

Essex Conservation Commission

March 7, 1995 - Minutes

Present: Edwin Perkins, Acting Chairman, Arthur Hodges,
Edith Messersmith, Peter Perrigo, Thomas Prentiss.

Meeting called to order at 7:40 p.m.

Peter Giabbai, JA-By Engineering, Inc., submitted a Notice of Intent for Essex Landing, Inc., dba Essex River House Motel. He told the Board that the submittal covers the replacement of the septic system which is failing. The project involves the removal of the existing tanks and the installation of new pipes and an 11,000 gallon tight tank. It has been approved by the Board of Health. The Board reviewed the submittal and scheduled the hearing for Tuesday, March 21, 1995, at 7:45 p.m.

Daniel LaForge met with the Board for a Building Permit Application review for the construction of a partial second floor addition to the existing structure at 40 Lakeshore Drive. The dwelling is 25 feet from Chebacco Lake. Perkins felt that LaForge should either file a Request for a Determination of Applicability or an Abbreviated Notice of Intent.

Prentiss moved that Daniel LaForge file a Request for a Determination of Applicability for the construction of a partial second level at 40 Lakeshore Drive. The motion was seconded by Perrigo, with the Board voting unanimously in favor.

A public hearing was held under the Massachusetts Wetlands Protection Act, Chapter 131, Section 40, on a Notice of Intent filed by Charles Filias covering the dredging of sediments in the area near the existing pier and reconfiguration of a floating pier at 138 Main Street.

Jean Haggerty of Nucci Vine Associates, Inc., represented Filias. Haggerty told the Board, "The proposed project involves the dredging of sediments in the area adjacent to the existing pier at 138 Main Street on the Essex River. The area proposed to be dredged encompasses approximately 11,200 square feet of Land Under Water Bodies or Waterways. The project came before you before. At that time the Filias's wanted to have extra facilities and add twenty slips. Upon talking with the Planning Board, they said they

did not have enough information on it to allow it. Originally, we went and surveyed for Filias Realty Trust this past summer and found that their floating finger piers were encroaching on the Federal Channel. We have moved everything back twenty feet. In cooperation with the Harbor Master, if they move the floats back they will be granted permission to use the slips. Because of this reconfiguration we have to dredge the area, as it is mud. Background investigations found that the sediments to be dredged do not contain shellfish or aquatic grasses. We are proposing to dredge using barge-mounted mechanical dredge equipment, dredging to a depth of four feet below mean low water. The dredged sediment will be loaded into a scow and transported to a Massachusetts Bay disposal site." A question was raised as to whether the area was an Area of Critical Environmental Concern. Haggerty - "The answer to that is no." Haggerty continued, "Upon completion of the dredging activities, the floating dock will be installed in the new configuration shown on the plans attached to the Notice of Intent. To stabilize the float system, five pilings will be installed. Permission for this has been applied for with our Application for a Chapter 91 License." Michael Matheson - "Is there any additional floats from what you had this year?" Haggerty - "No, it's the same - just moved back." Matheson noted that the clambers had been concerned about the clam flats. Dennis Henderson - "Did you have permission from the Army Corps of Engineers prior to this?" Haggerty - "No, we did not have to have them permitted, but now we are going to have to." Henderson - "Mr. Perkins, did you have to be permitted?" Perkins - "Yes, but the State was very lax - they used to do a fly over to see." Henderson - "At the Planning Board meeting you said you had the permits." Paula Filias - "We are trying to rectify a past error. This is the first step." Board member Ed Perkins then explained to the public the procedure for obtaining a Chapter 91 License. Perkins then requested that dimensions be placed on the plan showing where the pilings will be located. Abutter Madith Henderson said she opposed the project - she felt there were enough boats in the Essex River. Dana King said he has had a boat moored at Filias's for some time and felt they do a good job and has seen no misuse of the facility. Dennis Henderson questioned whether Filias was ready to put in a docking station if this was to be called a marina. Perkins told him there have been orders to put in a pump out station. He noted that an engineer designed one, then went to the D.E.P., but they would not give him any sizes, gallonage, etc., so presently there isn't one. Mike Maroney, Hamilton, said he has had a slip at

Filiass for some time and noted it had been mentioned that they have until October 1995 to obtain the Chapter 91 license. He wondered if that meant the status quo was still in place until October 1995. Perkins said it could be, with the permission of the Harbor Master and the Army Corps of Engineers.

Prentiss then moved to close the public hearing for Charles Filiass, 138 Main Street. The motion was seconded by Hodges, with the Board voting unanimously in favor.

Alan McCoy and Andrew Gallant, representing the Essex Shipbuilders Athletic Association, met with the Board to submit a Notice of Intent for the installation of a water line for irrigation at Centennial Grove. Approximately 80' to 90' of the installation will be in the buffer zone. Upon review of the project, the Board felt the filing of a Request for a Determination of Applicability would be sufficient.

A public hearing was held at 8:30 p.m. under the Wetlands Protection Act, M.G.L. Chapter 131, Section 40, on a Notice of Intent filed by Joseph Zaffiro covering the maintenance of an existing wooden pier and pilings in coastal marsh at 26 Lufkin Point Lane.

John Dick, Hancock Survey Associates, represented the applicant. Dick told the Board, "We are filing simply for the right to maintain the pier. We, ultimately, will be filing for a Chapter 91 license." Prentiss asked if there were any photographs available of the structure. These were provided by Dick. He noted that the pier is approximately 250 feet long and is in the ACEC area which he said "will require a full blown Chapter 91". Perkins told Dick that the Commission would require him to show dimensions taken from some surveying marker or boundary marker. He added that the same information would be required for the Chapter 91 license. Michael Matheson asked how far the pier was into the clam flats. Dick said it was about 12 feet beyond the salt marsh. He added that they were not asking for a bottom moored float.

Attorney Frank Flatley, together with abutter Joseph Whelton, told the Board, "We are here to give qualified support for the application. In 1987 it was rebuilt to its present shape. We do have a dispute with the applicant as to the title to this area. We have no objection to the use by Mr. Zaffiro of the property for the walkway and have no objection to its use by the cottage renters. What we do object to is

people being told who are buying property of Mr. Zaffiro's across the street that they have access to this walkway." Perkins noted that this was a difficult situation in that it is the owner of the property who has to apply for the Chapter 91 license. Attorney Flatley - "We are willing to give limited permission to the walkway. We have been in touch with the applicant's attorney." Dick - "We have predicated our application on Mr. Zaffiro's deed. He has a right to ask the Commonwealth to get permission to use beyond the mean high water." Dick then asked for a continuation to the public hearing so that this issue could be resolved.

Perrigo moved to continue the public hearing for Joseph Zaffiro until April 4, 1995, at 7:45 p.m., seconded Prentiss, with the Board voting unanimously in favor.

Charles Holden of Holden Bottled Gas, Inc., Scot's Way, met with the Board to discuss an amendment to Notice of Intent/Order of Conditions File Number 21-255. Holden said they were currently in the process of purchasing an adjacent lot and would like to move the propane gas tank from the southeast side of the existing propane tank to the northeast side, making it further away from the wetland area. Holden was told that a Letter of Amendment would have to be submitted to the Commission and D.E.P., together with a plan showing the revision.

Prentiss moved to approve an amendment to the Order of Conditions issued to Charles Holden, Holden Bottled Gas, Lot #9, Scot's Way, D.E.P. File Number 21-255, for a change of location of the propane tank to the upland side of the existing propane tank. The motion was seconded by Perrigo, with the Board voting unanimously in favor.

The Board reviewed the correspondence.

Messersmith moved to adjourn the meeting, seconded by Perrigo, with the Board voting unanimously in favor. Meeting adjourned at 9:20 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Attest:

Essex Conservation Commission

March 7, 1995

A G E N D A

Appointments:

- 7:30 p.m. ... Submittal of Notice of Intent for
Essex River House, Main Street
- 7:40 p.m. ... Daniel LaForge, 46 Lakeshore Drive -
Building Permit Application review
- 7:45 p.m. ... Public hearing - Charles Filias, 138
Main Street
- 8:00 p.m. ... Alan McCoy - Baseball field,
Centennial Grove Road
- 8:15 p.m. ... Request for Extension Permit - Kevin
Street, Wood Drive
- 8:20 p.m. ... Public hearing - Joseph Zaffiro, 26
Lufkin Point Lane
- 8:30 p.m. ... Charles Holden, Holden Bottled Gas,
Western Avenue

Business:

Review correspondence

Sign Bills Payable Voucher