becomes silted up and over the years of trying to keep that end free, there is a mound of silt and sand on either side. Paul Goodwin and he discussed possibly cleaning it out and putting in a small retention area, so that if the present area was not maintained there would be another area that would maintain it and catch some of the silt. He noted that presently the pipe is all silted in and his property is just getting wetter and wetter. Wallace Bruce asked if the Town was going to be responsible for the maintenance of this. Mr. McKay said they could be as the sump splits the line, so it would be mostly on Town property; there is a catch basin on the street. Wallace Bruce questioned whether one area, pointed out on the site plan, would be able to handle the improved drainage. Mr. McKay said it would. He then added the only other alternative,

mentioned to him by a former D.P.W. Superintendent, would be that when the sewer went in they would relocate the drainage down to Martin Street. The Board felt it should fall under the auspices of repair and maintenance for the D.P.W., as long as the D.P.W. is going to be active in maintaining it. Stephan Gersh felt a letter should be sent to the Commission from the D.P.W. stating that they are responsible and have the oversight for this project, but that Mr. McKay has been given permission to do it, under the domain of repair and maintenance of existing Town drainage culverts.

A continuation of a public hearing was held at 8:05 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 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 Low Land Farm, Assessors Map 9, Parcel 12(3) to Tuesday, July 12, 2005 at 8:10 p.m., seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Stephan Gersh, and Shirley Singleton voting in favor; Elisabeth Frye abstained.

A building permit application was submitted for Marc Sears and Kirk Dalgewicz, 5-7 Lakeview Road, for the construction of a farmer's porch. The building permit application was signed.

A building permit application was submitted for Ernest Nieberle, 4 Spring Street, for the construction of an 11'6" by 8' addition to the kitchen. Robert Brophy said he looked at the site today and found no wetland issues. The building permit application was signed.

Thomas and Mark Shea, Shea Bros. Upholstering, 242 John Wise Avenue, met with the Board to discuss a project they had started on the side of their building, but because of the proximity of the project to the resource area, they were told to stop work. Thomas Shea apologized to the Board for starting it, not realizing the channels they had to go through. Mr. Shea said what they would like to do is to level of the parking area on the side of the building, and then add lypac. The winter, between plowing and the weather, had caused the area to deteriorate quite badly, and consequently was now looking like a large mud pit. The lypac has been delivered but they have not started to put it down – all they have done is to begin to level it. Robert Brophy said he received a telephone call and went out to look, and saw the beginning of the project, and asked Shea Brothers to stop work. The project, basically, is to smooth down the area and put down lypac. Stephan Gersh suggested that a Request for a Determination of Applicability be submitted. Hay bales have already been put in place and staked. The project is approximately 800 square feet in size.

The Board of Selectmen would like to have approved Minutes of Meetings submitted to them.

A copy of a Purchase and Sales Agreement was submitted to the Board of Selectman and copied to the Conservation Commission for the Hardy's Hatchery building plus 2.5 acres of land, property of Lorraine Hardy-Wyeth. The Purchase and Sales Agreement was submitted to the Board of Selectmen as the property is under Chapter 61A and must be offered to the Town for fair market value prior to the sale.

Board of Health Verification of Conservation Commission Jurisdiction Form – 1) Joseph Brain, 59 Wood Drive – no jurisdiction, 2) John Kusulas, 102 Choate Street – no jurisdiction, and 3) Janet and Daniel Rice, 34 Lakeshore Drive – no jurisdiction.

Memo from Town Counsel regarding application of Open Meeting Law to Site Inspections – a copy was given to the Board members.

Grading of the large ball park – Dan Nietzsche asked if a plan showing the existing and proposed grading of the ball park, together with a narrative as to how the work will be done, would be sufficient to add to the general permit for the sewer work. Stephan Gersh felt it could come under the blanket Order for the sewer project upon review.

Peter Van Wyck, 9 Turtleback Road – removal of the culvert from Elisabeth Frye's property. Robert Brophy said Mr. Van Wyck told him he would remove it by Friday. Stephan Gersh said a letter could be sent to Mr. Van Wyck stating that he is ordered to remove the pipe by Friday from Elisabeth Frye's property. Stephan Gersh moved that the following letter be sent to Peter Van Wyck, as follows:
Installation of two 4-inch conduits draining wetlands into a private pond is in violation of the Wetlands Protection Act. It is the Commission's understanding that you are willing to remove the pipe by Friday, July 1, 2005. These two pipes are to be removed and an earthen dam put in place to prevent the bordering vegetative wetland draining on to your property. The motion was seconded by Philip Caponigro, with Robert Brophy, Philip Caponigro, Stephan Gersh and Shirley Singleton voting in favor; Elisabeth Frye abstained.

Rose Parsons, 91 Pond Street, met with the Board to discuss the addition of a deck, approximately 20x12-feet in size, to the existing porch and install an above-ground swimming pool with a platform level with the deck. It would necessitate digging for approximately six sono tubes. Wallace Bruce asked Ms. Parsons whether the swimming pool company installing the pool indicated what they would have to do with regard to grading or filling the area. Ms. Parsons said they would have to bring in fill to level the area for the pool. Robert Brophy felt the original Order of Conditions could be amended as the only thing required is the digging of the post holes for the sono tubes. Wallace Bruce said one concern would be the chlorinated water and how it would be treated. Ms. Parsons said she would not be flushing out any water – it will be the same water and will just be covered in winter.

Robert Brophy moved to amend the Order of Conditions to include the pool and the deck for Rose Parsons, 91 Pond Street, seconded Philip Caponigro, with Robert Brophy, Philip Caponigro, Shirley Singleton voting in favor; Elisabeth Frye voted present; Stephan Gersh opposed. He said he opposed it because an amendment should have a relationship to the actual work defined in the Order of Conditions, and the pool and deck were not part of the original Order of Conditions.

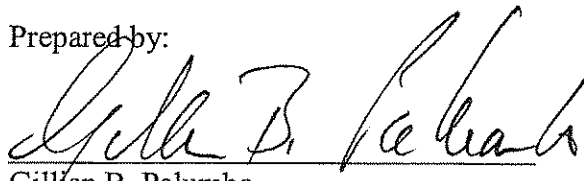
Wallace Bruce felt the Board should know the amount of fill prior to the Board actually amending the Order of Conditions. Ms. Parsons said she does not have a contract as yet, but Stephan Gersh would like to specifically have details as to how the pool will be cleaned. Rose Parsons said the contractor said 60 yards of fill, but she was not sure. The Board wants to see more specifics prior to amending the Order of Conditions.

A discussion followed on the Conservation Commission's job descriptions for agent and Administrative Clerk, plus the need to hire a new Administrative Clerk. Wallace Bruce said that at the last meeting the Board thought the two positions could be combined. Shirley Singleton said she missed the last meeting and asked if it was determined that the two positions could not be combined. Chairman Bruce told her that the Board favored the concept of one person doing both jobs, but now asked whether the Board still wants to do this. Stephan Gersh stated that if you could find one person to do both jobs, the total number of hours per week must be kept under 20 hours. Shirley Singleton said based on what was just said the Board now needs to look at the positions separately. It was felt the clerk's position could be posted on the Town Hall board.

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

Meeting adjourned at 9:20 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest: