

ESSEX CONSERVATION COMMISSION

MINUTES

MAY 18, 2010

Members: Wallace Bruce, Chairman – present
Joseph Ahearn - present
Robert Brophy - present
Philip Caponigro – present (until 8:30 pm)
Elisabeth Frye - present
James Rynkowski – absent
Shirley Singleton - present

Appointments:

Brinck Lowery of 51 Lebaron Road submitted a request to the Commission for a change to the plan for demolition of the residence as previously permitted. Andrew Stevens represented Mr. Lowery and provided a description of the removal of the house to the lot across the road instead of demolishing it. W. Bruce asked if the additional house was permitted by the Planning Board. Henry Gourdeau advised that they would be meeting with the Planning Board the following evening, but it was his understanding that the by-laws permitted this. The Conservation Commission agreed that moving the building was included within the scope of the work previously permitted under an OOC and no further action was required.

Public Hearings:

The Commission opened a Public Hearing for a Request for Determination of Applicability filed by Ronald Gauthier to construct a 10' x 12' deck at 14 Coral Hill. Mr. Gauthier described the project. The Chairman opened the floor to questions from the Commission. There being no questions, the Chairman opened the floor for a motion to close the hearing. On a motion made and duly seconded, the Commission voted unanimously to close the hearing. After discussion, on a motion made and duly seconded, the Commission voted unanimously to issue a negative determination with the conditions that hay bales and a silt fence be put in place and the digging be done by hand.

The Commission opened a Public Hearing on a Request for an Amended Order of Conditions filed by Joshua Taylor to amend the plan to construct a single family dwelling, driveway and utilities within 100 feet of a bordering vegetated wetland at 67 Apple Street. Chuck Johnson of C.G. Johnson Engineering represented the applicant and summarized the changes to the plan. The Chairman opened the floor to questions from the Commission. There being no questions, the Chairman opened the floor for a motion to close the hearing. On a motion made and duly seconded, the Commission voted unanimously to close the hearing. After discussion, on a motion made and duly seconded, the Commission voted unanimously to issue an amended OOC.

The Commission opened the Public Hearing on a Request for an Amended Order of Conditions filed by Todd Twombly of Lowland Farms, LLC to amend the plan currently on file to develop the land at Lot 2 Low Land Farm Road. The Clerk advised the Chairman that the following hearing was on behalf of the same applicant and the properties were being developed together, in light of this, she suggested that the next hearing be opened as well due to the late hour and the joint applicant. The Commission concurred and opened the Public Hearing on a Request for an Amended Order of Conditions filed by Todd Twombly of Lowland Farms, LLC to amend the plan currently on file to develop the land at Lot 1 Low Land Farm Road. Todd Twombly and Jay McNiff were in attendance as representatives of Lowland Farms, LLC. Mr. Twombly summarized the changes which were being made to the plans for Lots 1 and 2 and explained that many of the changes would decrease the impact to the area. J. Hankin advised that he had been to the site and the erosion controls were in place. J. Hankin also advised that he felt that given the changes to the work in the buffer zone, the change requested to the home being built in the buffer zone was not significant. The Commission asked if final approval had been obtained from the BOH. Mr. Twombly advised that they had spoken with the Agent and were confident that they would receive approval at the next meeting. The Applicant was advised that if any changes were made by the BOH that they may need to come back to the Commission for another amendment. There being no further discussion, the Chairman opened the floor for a motion to close the hearing. On a motion made and duly seconded, the Commission voted unanimously to close the hearing on both lots. On a motion made and duly seconded, the Commission voted unanimously to issue an amended OOC for both Lot1 and Lot 2.

The Commission opened a Public Hearing on a Notice of Intent filed by Christopher Larson to upgrade the septic system at 28 Apple Street. E. Frye recused herself as an abutter to the project. John Judd of Gateway Engineering and Chris Larson the homeowner were present. J. Judd described the plan and the revised septic system. J. Hankin asked who flagged the wetlands and when. J. Judd advised the his firm had done this and it was done in April of 2010. S. Singleton asked that a description of the work be added to the application. J. Judd advised that he would do this if the Commission would condition the approval on this. E. Frye asked, as an abutter, what the changes were, if any, to the plan that had been submitted to the BOH and asked if the revised plan was on file with the Commission. J. Judd advised that there were no changes to the system only procedural issues. C. Larson provided aa plan which had been approved by the BOH. There being no further discussion, the Chairman opened the floor for a motion to close the hearing. On a motion made and duly seconded, the Commission voted unanimously to close the hearing. On a motion made and duly seconded, the Commission voted unanimously to issue a standard OOC.

The Commission opened a Public Hearing on a Notice of Intent filed by Karen McNiff, Trustee of Chocorua Realty Trust to construct a single family home with garage, septic system, and associated grading and utilities at Lot 4A, near 90 Apple Street. In attendance were Karen McNiff (applicant), Daniel Ottenheimer of Mill River Consulting representing the applicant, Attorney Leonard Zide representing two of the abutters. P. Caponigro had excused himself from the meeting due to prior commitments. D. Ottenheimer described the property and the project. He explained that the lot had not been given it's own street number at this time, but the division of the original lot was approved in 2006,

and the BOH approved the septic plan in 2007. The resource area was remarked in 2010 and the plan was revised in March 2010. J. Hankin advised that he had walked the site with D. Ottenheimer and E. Frye and expressed that the site could be adequately permitted. He then asked how many trees would be cleared for construction. D. Ottenheimer advised that only those trees needed to construct the home would be removed. S. Singleton asked about the order of the construction. D. Ottenheimer advised that this would depend on the site contractor's advise. S. Singleton felt that if the trees were taken down this could be an issue with erosion. D. Ottenheimer advised that building the house first might make sense so that the trucks would not be traveling over the septic. He stated that the trees would not be removed all at once so the erosion should not be an issue. W. Bruce asked if the applicant was comfortable having the plan approved without the approval for the curb cut. D. Ottenheimer advised that the drive might move 10 ft in either direction but this is outside the jurisdiction of the WPA. The Chairman opened the floor for questions from the public. Leonard Zide introduced himself and advised that he had brought Jeffrey J. Park from O'Reilly, Talbot & Okun Associates who is a certified Ecologist (provided curriculum vitae). L. Zide asked if the application had been submitted to the Planning Board for the removal of trees and removal of stonewalls. D. Ottenheimer advised that only applications to the BOH and Conservation Commission had been filed at this time. L. Zide asked if these filings would be done. D. Ottenheimer advised that this would be done if necessary, but did not want to conjecture at this point. L. Zide asked if any trees or stonewalls were taken down when the soil testing was done. D. Ottenheimer advised that some saplings may have been damaged when the equipment went on the property. L. Zide asked if the Planning Board was advised when the equipment went on the lot. D. Ottenheimer advised that this was not done. L. Zide asked if Mr. Ottenheimer was aware that this was designated a scenic road. D. Ottenheimer advised that he was aware that there was some question if the road was designated as a scenic road. J. Hankin asked Mr. Zide if there would be any questions regarding the Wetlands Protection Act. Mr. Zide advised that he felt that they were interrelated. R. Brophy advised that was his opinion that the Commission should stay with the WPA issues. Mr. Parks introduced himself and advised that he works with large projects, and this is the smallest project he has been involved in. He asked about the mention of an intermittent stream. D. Ottenheimer asked where this was referenced. W. Bruce read the portion of the project narrative. D. Ottenheimer explained the areas of concern to the Commission, and advised that the plan designates the closest resource area, the inland bank is further away from the project and this was marked by Rimmer Environmental. Mr. Banks advised that this did not address the issue. He asked how the stream was determined to be intermittent. D. Ottenheimer advised that he did not believe the guidelines had been used, but this was done by Mary Rimmer who is a noted wetlands scientist. W. Bruce asked if there was a concern whether this was an intermittent stream. Mr. Banks advised that is was simply a matter of due diligence. S. Singleton advised that the Commission had used Rimmer Envirmental many times and felt her work was sufficient and asked if Mr. Banks had anything further. Mr. Banks asked about the following: a) Is any part of the buffer zone being restored beyond the standard due to the sensitivity; b) is the area to be disturbed a forested oak/pine area; and c) 7,500 sq ft will be disturbed and most of it will be used for the septic and house. Mr. Zide requested that a copy of the MESA letter be forward to him. Mr. Zide asked that the hearing be continued until information requested has been produced for review by abutters. W. Bruce reviewed the information requested which included the intermittent stream, data sheets, soils mapping, comments on restoration on the site, and the rare species letter. S. Singleton felt this was fair and asked if there were any other issues. Mr. Zide advised that all commentary had been given to the board. D. Ottenheimer advised that the information could be

provided. R. Brophy asked how far off the road the scenic road act applied. E. Frye advised that it did not cover the entire property. J. Ahearn asked why continue? S. Singleton suggested that abutters had right to review the new information and this could not be reviewed if the hearing was closed. J. Hankin advised that asking for additional information from consultants is not unusual. The Applicant asked for hearing to be continued to June 15 due to a scheduling conflict with the next meeting. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to June 15.

The Commission opened a Public Hearing on a Notice of Intent filed by Apple Street Nominee Trust to construct a 20' wide road for a single family development with associated drainage structures, utilities and wetland replication area at Land of Essex Park Road. Russ Brown as a Trustee of Apple Street Nominee Trust and Brian Buia of Apple Associates were in attendance. Mr. Buia provided the commission with an overview of the project. He advised that the stormwater figures were being reviewed by Meridian. He also advised that the project will be using wetland area, approximately 4,000 sq. ft. but will be replicating 6,000 sq ft. S. Singleton asked why the replication area was chosen. B. Buia explained. J. Ahearn expressed concerns about culverts and the concerns about invasive species. W. Bruce asked if the project fell under the new stormwater regulations. B. Buia advised that Meridian would be reviewing this as part of their review. W. Bruce asked if the swales and retention basins required a maintenance plan. B. Buia advised that there would be a maintenance plan. J. Hankin asked about the comments from the DEP. B. Buia advised that most of these matters had been addressed and would be rebutted after the comments from Meridian had been received. S. Singleton asked how the maintenance plan would be enforced once the road was turned over to the town. R. Brown advised that this could be done with a protective covenant that would give the homeowners the responsibility for the maintenance. S. Singleton asked where the utilities would be placed. B. Buia explained that they were within the 44 ft of the road way. W. Bruce asked who would maintain the road. R. Brown advised that the homeowners would be responsible. R. Brophy asked how far the work on Essex Park Road is from the riverfront. B. Buia advised it was outside the Riverfront Act. The Commission determined that a third party peer review would be needed before issuing the OOC. It was decided to ask Meridian to do this in addition to the stormwater review. On a motion made and duly seconded, the Commission voted unanimously to approve Meridian to review the plan. Motion to continue to June 15. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to June 15.

The Commission reviewed a request for a COC for 2 Scot's Way. The Clerk advised that she had spoken with J. Rynkowski who was the overseer and he advised that he project was completed in compliance with the OOC. On a motion made and duly seconded, the Commission voted unanimously to issue the COC.

The Clerk presented to requests for COCs which were for septic projects over ten years old at 11 Red Gate Road and 95 Western Avenue. Both properties were in the process of being sold. On a motion made and duly seconded, the Commission voted unanimously to issue the COCs.

The Commission reviewed the request for a COC for 109 Eastern Avenue. E. Frye advised that as the overseer of this project she was not prepared to agree to issuing the COC. She would try to visit the site before the next meeting. This matter has been moved to the next meeting.

The Commission reviewed an email from the Town Administrator regarding “pocket parks” in the resource area. The Commission felt, that due to the sensitive areas in question, that a NOI would need to be filed. The Clerk will relay to B. Zubricki that the town must file a NOI.

On a motion made and duly seconded, the meeting was adjourned.

Approved: _____

Prepared by: _____