



ESSEX CONSERVATION COMMISSION

Minutes for the Meeting of April 1, 2014

Commissioners:

Wallace Bruce, Chairman*
Robert Brophy
Elisabeth Frye
Ted Marshall

James Richardson
Shirley Singleton
Samantha Stevens

Staff:

Deborah Cunningham
Administrative Clerk

Bill Decie, Agent

*Absent

In the absence of Mr. Bruce, Mr. Brophy was appointed as acting Chairman and opened the public meeting.

Mr. Curt Bergeron of Essex Marina met with the Commission to discuss the change of use for the residential building on the property to commercial. He advised that there were some minor renovations that needed to be done and that he wanted to replace the foundation, which already existed, for the porch with a poured foundation. The Commission agreed that they had no issues with the project and advised that Mr. Bergeron file an RDA.

The Commission, on a motion made and duly seconded, opened a public meeting to discuss possible violations by property owners in the area known as Wood Drive and specifically for work done on the right of way known as Annabelle Avenue. Town Counsel was represented by Attorney Gregg Corbo and the Town Administrator was also in attendance to assist the Commission in the finding of facts in this matter. Mr. Brophy turned the floor over to Mr. Corbo. Mr. Corbo explained that he felt the hearing should be conducted in two phases. Phase one would introduce the current situation on site and the reason for the issuance of the Enforcement Order. Phase two would give the property owners who received the Enforcement Order the opportunity to state their case.

Mr. Corbo then asked the Agent to give an overview of the current situation on site. Mr. Decie advised that he had been contacted regarding the digging of a drainage ditch along the right of way known as Annabelle Avenue. He had reviewed photos of the area and which showed the catch basin, the drainage pipe to the lake and the drainage ditch. He also advised that he had been told that a number of trees had been removed from the property known as 75 Wood Drive which was owned by Mr. Coose.

Mr. Corbo then called Robert J. Repucci of 71 Wood Drive. After being sworn in, Mr. Corbo lead Mr. Repucci through a series of questions regarding the issues at Wood Drive. Mr. Repucci advised that it was his belief that the catch basin had been installed by the previous owner of his property in the 1950's. The property sloped from Wood Drive down to the lake. It is his belief that the rock wall and alleged fill on 75 Wood Drive are high and cause flooding. When asked, he advised that he had not approved the trench on the right of way and has asked Mr. Coose to stop. Mr. Repucci also explained that he had had problems with flooding in the crawl space under his residence and that Mr. Coose had purchased and installed a pump in the catch basin. Once the pump was installed the flooding was alleviated. When Mr. Coose turn off the pump, the flooding resumed. Mr. Repucci then installed his own pump to reduce the water but removed it upon receipt of a letter from Mr. Coose. He also advised that a second trench had been installed in recent weeks. Mr. Corbo summarized Mr. Repucci's testimony and excused him.

Mr. James McDermott of 74 Wood Drive came forward and was sworn in. Mr. Corbo questioned Mr. McDermott on his knowledge of the history of the work done and the current conditions on the right of way. Mr. McDermott testified that to his knowledge there was no drainage down Annabelle Avenue. Mr. Coose had dug the trench and installed a flexible, perforated pipe to drain to the lake. He believed this was done in January 2014. He had observed the work being done and had spoken with Mr. Coose. He had not consented to the work. He felt that the work done on the right of way had inhibited his use. Mr. Corbo summarized Mr. McDermott's testimony and excused him.

Mr. Gary Eno of 69 Wood Drive was sworn in. Mr. Corbo again questioned Mr. Eno'son his knowledge of the history of the properties and the current conditions. Mr. Enos first advised the Commission that Mr. Ward Spears was not in attendance because he had passed away two weeks ago. The Spears home was currently unoccupied. He then proceeded to explain that it was his belief that the catch basin had been installed in the 1930's or 1940's. Although he currently has water under his residence, there is drainage from his property to the lake. He did not observe any of the work on the catch basin but did observe the work on the trench in the right of way and had complained to Mr. Coose. He did not consent to the work on the right of way. He did not see the alleged work which was done on Mr. Coose's property at 75 Wood Drive. He did not feel that any of the work had an impact on the drainage on his property. Mr. Corbo summarized Mr. Eno's testimony and excused him.

Mr. Corbo then called Mr. Carlton P. Coose and swore him in. Mr. Corbo again ran through a series of questions with Mr. Coose. Mr. Coose advised that the catch basin had been in place when he purchased the property at 75 Wood Drive and he had observed the neighbors maintaining it. It was his belief that the flooding on his property was caused from run off from the Enos and Repucci properties. Mr. Coose stated that he had asked Mr. Repucci to address the drainage issues. He also advised that he is currently using Annabelle Avenue to access a "driveway" on his property. When asked about the work on the rock wall, the removal of the trees and the alleged filling of the area behind the rock wall, Mr. Coose acknowledged that he had simply been maintaining a rock wall that was in place when he purchased the property. He provided the Commission with the Book and Page reference for his Chapter 91 License. He also admitted that he had added some fill to level the property. The trees had been removed because they were dead due to the flooding. Mr. Coose acknowledged that he had added a pump and hose, possibly in 2008, to relieve the flooding on his lot. He had turned off the pump due to the electricity costs. He again stated that the rock wall had only been repaired/maintained and had been there when he purchased the property. He agreed that all property owners had use of the right of way

known as Annabelle Avenue. Mr. Coose stated that the second trench that Mr. Repucci had mentioned had not been dug but was created by the water run off. Mr. Coose also provided pictures of the area both from early in his ownership and current conditions, together with a report he had received on the water which was in and around the catch basin.

There was some additional discussion about the water levels in the area. Mrs. Repucci explained that Boyle Avenue, which is also a “paper road”, was dry. There was some speculation that the lake was higher due to beaver activity in the area.

The public portion of the hearing being ended, Mr. Corbo advised the Commission on what he believed should be the next steps. The Commission should determine whether the work was done without proper permitting and address the drainage issues. He advised that the Commission should take all of the testimony under advisement and continue the hearing to another meeting. Mr. Corbo would also review the testimony and return with a recommendation on how to proceed. On a motion made and duly seconded, the Commission voted unanimously to continue the hearing to April 29, 2014 at 7:40 pm.

The Commission then discussed the need for a site visit. It was determined that those Commissioners that were available would visit the property at 6 pm on April 9. Mr. Marshall advised that he thought it was advisable to ask the BOH Agent to follow up on the water report which Mr. Coose had provided to the Commission. Mr. Zubricki stated that he would follow up on this item.

The Commission advised that they would be moving on to other business and the property owners could excused. Mr. Corbo advised the property owners that no further work that would affect the drainage or the right of way or was within the 100' buffer should be done in the area until a further determination from the Commission had been received.

The Clerk presented the Determination for the project at 7 Beach Circle. On a motion made and duly seconded, the Commission voted unanimously to issue the negative Determination as presented.

The Chairman presented the Minutes of the meeting on March 4, 2014 for approval. On a motion made and duly seconded, the Commission voted unanimously to approve the minutes as presented.

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

Approved: Essex Conservation Commission

Prepared by: Deborah Cunningham, Administrative Clerk