

# ESSEX CONSERVATION COMMISSION

## MINUTES

AUGUST 17, 2010

Members: Wallace Bruce, Chairman – present  
Joseph Ahearn - present  
Robert Brophy - present  
Philip Caponigro – absent  
Elisabeth Frye - present  
James Rynkowski – absent  
Shirley Singleton - present

### Public Hearings:

The Commission continued 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. Present for the applicant were Karen McNiff and Dan Ottenheimer of Mill River Consulting. Attorney Leonard Zide and Phil Christiansen were present on behalf of the abutters. D. Ottenheimer gave an overview of the changes made to the plan which was submitted to the Commission based on comments at the site visit. He advised that they had added the driveway and complied with DPW guidelines. Most of the changes were out of the jurisdiction of the Commission. J. Hankin asked if any thought had been given to adding a swale. Mr. Ottenheimer advised that he did not recall this conversation. R. Brophy asked if the plan had been submitted to the Planning Board. D. Ottenheimer advised that the construction of a single family home did not have to be approved by the Planning Board. The division of the lot had already been approved. W. Bruce asked about the design of the house. Mr. Ottenheimer advised that the architectural design had not been completed. Mr. Zide advised that the plan did not need to be approved by the Planning Board under an ANR, however, since it is a scenic road the Planning Board will have to be involved. Mr. Zide did not have time to review the new plan, however, he forwarded it to Mr. Christiansen. Mr. Christiansen commented that the culvert would require excavation to install and that the pipe would extend down the road further than shown. He also advised that the drilling of the well typically shows a haybale berm for the water and dust from the discharge. He commented on the lack of an architectural plan because the type of house will determine the type of grading. His opinion is that the plan should not be approved because the grading is not complete. Mr. Ottenheimer advised that the detail for the end of the drive and the culvert will have to be presented to the DPW Commissioners. That work will be done when the plan is submitted to that board. As to the grading, the plan that is submitted is the one that it to be used and no other grading is contemplated for the project. As to the well, there will be plenty of room where the house and drive will be to have additional erosion controls for the well drilling. The applicant is not opposed to having this made a condition of the Order. E. Frye asked why the details were not part of the plan. Mr. Ottenheimer advised that the details that were not on the plan were details needed for other boards. Mr. Christiansen advised that the grading for the drive could not be used for a vehicle. No one would build a drive with a 3 to 1 grading. Mr. Ottenheimer stated that they do not anticipate any changes to the plan and the driveway is mostly outside the buffer zone. Mr. Christiansen advised that if the house has not been designed the grading is wrong for the driveway and the house. Mr. Zide commented that the Commission has jurisdiction since even 1% of the driveway is in the buffer zone. Mr. Ottenheimer suggested that the driveway be moved out of the buffer zone to eliminate the concerns of the Commission. Mr. Zide commented that the board would still have oversight if the grading is in the buffer. Mr. Ottenheimer advised that the grading for the drive would not

extend into the buffer. Mr. Zide commented that a revised plan should be presented before the hearing is closed and that the Commission should try to keep as much oversight with the local Commission. Mr. Brophy advised that he felt that a new plan should be before the Commission prior to closing the hearing. Clerk advised that the Commission would not sign the OOC prior to Sept 7 and the plan could probably be submitted prior to that. S. Singleton advised that the Commission did not typically require architectural plans and the applicant would be responsible for any changes made to the plan submitted. On a motion made and duly seconded, the Commission voted to close the public hearing with R. Brophy abstaining. The Commission discussed the issuance of the Order of Conditions. On a motion made and duly seconded, the commission voted unanimously to issue the order of the conditions with the additional conditions that an "as built" plan be submitted if this was not already part of the order and that the work be done in the following phases: driveway, excavation of the residence and then the well.

The Commission continued 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. The Clerk advised that the peer review had not been completed and the funds not received from the applicant. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to September 7.

The Commission continued a Public Hearing on a Notice of Intent filed by Michael Staiti of Lingley Lane, LLC to construct a common driveway to access Lots 6 and 11 at Lot 11 Choate Street. Michael Staiti, representing the applicant, described the placement of the driveway for the homes on Lots 6 and 11. The Commission expressed concerns about the distance between the drive and wetlands. It was determined that a site visit would be needed prior to making a final determination on the location of the driveway. After setting a time for the site visit, on a motion made and duly seconded, the Commission voted unanimously to continue the hearing to September 7.

The Commission continued a Public Hearing on a Notice of Intent filed by Michael Staiti of Lingley Lane, LLC to construct a single family home with associated sewage system, well, utilities, grading, landscaping and driveway at Lot 9 Choate Street. The applicant advised that approval had not yet been received from the BOH and asked that the hearing be continued. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to September 7.

The Commission continued a Public Hearing on a Notice of Intent filed by Michael Staiti of Lingley Lane, LLC to construct a single family home with associated sewage system, well, utilities, grading, landscaping and driveway at Lot 7 Choate Street. The applicant advised that approval had not yet been received from the BOH and asked that the hearing be continued. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to September 7.

#### Business:

The Commission discussed the complaints received regarding 7 Cogswell Court (Peyla). Christian Peyla was present to represent the applicant. J. Hankin advised that he had made a site visit and described his observations. He had determined that the only violation was the placement of the retaining wall. On August 9, he issued an Enforcement Order. W. Bruce advised that, in reviewing the project, it was his recollection that he had approved the change to the placement of the retaining wall, but had asked the applicant to provide a new plan for the Commission's records showing the new location. As this plan had not been received, the Agent had been visiting the site with an outdated plan. Based on this information, the Commission, on a motion made and duly seconded, approved unanimously lifting the Enforcement Order. Mr. Peyla spoke to the Commission and stated that he felt that this matter could have been resolved by contacting the applicant rather than issuing the Enforcement Order. The Commission explained that it was simply following procedure and responding to complaints regarding the project. They apologized for the inconvenience, but the Agent was working from an outdated plan and the new

plan was the responsibility of the applicant. The Clerk read for the record an email received from Sarita Moore expressing her concerns regarding the project. The Clerk will advise the applicant of the Commission's decision and request that a new plan or a request for a Certificate of Compliance and an "as built" plan be submitted prior to December 31, 2010.

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

Approved: \_\_\_\_\_

Prepared by: \_\_\_\_\_