

Essex Conservation Commission

January 18, 1994

Present: David Folsom, Chairman; Canan Hewson; Edith Messersmith; Edwin Perkins; Peter Perrigo; Thomas Prentiss.

Meeting called to order at 8:00 p.m.

A continuation of a public hearing was heard at 8:00 p.m. under the Massachusetts Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Charles Filias covering maintenance and extension of an existing floating pier, to include the driving of eight piles and dredging of the area near the pier at 138 Main Street. John Dick, Hancock Survey Associates, represented Filias. He submitted a letter to the Board requesting a continuation of the public hearing. He noted that the continuation was necessary as the additional survey work requested could not be performed due to the weather conditions. It will be done as soon as weather conditions permit.

Perkins moved to continue the public hearing for Charles Filias at 138 Main Street to February 15, 1994, at 8:00 p.m. The motion was seconded by Perrigo, with the Board voting unanimously in favor.

There was a discussion on the Chapter 91 amnesty licensing and the applications made by residents of Conomo Point in their name and not the Town's.

Perkins moved to send a letter to the Department of Environmental Protection and Wetlands and Waterways stating that the amnesty applications of Conomo Point should be issued in the Town's name, because the Town is the owner of the property and not the applicant. The motion was seconded by Prentiss, with the Board voting unanimously in favor.

John Dick, Hancock Surveyor Associates, representing William Tyler, met with the Board for an informal discussion on a proposed cantilevered walkway traversing the saltmarsh and the bank. Dick noted that they will be filing a Notice of Intent to send them in a Chapter 91 license, with the proviso that they are not going for Chapter 91 unless someone insists it is in their jurisdiction.

A Request for a Determination of Applicability made by Peter Van Wyck was heard at 8:20 p.m. to establish whether Area 'A' at Low Land Farms, Apple Street, falls below the threshold for

compliance.

Betsy Fawcett, Apple Street, questioned whether the Board of Health and Planning Board has been notified of the Request. The Commission's clerk stated that she had not notified the Planning Board. Fawcett objected to the meeting being held because of improper notification. Chairman Folsom stated that the Minutes would reflect her objection, but that they would continue with the Request. Peter Van Wyck told the Board he submitted the Request because of the report submitted by his botanist, Jerome B. Carr, that the area in question fails to qualify as 'isolated land subject to flooding.' Folsom said, "Upon reading the letter from the Department of Environmental Protection (dated December 3, 1993) my interpretation is that it is an isolated wetland subject to flooding and subject to protection under the Act, but there is no buffer zone. You are asking under Carr's report that the area is not large enough to be significant to the Act." Van Wyck - "Carr is a leading biologist and has determined that this is an area not significant under the Wetlands Protection Act. We can leave it there and have a pond and build the road around it, but Hildonen's property will be affected. I'm not sure about Browning's. I would like to point out there are ramifications of it." Folsom - "With your dealings with the Town, was there an agreement to correct the Browning/Hildonen drainage?" Van Wyck - "Yes, I have to do something. This is the best way of approaching the problem." Folsom - "If we make the finding and the State maintains its position I don't see how you can re-engineer it. They will not allow you to divert it, so the Hildonen and Browning property would have to remain the same." Van Wyck - "You're correct. If that area remains the same I know Hildonen's basement will remain wet; I can't speak for Browning's." Betsy Fawcett - "We appealed the grading of fields and D.E.P. issued a Superceding Order of Conditions." Folsom then read from the D.E.P. letter dated December 3, 1993. Betsy Fawcett - "It goes on to say that the finding shall not have an adverse effect on public or private water supplies, adverse impacts on the ability of the Isolated Land Subject to Flooding to attenuate pollutants, and impairment of its capability to provide wildlife habitat." Donald Browning - "I have water in the cellar now and I know my neighbor does now. The water ran off Apple Street in between two properties and down off the hill. He (Van Wyck) brought in this fill, constructed his road and raised the level of the road. It runs down Apple Street into my driveway. The Attorney General has photographs which they were supposed to return to me. Peter came to my house with one of his attorneys. He's a joke. He has never corrected anything." Folsom - "Before the fill was brought in, did Area 'A' exist?" Browning - "Area 'A' starts in B.J.'s (Elizabeth Frye) field and goes down to

the creek. The road created the drainage problem. Folsom - "Was the wetland always been 6-10" deep?" Browning - "It was always wet, but never that deep. He created the little pond that was there. He brought the level up five feet. Since then we have got water. The other developer, Warshofsky, could not get percs." Folsom - "In your recollection, it was wet in spring but not like a pond?" Browning - "No, he created the problem himself." Betsy Fawcett - "Is it going to be a road, Mr. Van Wyck?" Van Wyck - "It's a road." Elizabeth Frye wondered if the Board felt the area might be a little larger than that shown on the State map.

Perkins then moved to conclude the discussion on the Request for Determination of Applicability for Peter Van Wyck. The motion was seconded by Perrigo, with the Board voting unanimously in favor.

Fang Liaw met with the Board to discuss his purchase of the Ship Ahoy Restaurant at 99 Main Street and his proposal to raise the building and construct a basement underneath. He also said he may want to add a second floor. He was given an Abbreviated Notice of Intent to file as the building was going to retain the same footprint. Perkins also advised him to put in pilings to prevent movement of the concrete slab.

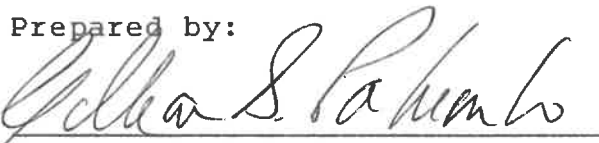
Peter Van Wyck - Perkins moved to make a positive Determination to the request submitted by Peter Van Wyck, for Area 'A' at Low Land Farms, Apple Street. The motion was seconded by Prentiss, with the Board voting unanimously in favor.

The Board reviewed the correspondence. A Notice of Intent for Forest Cutting was submitted by Thad Beal, Jr., Southern Avenue and reviewed by the Board. Prentiss moved to file the Notice of Intent/Forest Cutting Plan, seconded by Perrigo, with the Board voting unanimously in favor.

Prentiss moved to adjourn the meeting, seconded by Perrigo, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.

Prepared by:



Gillian B. Palumbo  
Administrative Clerk

Attest:

Essex Conservation Commission

January 18, 1992

A G E N D A

Appointments:

- 7:50 p.m. ... Building Permit Application review -  
Ansara, County Road
- 8:00 p.m. ... Public hearing - Charles Filias, 138  
Main Street
- 8:15 p.m. ... Request for a Determination of  
Applicability - Peter Van Wyck, Low  
Land Farms, Apple Street
- 8:30 p.m. ... Ship Ahoy Restaurant, 99 Main Street

Business:

Review correspondence

Sign Bills Payable Voucher

Review letter from James Albani requesting Certificate  
of Compliance