

Essex Planning Board
May 8, 1980

Present: B. Story, Chairman; T. Beal; R. Bresnahan; D. Campbell; M. Davis; F. Hardy and B. Holton.

The meeting was brought to order by the Chair with only one item on the agenda; the request for subdivision on Apple Street by Peter Van Wyck of Essex. Mr. Story requested a format of reports by the required town officials and then open discussion.

David Campbell established that the plans submitted for the subdivision met the filing requirements of the by-laws. Tom Ellsworth established that the Conservation Commission voted against filling any of the wetland on the property. It was later established that that vote was unanimous, with one absence.

Harold Addison of the Board of Health reported that the Board had not yet seen the results of the perc tests, though they had been filed.

Chief Platt reported that he had to cast a negative vote on the proposal in that the grade and approach of the new road were hazardous and that it was practically impossible to make any safe exit onto Apple Street.

G. Patch, Public Works Commissioner reported that the commission felt that safety would be better served if the entrance could have been where it was first proposed, before the Conservation Commission disallowed any filling of the wetlands. He further reported that the water pipe was designated to be 4', but should be 5' by the regulations. He felt that this was still acceptable. He also wanted to know where the water lines were going to be, within the lots. He felt further that more provisions should be made for storm drains.

Mr. I. Muise of the Fire Department felt that the road was acceptable for his fire engines, though the fire hydrants were too far apart on the plans.

Mr. Van Wyck reported that he liked the open farm land and planned to keep that look, building a total of about 13-14 homes on the total land.

The meeting was then opened for discussion. There were about 35 concerned townspeople present.

The problems ranged from Mr. F. Fawcett's concerns that the plans did not meet the requirements of the by-laws, and therefore were not even eligible for submission to the Planning Board, in such areas as lot lines being precisely defined, water lines being fully developed, etc. Bill Holton felt that the plans were defined enough for the Board's consideration.

Sam Hopkins asked that since Apple Street was a designated scenic route, were the stonewalls, etc., supposed to be kept intact? A. Hodges felt that if, indeed, this were the final meeting, then certainly there was data missing and the meeting should be postponed. He tasked the planning board that, as a planning board, it should plan for the future, not accept the 7 lot development now and then see what Mr. Van Wyck might

2.
May 8, 1980

propose in the future for the rest of the land. Chief Platt also felt that a decision should not be made without a total plan for the future.

Mr. Van Wyck reported that he had always talked about 14 lots, even though there were only 7 on the plan, the rest depending upon the fate of the town dump.

The audience had many queries concerning the width and safety of the road, the filling of wetlands, the congestion, the drainage problems and the validity of the perc tests. Mr. Hautala, the engineer for Mr. Van Wyck, assured the Board that the tests had been sent to the Health Department. Mr. Beal voiced concern as to how to solve the drainage problems, whereupon Mr. Patch said that the problems could indeed be solved ... with a lot of money.

Mr. Hodges pleaded with the Board that the land didn't have to be developed, and that he would like to see them be tough. Mr. Beal responded that if there were going to be a development, then why was this one so bad?

The Planning Board then reviewed the basic concerns of the town officials and the citizens. Chief Platt reiterated his concerns for the safety of exiting cars. G. Patch added that retaining the look of the scenic road would be very costly. All final comments were concerned with the safety of the exit.

It was moved and seconded to: Call the question.
VOTE: Unanimously in favor.

It was moved and seconded to: Disapprove of the subdivision.
VOTE: Unanimously in favor of disapproval.

The Planning Board then voted: To adopt as the reasons for disapproval those stated by David Campbell, ie:

1. Section 5.3, A-5.e, C.1, page A-110 dealing with dead end cul-de-sacs, that they must be 50' wide, the proposed road being only 44' wide.
2. A-5.3, A.10 which calls for a width of 24' for the road, this road being 20', which was stated as being preferable aesthetically, but not meeting the requirements.
3. A-5.3, A.5 which states that the maximum grade at an intersection must be 3%, this grade being about 10%.
4. A-5.2, Section C, which states, "All streets in subdivisions shall be so designed that in the opinion of the Board they will provide safe vehicular travel while discouraging movement of through traffic."

and also the reasons given by Chief Platt that spoke to overall safety and specifically that there was a visibility problem, that the road narrowed at that point, that there was a grade problem that was particularly acute in icy conditions and that

David

Essex Planning Board

May 21, 1980

Present: B. Story; R. Bresnehan; D. Campbell; T. Beal; F. Hardy & M. Davis.

As the newly elected members of the Planning Board had not yet been sworn in, it was decided that the meeting was to be a discussion, not a voting meeting.

First under discussion was the plan for a new building on the corner of Eastern Avenue and Harlow Street by Ernest Nieberle, for a D.P. station. It was decided that the plan met the requirements for a business, but that there might be some problems with the State Highway Department with backing large vehicles onto the State Highway; with the Conservation Commission as the building was to be within 100' of wetlands and it is not legal to put a new septic system within 100' of a wetland. There was the thought that the owner might try to tie into the old septic system before tearing down the old building but this is a problem of the Conservation Commission. The question was also raised as to the problems of having gasoline storage tanks less than 100' of a wetland.

Next under discussion were two proposals of P. Van Wyck the first to extend the roadway from the circle on Turtleback Road and add a lot on the lefthand side of the new roadway, or create a new lot with frontage on the circle. It was ascertained that the circle had enough frontage, but Mr. Van Wyck was reminded that it had been voted when the Turtleback Road development had been approved that he could put no further houses upon that land without a roadway through to Essex Park Road. He then tabled the proposal.

Mr. Van Wyck's second proposal was to create a lot with 100' frontage on Apple Street, using the 44' access with an easement into the lot, the lot being 112,387 sq. ft.

The Planning Board, in response to Mr. Van Wyck's request agreed to post a notice of a special meeting of the Planning Board on Tuesday, May 27, 1980 at 7:30 pm to vote on the above proposal.

Mr. E. Story then requested that the Planning Board consider if there were any problems with Mr. L. Putunev's request to place a 4' by 4' sign on John Wise Avenue pointing onto Choate Street to the Turkey Farm. The Board could find no problem with that.

He then reported that the North Shore Marine had applied for a permit to build a new storage building, but that now they were moving into the storage building and an antique shop was

moving into their old building. The Board requested that Mr. Story send a letter of complaint and desist.

Mr. Story further reported that Mr. Dana Curtis's building for which he had permission to construct a doctor's office, now housed a glass factory and that in another of Curtis's buildings which housed the beauty shop there was now a gallery with no permit and that another set of rooms was being remodeled into an apartment which was a change of class of occupancy. The Board requested that Mr. Story send Mr. Curtis a letter of complaint and desist, after a discussion of the abuse of the septic system in relation to an apartment vs. a beauty shop.

The Board was reminded that the town by-laws stated that the Board of Selectmen or the Planning Board, plus the Board of Health should review any applications for septic systems, and that this by-law was not being enforced. It was decided to send a letter to the Board of Selectmen. It was also pointed out that the Board of Selectmen were supposed to meet with the Planning Board when issuing permits for gravel hauling from any locations in Essex. It was decided to write a letter to the Board of Selectmen reminding them of this breach, also.

Essex Planning Board

June 4, 1980

Present: B. Story; B. Holton; M. Davis; T. Beal; R. Bresnehan; D. Campbell & F. Hardy.

The Board held its annual reorganization meeting. B. Story; Chairman; D. Campbell, vice chairman; T. Beal, clerk; F. Hardy, Conservation Commission representative; T. Beal, MAPC representative; R. Bresnehan, Ways Committee; B. Holton, Sewer Study Committee and Edwin Story, enforcing officer.

The Board voted unanimously to order Peter Van Wyck to complete the work on Turtleback Road by July 30, or be subject to a daily fine of \$50.00 until the road is completed.

The Board reviewed plans of George and Shirley Johnson of Wood Drive. They wish to register the land (379,182 sq. ft.) which was originally surveyed and alid out 7 years ago, The Board members questioned a line on the plan which went through a section of a house on the property. They voted to notify Johnson who was represented by his son Bruce, that the line must be removed before they can sign the plan.

The Board voted unanimously that a storage building on John Wise Avenue, owned by Donald Brunelle and occupied by Essex Marine, cannot be used as a sales building for boating equipment. They would notify the enforcing officer to notify the occupants that the building is not in conformance with the by-laws of the town and can be used for storage only.

Mr. Brunelle said the main building, which he originally built to house an ice cream stand was now leased to an antiques dealer and the marine business had moved next door and was operating out of the garage. M. DAVIS said that building had been built as storage. He said there was no water or lights and the building was to be strictly an accessory building. F. Hardy said the Conservation Commission had allowed the building to be constructed close to the wetlands because it was to be an accessory building where motors would be stored or worked on.

Brunelle waid the firm was selling from the building, but would soon phase out. D. Campbell also complained that the marine business had far more than the required 100 sq. ft and they were in violation there, too, of the by-laws. He said because there is no water or plumbing the business could not remain in operation.

T. Beal said they were not in compliance with the state building laws and could use the structure only to store items that were connected with the business in the main building. He said there could be no employees or business hours.

D. Campbell said the building would either require the necessary permits to remain open and have plumbing installed or be closed and used for storage only.

D. Campbell moved that the building was not in conformance with the town by-laws and not to recommend an occupancy permit be granted. It was voted unanimously.

Essex Planning Board

June 18, 1980

Present: B. Story; T. Beal; B. Holton; R. Bresnehan; M. Davis.

Mr. E. Story brought up the issue of a change of use permit for Mr. Brunelle for the antique shop. The Board made it clear that Mr. Brunelle could not use the storage building for any other purpose, and that there was no way that there could be any more businesses on that property and that Mr. E. Story was to notify Mr. Brunelle to that effect.

Mrs. Helen Beck requested that the Planning Board permit her to build a house on Choate Street, on lot 4. Upon review of the plans the Board found that she had met all requirements of the by-laws and that the plan did not need their signatures.

Mr. Vaughn Fullerton requested permission to build an addition of 24' by 30' on his house on Eastern Avenue. It was established that the addition would be more than 100' from the wetland and that he needed permission of the Board of Health as he was adding a bedroom. The Board established that the addition met all their requirements and that the plan did not need their signature.

The Essex Column Company, through E. Story, requested permission to put up a sign. The Board, after investigating the by-laws, found that they needed further definition and wanted put on a future agenda the amendment of the by-laws to read clearly a total area of 32 sq. ft. The Board requested that the Essex Column Company let them know the size of the new sign.

Amory A. Aldrich of Lot C2, Court Hill Drive requested permission to add a studio of 12' x 14' which would go up, not out, and raise the ridge beam 3'. The Board granted permission for the addition finding that the proposed extension and alteration of a non-conforming property was not substantially more detrimental than the existing non-conforming use to the neighborhood, and accordingly the application for building permit may be granted.

It was moved and seconded to approve the application.
Vote: Unanimous.

Mr. E. Story then brought up Mr. Dalton's request to create a 13th apartment in his building on Western Avenue. Mr. Davis noted that this had been proposed on June 6, 1979 and that then the Board had decided that Mr. Dalton would have to take his proposal to Town Meeting. The Board requested that E. Story

notify Mr. DALton of this.

Mr. Peter Van Wyck then showed the Board his preliminary drawings for the proposed road from Turtleback to Essex Park Road. He wanted comments from the Board before planning his subdivision. It was established that the DPW wouldn't allow Mr. Van Wyck to buy any water pipe until the Planning Board approved the preliminary plan. Mr. Beal stated that the Board wouldn't give any reliable assurance that any preliminary road would be accepted as a public hearing was needed.

Mr. Van Wyck wanted to know if the Board had any problems with the geometric configuration of the road. The Board reiterated that all it could do was state an opinion, that they couldn't clear the plan. Mr. Van Wyck then withdrew the plan with the intent to come back with a worked up preliminary plan.

Essex Planning Board

July 9, 1980

Present: B. Story; R. Bresnehan; M. Davis; B. Holton; T. Beal.

The minutes of the June 18, 1980 meeting were read and approved.

The application of P. Van Wyck for a building permit on his approved lot off Apple Street was discussed. It was stated that the lot is less than 100' from a wetland and that there was no sewage permit.

Mr. E. Story reported that a letter had been sent to Mr. Dalton that his request to create a 13th apartment in his building on Western Avenue must be taken to Town Meeting.

Mr. Jonathan Matson then gave his wholehearted thanks to the Planning Board for their guidelines and help. He stated that the problem was now more the Conomo Point Traffic than the clambers and that all the problems had been minimized. Police Chief Platt reported that all seemed orderly and that no parking signs might help across from Roberts Shellfish on Harlow Street. B. Story reported that the Selectmen were willing to put up no parking signs. Chief Platt reported that a 30 mile an hour limit would be appropriate for the road.

Mr. Beal then moved: That the Board in issuing standards which were sent in a letter dated October 19, 1979, to M. Davis for Mr. McGregor relating to the clam shucking business on Harlow Street was not making any final determination as to the extent of any prior non-conforming use of the premises and reserves its right to make any such determination at a later date, it being the consensus of the Board that the motion was subject to said standard constitutes the maximum extent of the prior non-conforming use at the time the by-law was adopted.

The vote: Unanimous.

Mr. Matson then expressed gratitude to the Chairman of the Essex Planning Board.

The Board then reviewed the plan of Philip and Diana Stockton to add a lot of land consisting of about 2 acres to their lot. This was determined to not need the approval of the Board.

The Board then had a discussion of how to plan for the future growth of the town. After much discussion it was decided to set the meeting of August 20, 1980 on the matter of

the zoning survey, future by-laws and zoning and the character of Essex as described by the community and the Plannign Board.

Essex Planning Board

August 6, 1980

Present: B. Story; R. Bresnehan; B. Holton; M. Davis; F. Hardy;
D. Campbell

Mr. Sargent Collins presented his plan for preliminary approval for a division of land on Haskell Court, off Eastern Avenue. He plans to buy 29 acres from the original owned by Ellen Lothrop. The Planning Board could find no problems with this proposal.

Mr. E. Story presented a plan of Mr. Glen Jernegan to buy a property on Main Street which is currently in use as a home business. The lot is about 50,000 sq. ft and is a non-conforming lot. Mr. Jernegan wants assurance that he could build a building on the lot at some time in the future for his sign shop business. The Board questioned if it would be a change of use which would be detrimental to the neighborhood. The bylaw states that there can be no change in outside appearance of building or premises and that the business has to be an accessory to the dwelling use. He would be limited to two employees. The Board stated that he must apply, when he wants to build and if his building meets the board's specifications, there would be no problem.

Mr. Peter Van Wyck came before the Board.

Mr. Frank Hardy made a motion that Mr. Van Wyck be fined the \$50 per day as voted in the May 4, 1980 meeting, as the Turtleback Road had not been repaired and resurfaced as agreed upon at that meeting. He further moved that the Board not consider any other proposals of Mr. Van Wyck until the road was finished.

After discussion the vote was: UNANIMOUS

Mr. D. Campbell agreed to write a letter to Mr. Van Wyck stating the decision and the reasons for the fine.

It was then moved that Mr. Van Wyck give the Planning Board or the Building Inspector sufficient notice when the road was repaired so that it could be inspected before laying the top inch of surface.

After discussion the vote was: Unanimous.

Mr. E. Story then requested direction from the Planning

Board on the matter of Mr. Brunelle's disregard of the decision of the Planning Board and his appeal to the Essex Board of Appeals.

The Board moved to uphold its original stand.

After discussion the vote was: Unanimous.

Essex Planning Board
July 9, 1980

Present: B. Story; R. Bresnehan; M. Davis, B. Holton; T. Beal.

The minutes of the June 18, 1980 meeting were read and approved.

The application of P. Van Wyck for a building permit on his approved lot off Apple Street was discussed. It was stated that the lot is less than 100' from a wetland that there was no sewage permit.

Mr. E. Story reported that a letter had been sent to Mr. Dalton that his request to create a 13th apartment in his building on Western Avenue must be taken to the Town Meeting.

Mr. Jonathan Matson then gave his wholehearted thanks to the Planning Board for their guidelines and help. He stated that the problem was now more the Conomo Point traffic than the clambers and that all the problems had been minimized. Police Chief Platt reported that all seemed orderly and that parking signs might help across from Roberts Shellfish on Harlow Street/ B. Story reported that the Selectmen were willing to put up no parking signs. Chief Platt reported that a 30 mile an hour limit would be appropriate for the road.

Mr. Beal then moved: That the Board in issuing standards which were sent in a letter dated October 19, 1979 to M. Davis for Mr. McGregor relating to the clam shucking business on Harlow Street was not making any final determination as to the extent of any prior non-conforming use of the premises and reserves its right to make any such determination at a later date, it being the exclusive consensus of the Board that the motion was subject to said standard constitutes the maximum extent of the prior non-conforming use at the time the by-law was adopted.

The vote: Unanimous.

Mr. Matson then expressed gratitude to the Chairman of the Essex Planning Board.

The Board then reviewed the plan of Philip and Diana Stockton to add a lot of land consisting of about 2 acres to their lot. This was determined to not need the approval of the Board.

The Board then had a discussion of how to plan for the future growth of the town. After much discussion it was decided to try to spend a whole meeting on the matters of the zoning survey, future bylaws and zoning and the character of Essex as described by the community and the Planning Board.

Mr. Edwin Story
Apple Street
Essex MA 01929

July 30, 1980

Dear Mr. Story:

Upon review of the minutes of the Essex Planning Board on the issue of North Shore Marine on John Wise Avenue, owned by Donald Brunelle, I find:

May 21, 1980 The Planning Board was notified by E. Story that North Shore Marine had applied for a permit to build a new storage building, but that now they were moving into the storage building and an antique shop was moving into their old building. The Planning Board requested that Mr. Story send a letter of complaint and desist.

June 4, 1980 The Planning Board voted unanimously that a storage building on John Wise Avenue, owned by Donald Brunelle and occupied by Essex Marine cannot be used as a sales building for boating equipment. They would notify the enforcing officer to notify the occupants that the building is not in conformance with the by-laws of the town and can be used for storage only.

Brunelle said the main building which he originally built to house an ice cream stand was now leased to an antiques dealer, and the marine business had moved next door and was operating out of a garage.

Mr. Davis said that the building had been built for storage. He said that there was no water or lights there and the building was to be strictly an accessory building. Mr. Hardy said the Conservation Commission had allowed the building to be constructed close to the wetland because it was to be an accessory building where motors would be stored or worked on.

Mr. Brunelle said that the firm was selling from the building but would soon phase out.

Mr. Campbell complained that the marine business had far more than the required 100 sq. ft, and they were in violation there, too. He added that there is no water or plumbing and that the business could not remain in operation.

Mr. Beal reported that they were not in compliance with the state building laws and could use the structure only to store items that were connected with the business in the main building. He said that there could be no employees or business hours there.

Mr. Campbell said the building would either require the necessary permits to remain open and have plumbing installed, or be closed and used for storage only. He moved that the building was not in conformance with the town bylaws and not to recommend an occupancy permit be granted. The motion was moved unanimously.

Very truly yours,

Barbara Esmiol

Barbara Esmiol
Secretary
Essex Planning Board.

PLANNING BOARD.....Sept.3

Present: Brad Story, Frank Hardy, Edwin Story, Michael Davis
David Campbell, Thad Beal , Roger Bresnahan

The board met with Lovell Parsons, who has been named receiver for the road construction on the former Frank Bergman subdivision property, off Pond Street.

Parsons had received bids from four contractors for the work, all exceeded the \$6,000 the court has paid the town for the work. Bids were received from Maurice Roberts, \$9,000; David Hidden, \$6,000 for Lynnpack; Jack Bevilacqua, \$7800; Jim Ketchopolos, \$4500 for gravel with no oil.

The board had ordered the road (11-28-73) to be paid out to a width of 44 feet, graveled to a width of 20 feet with one foot of well compacted gravel and oil, for a distance of 700 feet.

Because the \$6,000 represents the entire amount of funds available for completion of the road, the board discussed either having a shorter span done to specification, or allowing the road to be repaired into a useable road by the use of Lynnpack.

The board agreed that a lesser road should be built in order to use the available funds, and to have Parsons seek more bids using Lynnpack surfacing. They said the work must have the approval of both Police Chief James Platt and Fire Chief Ivan Muise.

Thad Beal reminded both Parsons and Joseph Favazza, a resident of the road, that the work will not bring the road up to town standars, and should they ever seek to have the

road accepted by the town, it would have to meet the proper standars specified.

-The board approved a 20 by 20 foot addition to the home of John Canty on Town Farm Road at Conomo Point: Building inspector Edwin Story said Canty plans to eliminate one bed room and turn it into a den. A portion of the new addition would be for a new bedroom and a porch. The board said they had the approval of two Conomo Point Commissioners for the addition. The house is on a non-conforming lot of land which measures 12,000 square feet. The board voted unanimously that the addition will not be substantially more detrimental than the existing non-conforming use, under 6-4.2 of the town zoning by-laws. The motion was voted on, providing the construction meets the approval of the Conomo Point Commissioners.

-The board imx moved to invited Ernest Nieberle of Spring Street to attend their Sept.17 meeting. They wished to discuss in detail his plans to construct a garage on the corner of Harlow Street and Eastern Avenue.

David Campbell said the lot meets all zoning requirements under land use, but he voiced concern that it is close to a wetland area. The board also voiced concern for parking on the property..

Meeting with Nieberle the board will ask to see an overall plan, and ask him to be sure he conforms with all by-laws of the town.

2 -The board voted to John Coughlin of Quinn Brothers to notify him that he must comply with his agreement of April 16

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that he will completely screen his storage yard from the view of all abutters.

-the board moved to notify Peter VanDyck that he must file his new plan for a houselot off Low Land Farm with the town clerk before they can act on it. The clerk will supply him with a written receipt of her receiving the plans. The new plan changes one lot line to comply with changes needed for a septic system for the house.

The board voted to take no action until the plan was properly filed and presented to them.

Essex Planning Board
September 17, 1980

Present: B. Story, Chairman; M. Davis; R. Bresnehan; B. Holton;
D Campbell.

Mr. Lovell Parsons presented the revised bids for road construction off Pond Avenue. The bids were:

Morris Roberts; \$5950 - 15' wide, Lynn pack. No oil.
Jack Bevelaqua; \$5900 - 12' wide. Compacted gravel.
R.B. Strong; \$5770. 15' wide Lynn pack, gravel fill.

Brad Story set a time with the planning board to view the site and then make a decision on the matter.

Mr. Bruce Fortier requested a review by the Planning Board of his application to move a quonset hut from the Story Boat Yard to 186 Southern Avenue. The building would function as Class B Industrial use, and would have no plumbing, heat or electricity. It was established that the lot had 300' frontage and Mr. Edwin Story said that it met all building requirements. The Planning Board did not need to approve the application.

Mr. Bruce Fortier then recommended that the Planning Board review its Bylaw Section 6-7.1 Enforcing Officer. He felt that the bylaw should specify that it should designate the Planning Board only if there were not a building inspector. The Bylaw reads "the provisions of this chapter shall be administered by the planning board and the building inspector.

Mr. Fortier suggested that reference to planning board be removed as a warrent at the next town meeting.

It was concluded that it behooved the Planning Board to consider a bylaw.

Mr. Ernest Neiberle presented his plan for building a 70' x 100' building on his property on the corner of Eastern Ave. and Harlow Street. He plans to build it next to the extant building and then tear down the old one, tying in the old septic system to the new building. There were many questions from a large group of concerned neighbors.

Pam Freiberg voiced concern about the brook into Paradise Pond. Could the board limit what he put into it? Mr. Neiberle said that the only fill would be in the cellar of the building being torn down.

Francis Poofe was concerned with sewage problems. He did not like the idea of the new building being able to tie into the old septic system. He was also concerned with the trafic problems and the noise from the refrigeration trucks.

Mr. Howard felt that his property would be devalued by about \$20,000 if this building were allowed across the street from him.

Many other residents voiced concern about the traffic safety problems and the noise.

It was established that the Board of Health had recommended a new septic system for that location. It was established that parking had to be 30' away from either street. The off street parking requirement in the Essex Bylaw, Section 6-5.8 k. "One parking space for each 500 square feet of floor area or major fraction thereof." was brought into question. Mr. Neiberle would need approximately 14 parking spaces on his land. The size of these spaces came into question, as Mr. Neiberle would be parking very large trailers on his property.

It was requested that Mr. Neiberle bring in a detailed plan of his parking, screening and fencing solutions so that the board could consider his request.

Attorney Robert Tully, representing Peter Van Wyck, reported that he had planned to meet with Attorney Franklin Walker concerning the suit filed by the Town of Essex against Peter Van Wyck for violating some ordinances on his sub-division. He stated that the suit was causing damage to an abbuttor, Mr. Browning, in that Mr. Van Wyck was prohibited from doing anything, and therefore how could he (Mr. Van Wyck) correct the damage the town said he had caused? Attorney Tully further stated that he wanted to cooperate with the Planning Board and rectify any problems that had been posed.

It was stated that Town Council, Franklin Walker had recommended signing the Stipulation of the Town of Essex vs. Peter Van Wyck.

After much discussion it was moved and seconded that the opinion of the Planning Board was that Attorney Tully's signing of the stipulation was with the understanding that the signing does not necessarily prohibit corrective action on Mr. Van Wyck's part to prevent damage to Mr. Browning's property.

Vote: Unanimous in favor.

There was further discussion of Mr. Van Wyck's preliminary plan for subdivision of Apple Street property. It was felt that the right of way over Mrs. Frye's property was meaningless as a second exit.

Essex Planning Board Meeting
October 1, 1980

Present: B. Story; R. Bresnehan; M. Davis; D. Campbell & F. Hardy.

The meeting opened with a discussion as to whether or not Mr. Van Wyck had formally submitted his preliminary plan for his sub-division off Apple Street. This was saved for discussion later in the meeting.

Mr. Neiberle's Attorney, George Brown and his engineer, Mr. Joseph Curtis were present to present the final plans for the building proposed for the corner of Eastern Ave. and Harlow Street. Mr. Campbell asked if the plan was in accordance with the Title 5 Regulations. Mr. Brown stated that yes it did, that the existing septic system in the existing building allows its use. Mr. Campbell then asked if Mr. Neiberle were planning to go through the procedures outlined in Title 5 to get Board of Health approval. Mr. Brown said yes, and that the lesser use combined with the new storage tanks should meet the requirements. Mr. Brown was informed that the Planning Board couldn't act until Mr. Neiberle had a certificate from the Board of Health.

Mr. Brown requested that the Planning Board confine the discussion to areas of their own concern.

Mr. Howard, a neighbor, voiced concern about the 30' buffer zone around parking areas, the difference between standing and parking in front of the building and the traffic problems caused by large vehicles backing and turning in front of the property. Chief Platt stated that that particular section of the road is the widest of anywhere in town and that there was plenty of room to get off the street. He foresaw no serious problems concerning traffic in the area. He stated that there would be no parking allowed on the road in front of the property. It was determined by the planning Board that there was plenty of room on the left hand side of the building to put in more parking spaces, as the outlet was to also be a retail store. After some more discussion it was

Moved and seconded: that based on changes discussed at the meeting which would remove parking lot #1 to the Essex side of the building with the addition of 3 new spaces on that side to comply with Section 6-5.8-h and with the caution that the Boards' approval is specifically conditional on there being no parking whatsoever along or abutting Eastern Avenue, or parking in front of any portion of the front wall of the building, that the Planning Board rule that the plan as presented is in compliance with the Essex By-law.

VOTE: 5 for, one present.

The Planning Board then reviewed Mr. Van Wyck's Apple Street subdivision proposal. Mr. Franklin Walker was present and stated that Mr. Van Wyck had indeed commenced subdivision without permission. That there had been clearing of roads, cutting of trees, dredging within 100' of wetlands. He stated that the Stipulation had been signed by Attorney Tully and by himself for the Town of Essex, and that he would not bring legal action if all work on the property had ceased.

Mr. Tully, attorney for Mr. Van Wyck stated that Mr. Van Wyck had intended to formally submit the preliminary subdivision at the last meeting.

The Planning Board moved to disapprove the preliminary plan for subdivision on Apple Street for the following reasons:

1. Thirteen houses determined to be too many, creating traffic hazards at May 8, 1980 meeting. Current plan has 15 lots exacerbating problem.
2. Right of way on Frye property is only to Town of Essex.
3. According to Town of Essex Bylaw A-4.2-b, preliminary plan should show enough information on a subdivision to form a clear basis of discussion of its possibilities and problems for preparation of a definitive plan.
4. A-5.1-d. Preservation of natural features. Planning Board may require that a proposed subdivision preserve such natural features as trees, streams, etc. Preliminary Plan does not give enough information on these features.
5. Preliminary plan not submitted to Board of Health as required.
6. Configuration of lots, particularly 2 and 4 a problem.
7. A-5.3 states that the maximum grade at an intersection must be 3%, this grade being 10%.

Mr. Beal will draft a vote of denial and send it to Mr. Van Wyck.

Mr. Van Wyck then submitted Preliminary Plan #4, Turtleback Road to Essex Park. When asked, Mr. Tully stated that Mr. Van Wyck has contracts to buy to Essex Park Road and he has easements over land he doesn't own. There was discussion that the original road had been approved for 9 lots and was 20' wide. It would now be access for 29 lots and probably should be improved and 24' should be hot topped. If the town is to accept the road it must be 24' wide.

Essex Planning Board
October 15, 1980

Present: B. Story; M. Davis; D. Campbell; B. Holton; T. Beal, F. Hardy
R. Bresnehan.

There was a motion that B. Holton be authorized to purchase three maps of Essex for Planning Board use. The motion was approved unanimously.

Marsha Greenbaum of Apple Street requested permission to pave her driveway. It was established that, according to Ch 40, Sect. 15C that consent is not needed for paving, nor does she need a hearing. It was then moved and seconded to give consent for her to pave her driveway. Approved unanimously.

There was a motion to approve the sending of the letter drafted by T. Beal which disapproves of the Subdivision off Apple Street called Low Land Farm. The vote was unanimous.

The next subject under discussion was the Low Land Farm Subdivision: Parcel I. There was a motion to approve the plan. The vote was 5 for, one opposed on the grounds that the plan was not a business lot, that he was calling it a business lot so that he could get it passed.

It was noted that the Lot was in compliance with the By-laws, and that subdivision approval is not needed for one Lot.

It was reported that Dave Hiddin might be remodeling a building to house a tenant without a building permit, off Western Avenue. Mr. E. Story will investigate.

There was then a discussion on the Turtleback Road Preliminary Plan submitted 10/1/80 by Peter Van Wyck for 30 Lots. It was noted that the two preliminary plans, required for filing did not match, that the one filed with the Town Clerk was different than the one filed with the Planning Board. Mr. Van Wyck's engineer assured the Planning Board that Mr. Van Wyck has options through to Essex Park Road. It was felt that there were too many lots on the plan and that the number of lots keep increasing. It was felt that the shape of the lots should be more or less parallel and perpendicular to the road. It was felt that there were too many lots for safe access to Apple Street and Essex Park Road. It was felt that the plan was being drawn so that there could be even more lots established later, creating further traffic problems. The Planning Board felt that it would be more comfortable if it could establish a total development picture with Mr. Van Wyck.

Franklin Walker made a strong recommendation that the Planning Board hire someone to evaluate the traffic capability of Apple Street.

Essex Planning Board
November 5, 1980

Present: B. Story; B. Holton; M. Davis; T. Beal.

Mr. E. Story brought in a request by Dana ~~Curtis~~^{Center} to change what is now an Art Studio into an Antique Shop. Mr. Story was requested by the Planning Board to remind Mr. ~~Curtis~~ that he must put in fire retarding sheet rock in conforming with the change of use. The Board determined that the change of use was not any more detrimental to the neighborhood and the motion was approved.

The Planning Board then signed the Site Plan of Philip and Diana Stockton off Apple Street to add a lot consisting of about two acres to their property.

Mr. Bruce Fortier requested a review of the By-laws concerning storage of vehicles re: Ernest Nieberle's proposed business on Eastern Ave. and Harlow Streets. The By-law specifies that outside storage of more than two (dead) vehicles constitutes a junk yard. By-law 6-3.5 and 6-5.11d. The board also viewed Mr. Nieberle's permit for a new septic system. There was a motion that: M. Davis will talk to Mr. Nieberle pertaining to the potential violation of the by-laws subject to storage area not being in violation. B. Holton was authorized and directed to communicate in writing the Planning Board's position to Mr. Nieberle.

The Board then reviewed Mr. John Lantzakis' planned addition to Doc's Dairy Dip on Western Ave. The plan is to add 18' to the building. As the property has enough square footage and the plan conforms to the By-laws the vote was unanimous in favor.

Mr. Peter Van Wyck reported that he was attempting to correct the drainage problem to the Browning property. He planned to pave for 100' to stop the water. The Board reiterated that the stipulation required no further work on the property. Mr. Beal stated that the pavement was not required, that the problem was precipitated by Mr. Van Wyck's action and the Board would entertain any proposal to correct the problem, but not one that furthered the development. The Board stated that it would require written submission of proposal to solve the water problem.

Mr. Fawcett stated that the law said that anyone cutting wood for other than his own use needed a permit from the state forestry Dept. There were current pictures passed around of the current tree cutting and road preparation.

Motion: That the Planning Board only entertain a request for authorization for further work under the stipulation entered in the Essex Superior Court Civil Action which are presented in writing fully describing the work to be authorized and accompanied by a plot plan clearly showing the areas to be affected by the contemplated work. The vote was unanimous,

Mr. Van Wyck then stated that he thought it would be to the Planning Board's advantage to see the development of the engineering of the Turtleback road without a plot plan. Mr. Beal Stated that the Turtleback subdivision submission was done improperly and asked if Mr. Van Wyck might rather withdraw the submission. Mr. Van Wyck felt that any talking between the Planning Board and himself was time well spent. He wishes to present the development piecemeal, a few lots at a time.

The Planning Board stated that it must see the total plan for all the lots to make an intelligent statement of viability. Mr. Van Wyck formally withdrew the preliminary subdivision plan for Turtleback Road.

It was voted to meet Wed. Dec 10, 1980 at 7:30pm to work on subdivision and zoning changes.

Essex Planning Board
November 19, 1980

Present: B. Story, Chairman; R. Bresnehan; Da. Campbell; M. Davis;

Mr. Peter Ferriero of Eastern Ave, Essex presented a plot plan on South Ave of seven acres. The town owns 250' of frontage and the property has a cart way through the town property to Mr. Ferriero's property. He wishes to know if he needs a variance to build a house on the property. The planning Board was not sure if the right of way could be widened to create a driveway. They plan to check with Attorney Walker and have an answer for Mr. Ferriero on Dec. 3, 1980.

Mrs. Kathleen Marcella, whose property backs on to Quinn Bros came to request help from the Planning Board in getting fencing around an open storage area on Quinn Bros. property. She established that she had been to two prior meetings on this matter. She brought in pictures of the problem. The planning Board said that it had done everything it could to force compliance with Sect. 6-5.6, 6-6.7c. Mr. Walker will be called to set in motion a suit against Mr. Coughlin, owner of Quinn Bros.

Property owned by Mr. Amatio on Western Ave was next discussed as a site to repair small motors in what is now a barn. Permission was denied as there is no access to water and no septic system.

Mrs. Peg Richter of the Conomo Point Commission reported that Mr. John Canty had violated the Conomo Point code in that he was in the process of raising the ridgebeam of the addition to his home above the current height of his house ridgebeam. She reported that the Commission had sent Mr. Canty a "cease and desist" order and planned to meet with him to resolve the problem. Mr. E. Story stated that the raising of the ridge beam was with his approval as it had to be raised to contain a cistern. There had been ledge blocking the digging. He stated that no one's view was blocked or changed by the height of the beam.

Mr. Peter Van Wyck presented a new Subdivision submission for his Turtleback Road property. He had lowered the house lot count to 12 from 14, on 25 acres nearest Apple Street. He requested permission to bring some material over from Low Land Farm to help build the roadway, thereby lowering the cost of building the road. It was established that the Stipulation was still in order and that he must not move material from Low Land Farm.

EPB

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11/19/80

Some of the Apple Street neighbors complained that Mr. Van Wyck was cutting trees in the shape of the subdivision. ^{road} They asked if that was a violation of the Stipulation.

Mr. Van Wyck requested permission to sell stones from a stonewall in the middle of Low Land Farm. A decision on this was set aside.

Mr. Van Wyck brought in two sketches of solutions to the Browning water problem. When asked, he stated that the work was not done by a registered engineer.

The Planning Board requested a plan for solution to the water problem signed by a registered engineer. It must be drawn to scale and contain the area topography.



PLANNING BOARD

Town of Essex, Massachusetts 01929

Board of Selectmen
Town of Essex
Massachusetts 01929

December 4, 1980

Board of Selectmen:

The Planning Board has reviewed the data on the National Flood Insurance program and has approved a motion that the Program does not interfere with the planning projections or the By-laws of the Town of Essex.

As cost justification of setting the plan in motion is the only remaining issue and on that issue the Planning Board defers to the Board of Selectmen, the Planning Board recommends that Essex join the program.

Very truly yours,

Barbara Esmiol
for the Planning Board

Essex Planning Board
December 3, 1980

Present: B. Story, Chairman; D. Campbell, M. Davis; T. Beal;
R. Bresnehan.

Mr. P. Ferriero brought in plot plan of his proposed site on Southern Avenue. He will plan to bring in appropriate site plans so the Board can disapprove which will enable him to go to the Board of Appeals.

Mr. Coughlin of Quinn Bros appeared before the Board at the Board's request. He described the fencing and shrubbery he had already put on the back of his property to screen his storage area. The Board voiced the opinion that Mr. Coughlin had not complied with their directive in that he had screened only part way, and that he should make peace with Mrs. Marcella and fence the rest of the way across his back lot. Mr. Beal stated that the spirit of the law intended that people not see other's storage and that Mr. Coughlin should either put up a 6' fence the rest of the way across the back of his land or shrubbery dense enough to screen the storage. Mr. Coughlin agreed that he would comply in exchange for a letter from the Planning Board that he had complied. The Planning Board agreed.

Mr. Donald Byker of Manchester requested that the Board help him establish if he could build a home on a 7+ acre site on Steep Hill Road, off Laurel Lane of Southern Ave. Since it was not known if Laurel Lane or Steep Hill Road were public ways, the Board could not help establish if the lot were buildable without a variance. The Board suggest that Mr. Byker get in touch with Mr. Carlin, County Engineer and/or Tony Palumbo of the Essex Ways Committee.

The Board then reviewed the data on the National Flood Insurance Program. After much discussion it was established that the program was positive and there was a motion:
that the National Flood Insurance Program did not interfere with the Planning projections or the by-laws and was only a matter of cost justification of setting it in motion and therefore the Board approved and recommended that Essex join the program.

Mr. Peter Van Wyck presented a Plan for correcting the water problem caused to Mr. Browning's property by Mr. Van Wyck's excavating. The plan was drawn by Mr. Matt Hautala, dated Dec. 2, 1980. After much discussion, surrounding the fact that the proposed solution also furthered Mr. Van Wyck's drive or roadway as well as attempting to solve Mr. Browning's problem, Mr. Van Wyck agreed to bring no further fill to the site.

It was then moved and seconded to approve the plan under the following conditions:

- (i) no additional material shall be added to the surface of the strip. (ie. only material currently on the strip may be moved.)

EPB

12/3/80

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- (ii) the proposed ditch shall be three (3) feet wide instead of one (1) foot wide as its minimum dimension, all work to be reviewed by the Building Inspector,
- (iii) area shown on upper right, ie. Northeastern portion of site not be regraded,
- (iv) approval of this plan is a temporary measure specifically to solve Browning's water problem,
- (v) plan be reviewed at the 1st meeting in April, 1981.



PLANNING BOARD

Town of Essex, Massachusetts 01929

Mr. Peter Van Wyck
Turtle Back Road
Essex MASS 01929

December 4, 1980

Dear Mr. Van Wyck:

As a temporary response to the immediate drainage problem on Donald Browning's property on Apple Street occasioned by the ground work on the 44' strip of land on Apple Street owned by Peter Van Wyck which is currently the subject of a court suit, but without in any way approving, considering or otherwise addressing the question of such strip's use or suitability for any other purpose whatsoever; including a driveway, the Planning Board hereby approves the proposed ground work outlined in the attached Plan dated December 2, 1980 subject to the following conditions:

- (i) no additional material shall be added to the surface of the strip. (ie. only material currently on the strip may be moved);
- (ii) the proposed ditch shall be three (3) feet wide instead of one (1) foot wide as its minimum dimension, all work to be reviewed by the Building Inspector;
- (iii) area shown on upper right, ie. Northeastern portion of site not be regraded,
- (iv) approval of this plan is a temporary measure specifically to solve Browning's water problem,
- (v) plan be reviewed at the 1st meeting in April, 1981.

This approval constitutes a temporary concession of the Planning Board in response to an impending emergency condition on Donald Browning's property, and should not be considered for any other purpose whatsoever.

Very truly yours,

D. Bradford Story
Chairman



PLANNING BOARD

Town of Essex, Massachusetts 01929

Board of Selectmen
Town of Essex
Massachusetts 01929

December 4, 1980

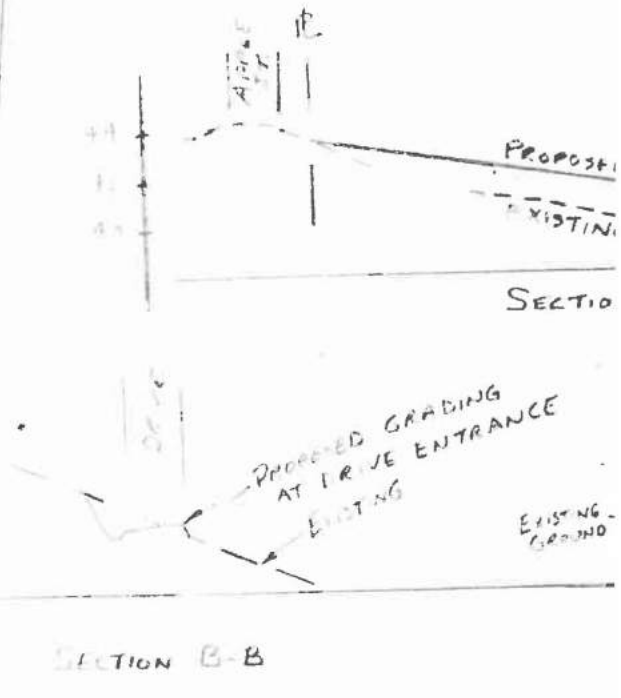
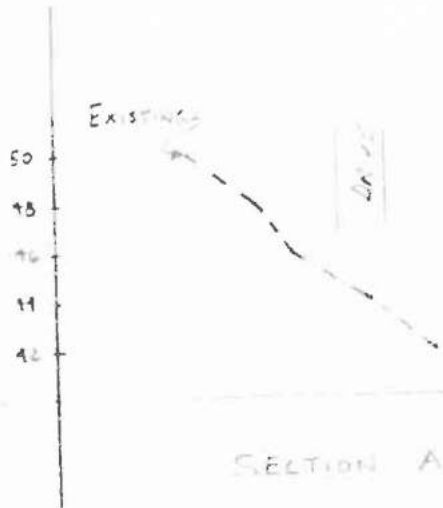
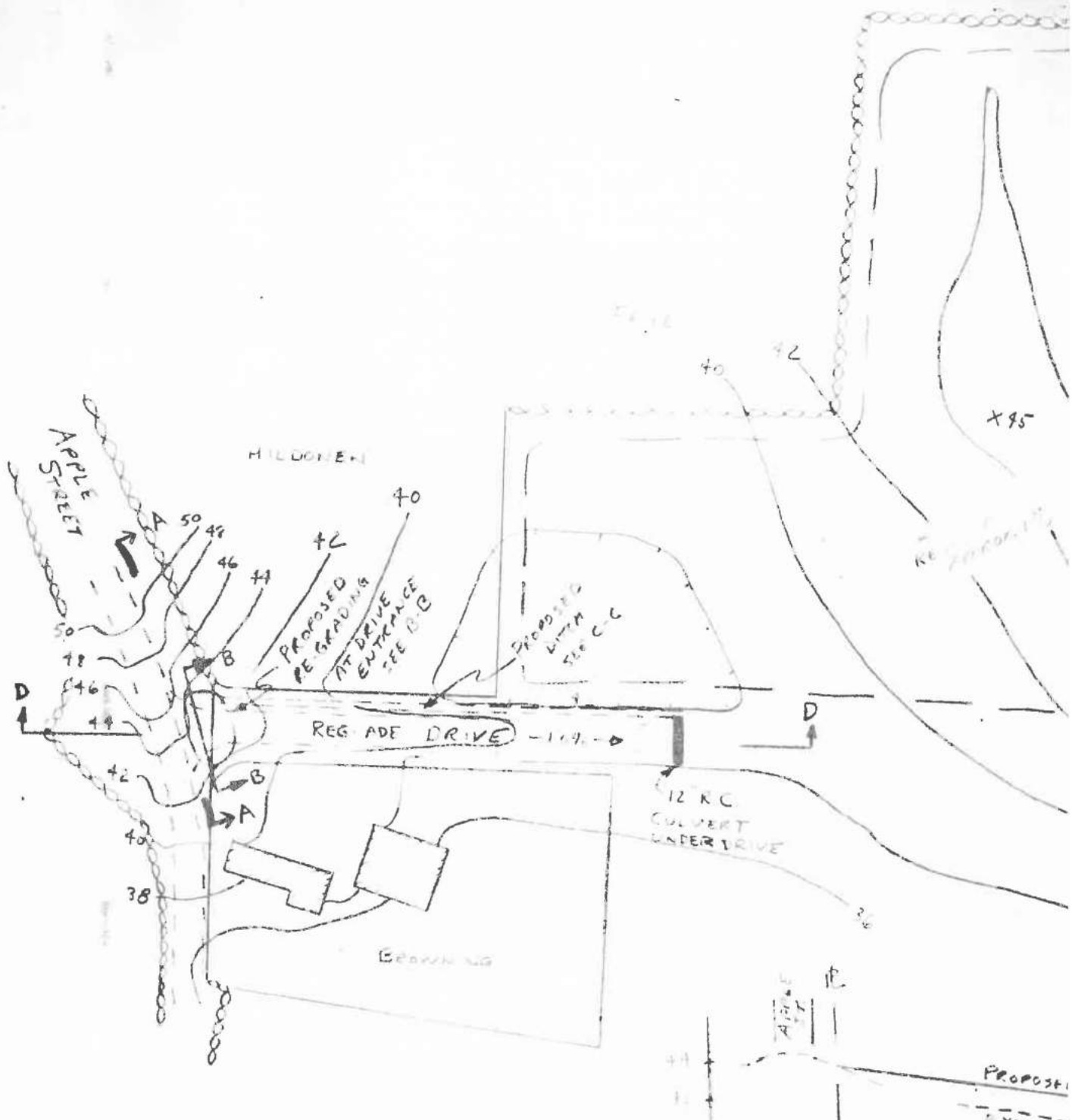
Board of Selectmen:

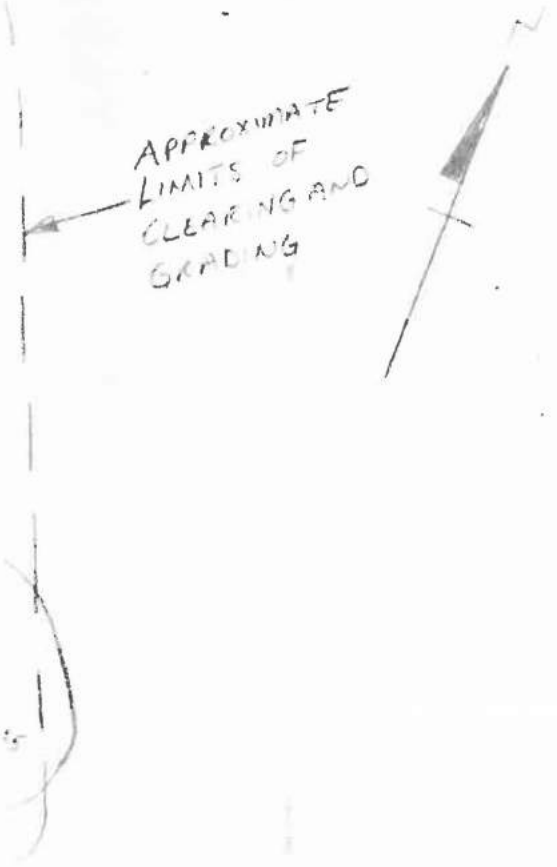
The Planning Board has reviewed the data on the National Flood Insurance program and has approved a motion that the Program does not interfere with the planning projections or the By-laws of the Town of Essex.

As cost justification of setting the plan in motion is the only remaining issue and on that issue the Planning Board defers to the Board of Selectmen, the Planning Board recommends that Essex join the program.

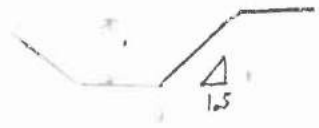
Very truly yours,

Barbara Esmiol
for the Planning Board

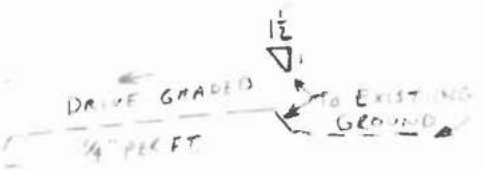
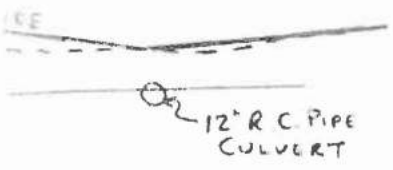




DRAINAGE CALCULATIONS
 WATERSHED: UPTOWN FROM DRIVEWAY - 2.1 ACRE.
 100 YR STORM. $Q = CRA \sqrt[3]{A}$
 $C = 0.3$ $R = 3/4$ $A = 2.1$ $S = 40/1000$ $Q = 89$ C.F.S.
 AVERAGE STORM $0.1/1$ $Q = 0.13$ C.F.S.

FOR DITCH 
 $V = \frac{1.486 R^{2/3} S^{1/2}}{n}$ $R = 5.00$ $n = 0.3$ $V = 1.5$ FPS
 AT 100 YR 123 C.F.S.

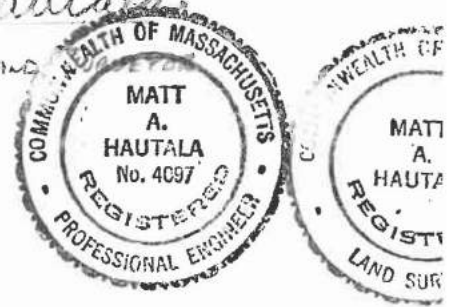
42
 40



C-C
 11/8

PLAN
 OF A PORTION OF LOW LAND FARM
 PREPARED FOR
 PETER J. HALL
 DECEMBER 2, 1930 SCALE HOR 1" = 80'
 VERT 1" = 8'

Matt A. Hautala
 REGISTERED ENGINEER AND LAND SURVEYOR



Essex Planning Board
December 17, 1980

Present: B. Story; R. Bresnehan; M. Davis; B. Holton, T. Beal.

Mr. Thomas Ellsworth presented a plan to add 10 acres to the existing lot on Belcher St. The planning Board moved to sign the plan; vote unanimous in favor.

Mr. Peter Ferriero brought in his plan for a lot on Southern Ave. The planning Board rejected the plan due to lack of frontage on any street.

Mr. Robert Klopotoski presented Mr. Peter Van Wyck's definitive plan for sub-division of Low Land Farm. Mr. Klopotoski felt that the plan met the requirements for submission to the Planning Board. He requested, however, several waivers of requirements. They were:

1. Waiver of any drainage systems on the plan as he plans to use natural drainage systems rather than catch basin systems.
2. Waiver of the 24' requirement for width of the pavement to 20' to create consistency with Apple Street.
3. Waiver that fire hydrants be required to appear on the plan as he would rather work with the DPW as to the placement of same.
4. Waiver of the requirement of a 3% maximum grade at intersection of Apple Street. Grade varies between 7 & 10%.

The Planning Board requested that Mr. Van Wyck present copies of deeds showing the right of ways involved in the project. They also requested a certified copy of abutters to the projected development. The planning Board felt that the plans were incomplete but agreed to set up a public hearing on the proposal.

Essex Planning Board
January 7, 1981

Present: B. Story; D. Campbell; F. Hardy; B. Holton; R. Bresnehan;
T. Beal; M. Davis.

The Essex Planning Board met with Town Council, Franklin Walker to discuss the problems of Mr. Van Wyck's two proposed developments. Mr. Walker's opinions on the Low Land Farm plan were:

- a. That he couldn't yet determine access.
- b. That he was turning a 50' dead-end into a 44' through way through a rationale. The plan as submitted has no through way.
- c. That the new preliminary repeated the same problems as the May proposal.
- d. That Mr. Van Wyck should produce evidence of the right of way, ie; a copy of the Deed and that he should submit an opinion of council on that right of way.
- e. That the Board must address the overall safety of Apple St. and if Mr. Van Wyck feels that the new plan is substantially different from the old, he must submit evidence.

on the Turtleback development;

- a. If it is determined that the street is already at total capacity, would it be prudent to allow a new street into Apple Street?
- b. The plan might be a restrictively endorsed plan, done legally with good reasons. The plan will be binding. That it should be possible to work with the developer to restrict the number of sites. The restrictions would then be recorded in each deed.
- c. He recommended that the developer withdraw the plan in writing, that it left too much open for development.

The planning board stated that it was awaiting a special town meeting to determine if it could get funding for a study of the capability of Apple Street. Since Mr. Van Wyck would not withdraw the plan for Turtleback Road, the Board then moved to reject the preliminary plan: the four in favor of rejection, one abstention. The reasons for the rejection, which will be sent in a letter to Mr. Van Wyck, contents of letter as follows:

That the Board hereby disapprove the Preliminary Plan for land off Turtleback Road in Essex submitted to the Board by Peter Van Wyck, as applicant, on Nov. 19, 1980 for the reasons discussed at length with the applicant at several meetings of this Board, such reasons including among others but not limited to the following:

1. The increased traffic which would be generated on Apple Street by the lots described in the Plan would create dangerous conditions on Apple Street with respect to both vehicular and pedestrian travel and would overburden its capacity to handle traffic.

2. in addition, the inevitable use of the way proposed on the Plan as a by-pass, diverting traffic, both personal and commercial from existing traffic patterns would independantly create such dangerous conditions on Apple Street and would overburden its capacity to handle traffic.
3. the Plan is only partial and describes a high concentration of proposed development at the Turtleback Road end, leaving the nature of any future development on the property uncertain and without adequate material relating to safety or other factors.

It is expressly noted that (i) substantial and detailed discussions were held on several occasions with the applicant regarding the reasons for disapproval of the Plan other than those recited herein, (ii) that this Board discussed at length with the applicant alternative approaches to subdividing the property which would substantially respond to the safety concerns recited above, (iii) that the applicant at this meeting specifically stated that he did not need or require any written recital of the Board's reasons for disapproving the Plan and (iv) that no formal review of the Plan with the Essex Subdivision Rule and Regulations was made, and therefore, no such compliance may be inferred.

Further voted: That Thaddeus R. Beal, Jr. as Clerk of this Board is authorized and directed to write to Peter Van Wyck pursuant to M.G.L. c.41 81-S notifying him of the disapproval set forth in the immediately preceeding vote, in whatever form he may, in his sole discretion, deem appropriate.

The Board then reviewed again the Flood Plain recommendations and decided to post notice in the Gloucester paper that it would like comments from concerned citizens.

The Board then voted to reduce its 1981 budget by \$50 to \$660, deleting the item -dues-.

Essex Planning Board
January 28, 1981

Present: B. Story; R. Bresnehan; B. Holton; D. Campbell; M. Davis
& T. Beal.

David Campbell reported on the traffic study on Apple Street. Mr. Beal moved that the Board post reports from D. Campbell as well as his report tonight, D. Campbell as Vice Chairman of this Board be, and hereby is authorized and directed to take any and all steps he, in his sole discretion, may deem necessary and appropriate to retain Hastings-Murphy Associates of Wellesley, MA to perform a traffic study of Apple Street in Essex, and study to be completed as soon as possible, provided, however, such study shall cost not in excess of \$750. Unanimously voted.

Mr. Davis moved to limit the hearing on the Van Wyck proposal to 30 minutes, proposal to provide services to single lot and grading. Mr. Van Wyck was accompanied by an attorney who was informed that

- a) any application under court order must be in writing,
- b) December approval was expressly not a road.

Mr. Campbell noted that the matter was premature because no action had been taken on remedial steps approved in December and the definitive plan is still under consideration.

On advice of council, Mr. Van Wyck withdrew application. Mr. Van Wyck was then advised that he may complete remedial work authorized at December meeting without violating the outstanding court order.

Essex Planning Board
February 4, 1981

Present: B. Story; B. Holton; D. Campbell; F. Hardy; R. Bresnehan;
T. Beal; M. Davis.

The meeting was devoted to a public hearing on the final plan submitted by Mr. Peter Van Wyck for his sub-division of Low Land Farm off Apple Street.

It was established that the definitive plan met all the requirements for filing except:

1. cross sections (profiles) of streets were missing
2. Sewage disposal, water lines and drainage proposals were deemed to be sketchy,
3. Existing right of way not shown on plan except on Mr. Van Wyck's property.

The waiver of requirements requested by Mr. Van Wyck were read for review. They were;

1. Waiver of any drainage systems on the plan as he plans to use natural drainage systems rather than catch basin systems.
2. Waiver of the 24' requirement for width of the pavement to 20' to create consistency with Apple Street.
3. Waiver that fire hydrants be required to appear on the plan as he would rather work with the DPW as to the placement of same.
4. Waiver of the requirement of a 3% maximum grade at intersection of Apple Street. Grade varies between 7 and 10%.

Mr. Story opened the discussion by asking Mr. Van Wyck how this plan differed from the preliminary plan. Mr. Van Wyck talked to the location as being the prettiest property in Essex. He said he wanted it to become a farm again and have the whole sub-division have a pastoral look, with a total of 15 houses on the land. He said that the major difference between the plans was that the first had a cul-de-sac and the final plan has secondary access which would allow for a narrower road, the 50' requirement not being possible to meet.

At this time there was a discussion of the right of way. Mr. Van Wyck had been requested at two previous meetings to demonstrate the right of way. He had not supplied this. There was much talk of the difference between a right of way and an access road. The consensus of the board was that, as they were not lawyers they would not decide this question. Mr. Campbell asked that since Mr. Van Wyck was claiming a right of way, how did he plan to make this possible?

Essex Planning Board

2/4/81

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The Board then agreed that there was no change in the plans in terms of the safety factor, which was the major reason for refusing to sign the preliminary plan at the May 8, 1980 meeting. It was stated that Chief Platt was ill, but that it was his opinion that the safety factor had not changed.

The Board then voted unanimously to continue the meeting on Wednesday, February 11, 1981 at which time a vote will be taken on the proposal.

Essex Planning Board

February 11, 1981 Continuation of meeting of 2/4/81

Present: B. Story; F. Hardy; B. Holton; D. Campbell; T. Beal & M. Davis.

The Planning Board convened to come to a decision on the definitive plan for sub-division of the land on Apple Street known as Low Land Farm owned by Peter Van Wyck.

The Board reviewed the Capacity Analysis of Apple Street done by Hastings-Murphy Associates. The study concluded that very limited additional capacity is available for any development that must be served by Apple Street. It was moved and seconded that: the Hastings-Murphy Associates study be accepted and filed with the December 17, 1980 definitive plan of Peter Van Wyck. Vote was unanimous.

It was moved and seconded: to authorize payment to Hastings-Murphy Associates for their study. Vote was unanimous.

After some further discussion, including the fact that Mr. Van Wyck had been told that five or six homes on that land might be considered reasonable, given all factors, and that a loop up into the Turtleback development land off of Essex Park Road might solve some of the traffic hazards for that development, it was moved and seconded: To turn down the definitive plan for sub-division of Low Land Farm for reasons listed in the letter to Mr. Van Wyck, see enclosed. The vote was unanimous.

Essex Planning Board
March 4, 1981

Present: B. Story; M. Davis; R. Bresnehan; B. Holton; T. Beal.

Mr. Reynold Nippe & Thomas R. Hall presented a plan for subdivision off Chebacco Road, one corner of the land being subdivided being in Essex. The plan was signed by the present members of the Planning Board as a formality.

Mr. T. Beal then moved: That the Rules and Regulations relating to special permits which were discussed and approved by the Planning Board in the spring of 1980 be and hereby are formally accepted and approved pursuant to MGL c40.A, Section 9, replacing all prior rules on the subject and that pursuant to said Section 9 a copy of said form be filed by the Clerk with the Essex Town Clerk, all effective as of March 4, 1981. The vote was unanimous in favor.

Mr. E. Story presented Mrs. McNulty's plan for additions to the upper story and the back of her home on Island Road. The board confirmed that if the changes were not any more non-conforming than what was already existing it should be okayed. They would need to see a plot plan if she wishes to add to the back of the building.

Mr. Peter Van Wyck presented a definitive plan for subdivision of Turtleback Road. It is the same plan, basically that he presented as a preliminary plan which was not acceptable and withdrawn by Mr. Van Wyck. Mr. Van Wyck stated that the definitive plan, in his view, met all requirements for submission.

Mr. Van Wyck was asked what he had done to repair the damage to the land next to Mr. Browning's property, causing much water problems to Mr. Browning. Mr. Van Wyck responded that he had not made any repairs as the ground was still frozen. It was felt that the ground had been thawed for at least two weeks.

Some members of the community voiced strong concern that Mr. Van Wyck was working illegally on the back side of his Turtle back land. They brought pictures that showed what appeared to be road development and clearing of land. The planning Board and Mr. E. Story agreed to view the work being done and assess how Mr. VAN Wyck might be stopped, using the court stipulation of September 1980.

ESSEX PLANNING BOARD MARCH 18, 1981

PRESENT:

B. Story; T. Beal; F. Hardy; M. Davis; R. Eresnahan; B. Holton.

The board reviewed a plan submitted by Dr. Dennis Outwater of Rockport to the building inspector for two lots of land on Belcher Street: one 12 acres, one 30,049 sq. feet. A driveway was proposed into the rear lot which would serve both sites. The board said they had no control over the lot, but felt the land owner ~~should~~ should be notified that if he were to subdivide the property in the future, the driveway would have to conform to those regulations defined in the town by-laws. Mickael Davis said percolation tests had been done on the land three years ago, and there were only three ~~xxx~~ areas to pass.

The board viewed a plan of Barry Ewing of Southern Avenue for an addition to the rear of his house, and said he would have to go to the Board of Appeals due to lack of proper footage on the sideline. He has 15 feet and needs 20.

The board voted unanimously to grant a special permit to Marshall Patterson of 5 Beach Circle who wished to add a solar greenhouse to his home. His home is located on leased town property, and a portion of the greenhouse would extend out onto an adjoining lot of land which is owned by Patterson. The board felt the permit should be granted, but the owner should be told he could face problems in the future if his house was ever sold, or if he lost his lease with the town. They said the land owned by Patterson could not be built on because it would not perc.

March 18.....pg.2

The board voted unanimously to hold a public hearing, April 15 at 7:30 p.m. on the definitive plan submitted by Peter Van Wyck for Turtle Back Road. The plan was submitted to the board and filed March 4, and they have 60 days within which to act, with the deadline May 3.

THE board met in open and executive session with Town Counsel, Franklin Walker, to discuss the status of the litigation surrounding VanWyck's proposal to subdivide property on Apple Street and Turtle Back Road.

Walker said the the court order against VanWyck seemed to be accomplishing what it had sought to do. He said the question surrounding the case, is, does the cutting of brush violate the court order. Walker said the order stopped the building of roads and the actual building of buildings on the property. He said if any of this type of work were being done he should be notified. He said a recent viewing of the property by the selectmen appeared to show that no actual violations were being made.

Walker said the suit filed against the Planning Board by VanWyck was actually an appeal against their decision to turn down the application for a sub-division. He said VanWyck was seeking a judicial review of the boards decision.

He said he had drafted a ^{denial} ~~summary~~ of the accusations which had been made by VanWyck: that the boards denial was not comprehensive enough; that the board had abused its discretion in not waivering some of the regulations; that some objections

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raised were not part of the Planning Boards regulations; that the owner had been denied full use of his property; that the regulations were invalid and did not comply with the sub-division regulations.

Walker said the appeal process could take many months but VanWyck had no choice but to file for a review of the decision, "He has alot of property and his only recourse was to go to court," Walker said. He said the sub-division control laws are not to forbid a developer, but to govern the safety of the development. He said if the rules and regulations of the planning board are followed, the plans would be approved.

The board voted to enter an executive session to discuss liturgation at 9:30 p.m. They voted to allow Edwin Story, Sally O'Maley and Cary Simmons to remain at the meeting. The board voted, following discussion, to ask Story to monitor the VanWyck property and any work being done, and to have him report back on any work such as laying pipe, road construction, moving of topsoil, construction of a building and to notify the Planning Board imediately of any such work.

The board also moved to ask both VanWyck and Donald Browning and Mr.Hildonen in to dicuss the work ~~taxes~~ done on Apple Stree which has caused drainage problems on the Browning land, and VanWyck's plans to correct the situation, and to discuss with him possible compromises that could be made on the plans for both Turtle Back Road and Low Land Farm.

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-the voard moyed to have a special meeting March 26 to
discuss sub-division regulations,only.

Essex Planning Board
April 1, 1981

Present: B. Story; D. Campbell; M. Davis; B. Holton; T. Beal.

Mr. Prescutti, representing the Essex Board of Appeals, came to question the Board's decision that Barrett Ewing of 75 Southern Ave. must get a variance to put an addition to his building. The Board repeated its decision that any addition to a non-conforming property is further non-conforming and needs an appeal. The Board then moved to rescind the motion of the last meeting until they confer with Town Council.

Mr. Peter Van Wyck then came before the Board with Attorney Tully. The Board stated that it would like to work with Mr. Van Wyck, and that the Board felt that its purpose was to work with land owners on appropriate development, not block them. The Board stated that it had offered Mr. Van Wyck many alternatives but that he had not changed his working plans in any way reflecting these possibilities.

Mr. Beal stated that the major concerns with the Turtleback development were (1) the capacity of Apple Street to carry any more traffic, (2) the number of new house lots to be developed and (3) the fact that a through road would invite even more traffic than just that of the new development.

Mr. Campbell stated that the whole idea of a preliminary plan was to work out problems and that the current definitive plan for Turtleback was substantially the same as the unresolved preliminary plan.

Mr. Tully stated that Mr. Van Wyck would consider withdrawing the definitive plan and would work on a proposal for a loop off Western Avenue into the property with no through road to Apple Street.

Mrs. Kathleen Marcella reported that Quinn Bros still had not built the promised fence to protect her view from their open storage. She brought pictures of the view. The Planning Board established that there had been some misunderstanding, as she had not been at the meeting with Mr. Coughlin, and that they would be brought together at the second meeting from this one to resolve the problem.

Mr. Tully and Mr. Van Wyck returned after a conference and stated that they would have a new set of plans at the next meeting. They wished to have the Public Hearing, but might withdraw the current plans at the beginning of it. Mr. Van Wyck, when questioned, stated that no work had been done yet to alleviate Mr. Browning's water problem.

Essex Planning Board
April 15, 1981

Present: B. Story; R. Bresnehan; M. Davis; T. Beal; D. Campbell & F. Hardy.

Mr. R. Bresnehan brought in a plot plan changing the lot line of his property on Western Avenue. The plan was signed by the members of the Planning Board.

There was then held a Public Hearing, proper notice having been given, on the Definitive Plan for the property called Turtleback Development by Mr. Peter Van Wyck. It was established that the plan met the requirements of a definitive plan as stated in A-4.3 of the Land Subdivision Regulations except in that;

b.4 There was some question as to the finalization of the proposed streets.

b.11 There was no proposed layout of storm drains nor had house lots been perked.

A letter was read from the Essex Board of Health stating that it could not approve the area for subdivision until house lots had been perked.

~~A letter was read~~ ^{statement} from the Department of Public Works expressing concern that the water pipe line should be drawn and should be put where it is drawn.

The Fire Department is satisfied that the road is adequate. It was stated that Chief Platt is not concerned with the safety of the intersection.

A statement from the Conservation Commission to the effect that it was concerned whether the pond on the property would remain a pond and that there may be a problem as the pond drains underground into the roadway.

The meeting was then opened for discussion. There were about 26 concerned neighbors.

Mr. Beal asked what effort Mr. Van Wyck had made to respond to concerns expressed in the preliminary plan.

Shirley Duffy, an abbuttor, asked if the board would accept a narrow road and the regulations require a 44' road, and the plan had a 24' road.

Mr. David Elwell asked if the drains are all set in the plan.

Mr. Van Wyck responded that the regulations required catch basins 400' apart and that these are in the plan.

Mr. Elwell further stated that there is water in the wetlands now, that it drains into the field, and Deer Pond and Hemlock Pond have water 4-5 months of the year and that the proposed road goes right through Deer Pond. He said further that they had put in 5" pipe but it won't handle development drainage.

Mr. Van Wyck responded that at no time was the area as clear of trees as it would be, and that trees impede the flow of water.

He said that he loved the characteristics of the land and wanted to maintain them. That his job was to keep Essex beautiful.

Donald Elwell asked without proper drainage where was the water going to go?

Mrs. Fawcett asked if the Gas Company was aware that the road was going to run parallel to their line.

Mr. Van Wyck responded that the Gas Company had bought its land from him.

Mr. Hardy asked if lots 12, 13 & 14 made up single lots or multiple lots, and how many house lots were planned in all.

Mr. Van Wyck stated that the lines would be moved one way or another and were not final.

Mr. Beal said that the Board had been before Town Council twice and that the Board had a legal right to limit number of lots on the plan. Because Mr. Van Wyck had brought in a newspaper article concerning a developer suing a town, he had checked with Town Council again, and had re-established the Board's rights.

Mrs. Frye stated that what was really important was the number of house lots allowed.

Mrs. Fawcett asked that if Essex Park Road is used, does the town pick up the costs of rebuilding the bridge?

Shirley Duffy said that the storm drain factor was as real as the traffic factor and that all the neighbors would be drowned. She said that the road is already sinking over the culvert.

Mr. Fawcett stated that the Board was liable if the wetlands were not properly assessed.

Mrs. Fawcett asked if the state allowed roads through wetlands? The Board responded that any board approval would be conditional on state approval.

Mr. Beal stated that the Board had consistently suggested that the road from the Essex Park end not be a through road. He stated that the board could have a conditional endorsement of the subdivision allowing only a set number of house lots.

Mr. Davis suggested that the Clerk of Works be hired by Mr. Van Wyck to oversee the building of the road.

The hearing was closed to outside comments at 9:45pm.

Mr. Van Wyck then displayed a new plan with two roads. It had 14 additional homes off Turtleback road and no house lots showing off Essex Park Road.

The Board expressed a strong opinion that 8-10 house lots off the Turtleback Road was enough.

Mr. Van Wyck agreed on an extension of 1 month, to June 1, 1981 for a decision on his definitive plan.

Essex Planning Board

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The Board then discussed the non-conforming lot of Mr. Barrett Ewing. The voted again unanimously to send the plan to the Board of Appeals.

Mr. Browning stated that nothing had been don to correct the water damage caused by Mr. Van Wyck to his property. It was moved to send the matter to town council. Vote was unanimous in favor.

Essex Planning Board
May 6, 1981

Present: B. Story; M. Davis; B. Holton & R. Bresnehan.

Mrs. Sally Soucy came before the Planning Board to ask what is the procedure to create a scenic road? She was told, according to CH 40:15c that she needed a recommendation from the Planning Board or the Conservation or Historic Commission.

Mrs. Kathleen Marcella came to meet with Mr. Coughlin of Quinn Bros. The Board was told that Mr. Coughlin was not planning to come to the meeting and had no plans to do any further fencing around his property. Mrs. Marcella was told that the unresolved matter of her fencing would be given to the new Town Counsel as soon as the town had appointed one.

Mr. Peter Van Wyck presented an alternate plan for the Turtleback section of his new development. The plan had ten additional houses off Turtleback Road, which would feed onto Apple Street. The Planning Board repeated its statements of the last meeting, that ten houses was too many to feed onto Apple Street, given the conclusions of the Capacity Analysis of Apple Street. The Board recommended that Mr. Van Wyck think about six house lots, with the idea of adding more lots to the Essex Park end, which would not feed onto Apple Street.

Mr. Van Wyck stated that he would go no lower than ten houses on that land, and that the matter would have to go into court.

Mr. Van Wyck was then asked if he had corrected the damage to the land next to Mr. Browning's property which was causing Mr. Browning to have a lot of excess water on his land. Mr. Van Wyck was reminded that the work was supposed to be done before April 1, 1981. Mr. Van Wyck stated that his contractor would have the work done within two weeks. Mr. E. Story was given a copy of the plans for the repairs so that he could inspect in two weeks.

Essex Planning Board
April 22, 1981

There was a discussion of the Ewing request for an extension to their house. The Board wanted to know if there had been anything in writing from Town Council regarding the granting of permits on non-conforming lots. B. Story said that the Board had authority to grant permits according to 6-4.2 of the Essex by-laws. It was decided that the Building Inspector should check the neighbor's opinion of the extension, and if no objection, the Planning Board should rest its case of the Ewing matter. If there is any objection the Planning Board should have a meeting with the Neighbors and Ewing to discuss the matter.

The Board voted to allow the Ewing extension in interpretation of the Essex bylaws 6-4.2, paragraph 1 and 3.

Essex Planning Board
May 20, 1981

Present: B. Story; T. Beal; R. Bresnehan; B. Holton, D. Campbell;
F. Hardy & Michael Ginn.

Mrs. Theodore Perrotti presented the problem of the use of the right of way in her driveway. She stated that Mr. Stephen Score had no occupancy permit to live in the building at 159 Main St which was being used as a business. The question of the septic system was raised and it was stated that the holding tank had been approved by the state. It was also determined that the town had issued two eviction notices, that extensions had been granted and had expired. It was determined that anything*in the bylaws *not mentioned in the bylaws is not allowed, ie: turning a place of business into a residence is not allowed and not an appeal issue. After further discussion there was a motion to table the issue, the vote being 6 in favor, one abstaining.

Mr. Tom Ellsworth of the Conservation Commission came before the Planning Board to discuss the drain problem on Apple Street. He stated that there was a wetland violation where Mr. Van Wyck had filled a natural drain with silt. He said that the road had originally been 8-10 feet to the left of the current driveway and that if it had been left where it was there would be no problem. He stated that the original work had been done with no plan. There was a motion to refer the matter to town council jointly with the conservation commission. The vote was unanimously in favor of the motion.

It was determined that the lots A and B of Ray Stoddard on Landing Road complied with the subdivision bylaw requirements of the town and the Planning Board voted to sign the plan. The plan was signed.

Mr. Peter Van Wyck presented the option on his Turtleback Development of having eight house lots off Turtleback Road with three lots on a drive off the Essex Park Road backing into the Turtleback area. The planning board determined that this was very much a step in the right direction. The Board continues to feel that six lots off Turtleback Road is plenty, as stated in the last two meetings. The Board is very concerned to get an amount of total house lots in the development and does not want to make piecemeal bargains. The board was then polled on this matter of lots off Turtleback Road. Mr. Beal felt that 8 lots was responsive; Mr. Campbell felt that 6 lots was reasonable; Mr. Bresnehan felt that 6 lots was reasonable but didn't like extra drive with 3 lots on it; Mr. Story felt that 8 lots was in the right direction.

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The Board then moved to consider a plan that would allow a maximum of 6 additional lots off Turtleback Road. The vote was five in favor, one abstention. It was then stated that this vote is not binding in any way, shape or form.

The Board then considered the definitive plan for Turtleback Road as presented by Peter Van Wyck. Cary Simmons asked if the Board could require applicant to show whole scope of wetlands changes. It was determined that the Planning Board couldn't require a plan to map out the wetlands. It was determined that the major issue is still the traffic onto Apple Street. Since the town has voted overwhelmingly not to change Apple Street, to allow such a large number of potential houselots would clearly overburden Apple Street.

After much discussion it was moved and seconded to disapprove the plan for reasons stated in the letter to Mr. Van Wyck from T. Beal, Planning Board Clerk. The vote was unanimous in favor of disapproval. Letter enclosed.

Essex Planning Board
June 3, 1981

Present: B. Story; D. Campbell; M. Ginn; R. Bresnehan; B. Holton
& T. Beal.

Attorney Mary Connors presented a proposal to sell land in the estate of Eva Twombly off Lufkin Point Road, in two parcels, one being two lots consisting of 18,000 and 14,830 sq.ft., the other a single lot of 31,300 sq.ft. The lots have three separate deeds and a total frontage of about 240' on Ralston Drive and Lufkin Point Road. The Board stated that according to Mass General Law 41A, the three lots become one when under common ownership. There was a motion to deny the proposal and the Board voted unanimously in favor of denial and recommended that the matter go before the Board of Appeals.

Rob Bordon presented a plan for his property on Lufkin Rd, which is a 6.599 acre piece of the August Meyer property. The planning Board signed this plan as a courtesy as it met all by law requirements.

Mr. Kimball Bartlett presented a plan of 7.5 acres on Lufkin Street which has only 75' of frontage. He plans to put one house on this property. The Planning Board denied the petition as it does not meet bylaw requirements and recommended that Mr. Bartlett go before the Board of Appeals with the Planning Board recommendation that the Board of Appeals consider the plea favorably.

The Planning Board then set July 1, 1981 as a public hearing on the zoning bylaw changes.

The Board then voted the following officers for 1981/82:

Chairman; D. Campbell
Vice-chairman: R. Bresnehan
Ways & Means: B. Story
Clerk: M. Ginn
Assistant Clerk: T. Beal
Sewer Study: B. Holton
Conservation: F. Hardy

Residents of Apple Street brought in pictures of a culvert which was built on the Turtleback development. Mr. Story said that he would go and investigate the problem.

There was then a motion not to take action on the clear and continuing zoning violation of Peter Mugford on Gregory Island Road as Town Council is in the process of changing.

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The Planning Board voted unanimously to accept as written the disapproval of the Turtleback Development. The statement will be duly sent to Mr. Van Wyck by the Clerk of the Planning Board.



PLANNING BOARD

Town of Essex, Massachusetts 01929

Board of Selectmen
Town of Essex
Town Hall
Essex MA 01929

June 4, 1981

Dear Madame and Sirs:

On May 20, 1981 the Essex Planning Board met with one member of the Conservation Commission to discuss the Planning Board's order to Mr. Peter Van Wyck to modify his newly constructed road adjacent to the Browning home off Apple Street.

On December 4, 1980 the Planning Board accepted a plan presented by Mr. Van Wyck for repair of the damage, repairs to be reviewed at the first meeting in April, 1981. None of the repairs have been done.

The Planning Board requests permission to use the Essex Town Council to take appropriate action on this matter.

The Planning Board has posted its next meeting as being on June 15, 1981 so that it will be convenient for Town Council to meet with them on that evening.

Very Truly yours,


Barbara Esmiol

cc: David Campbell, Chairman
Enc: 1



CONSERVATION COMMISSION

TOWN HALL MARTIN STREET ESSEX, MASSACHUSETTS 01929

May 29, 1981

The Board of Selectmen
Town of Essex
Town Hall - Martin Street
Essex, MA 01929

Re: Van Wyck/Lowland Farms

Dear Madame and Sirs:

On May 20, members of the Conservation Commission met with the Planning Board to discuss the Planning Board's order to Peter Van Wyck to modify his newly constructed road adjacent to the Browning home off of Apple Street. As you are aware, Van Wyck had gone ahead and created a portion of his road which had generated flooding problems in the Browning yard.

The Conservation Commission had inspected the site and found that Van Wyck's road has involved the alteration of a wetland area. Although not of major consequence, filling had taken place, and the natural course of the water flow has been severely interrupted.

Under Massachusetts General Law, Chapter 131, Section 40, any desire to alter land within 100 ft. of a wetland must be approved by the local Conservation Commission, and no application has been submitted by Van Wyck.

This is yet another example of Mr. Van Wyck's lack of respect for Town and State laws, and both the Planning Board and the Conservation Commission request that Town Council be instructed to take appropriate action to restore the wetland to its original condition.

The Conservation Commission meets on the second and fourth Mondays of the month. If desired, we would be in a position to meet with you at that time. If an earlier session is desired, we will make arrangements to accommodate your schedule. Your assistance in this matter would be very much appreciated. We thank you.

Respectfully,

Thomas A. Ellsworth

cc: The Planning Board ✓

Essex Planning Board
June 24, 1981

Present: D. Campbell; B. Story; M. Ginn; B. Holton & T. Beal.

Mr. Charles Mulcahy presented the plans for his subdivision off Grove Street. He plans to make four lots from the existing one, calling the street Indian Rock Road. He wanted to know how long he had before he must develop, according to the bylaws. It was agreed that the regulations were to be interpreted that, unless there were zoning changes in the town, there would be no deadline on developing. As the plans for subdivision contained the required information it was agreed to have the Clerk notify the abutters and to hold a public hearing on the matter on August 5, 1981.

Mr. E. Story presented the plan of Dave Doanne to extend the side and back of his house on Western Avenue. The lot is a nonconforming lot. After discussion it was moved:

That the Essex Planning Board will entertain any petition for extension and alteration of nonconforming uses present to requisite finding required by Sect. 6-4.2 of the bylaws notwithstanding any previous expression of this Board concerning such proposed extension or alteration rendering the nonconforming use more nonconforming and that the procedure for rendering any such determination shall be determined on a case by case basis. The vote was unanimous in favor.

The Board then moved to allow Ed Story to grant a permit to Mr. Doanne provided that the inspector discusses the plan with the neighbor, the effected abuttor has no reasonable objection, such determination to be solely at the discretion of the Building Inspector. The vote was unanimous in favor.

The Board then met with John Tierney, Esq., new Town Council and voted to go into executive session, all members being polled and voting aye. It was then voted to allow the enforcing officer to stay.

Mr. Peter Van Wyck requested that the linens for his subdivisions be returned to him, before he left the meeting. The Board stated that it would decide that issue.

Mr. Tierney reported that there were errors in the drafting of the complaint by Mrs. Perotti's lawyer, but that any delay tactics would not solve the problem that the Planning Board needed to take some action on the Score's current use of their property. He felt that the Board would be in a better position in court if they either issued an eviction or an occupancy permit. The Board's actions in the past

regarding this matter were reviewed.

The Board then agreed upon answers to the Deposition on the Low Land Farm court action. They reviewed with Attorney Tierney that they had consistently felt that if Mr. Van Wyck had listened to their request for 6-8 homes on the site, rather than the open-ended plan without any definite number of lots which he persistently brought before the Board, that the matter would not need to go to court.

The Board then agreed that the Court stipulation currently in effect needed no pushing on the Town's part and the matter should wait for due process.

The Board then went out of executive session.

Mr. E. Story said that Mr. Anunziona wanted to sell off some small lots on his property to his neighbor. Both lots are currently nonconforming and would still be nonconforming with the sale. The Planning Board determined that it could not give permission for the sale.

Mr. Story then presented the request for permission to move a house on their property of Mr. & Mrs. George Allsbury on their property off Pond Street. It was shown that they got a building permit in 1973 based on the fact that there was a public road through their property.

The board then moved, based on the 1973 determination by this board that the way in which the Allsbury's house now fronts, being a public way, the board has no objection to the movement of the house to another site on the way providing that there is complete compliance with zoning bylaws. The vote was 3 for, 1 abstaining.

It was stated by the Building inspector that Mr. Coughlin's fence, in compliance with the Board's request, would be finished on June 27, 1981.

Essex Planning Board
July 1, 1981

Present: D. Campbell; F. Hardy; B. Story; M. Ginn; R. Bresnehan;
T. Beal.

The meeting was a Public Hearing, duly announced to invite public comment on the proposed Subdivision Bylaws for the Town of Essex.

The following changes were moved and approved by unanimous vote:
p.5 four prints
p.9 add "if applicable"
p.22 strike - except as varied thereunder.

M. Davis told the board that they should have the new bylaws recorded at the Registry of Deeds if they are approved.

There was a motion to schedule a new date for a public hearing if it were established that the public notice for this hearing was incorrectly done. The date for the new hearing will be August 5, 1981 and public notice will be correctly announced.

As there were no further corrections to the proposed bylaws it was moved and seconded that the form of the subdivision regulations, with corrections voted upon be preliminarily approved. The vote was unanimous in favor.

Mr. B. Story said that he would view Mr. Coughlin's fence and report to the Planning Board.

There was a motion to go on a summer schedule of one meeting a month but the motion didn't carry.

Some residents brought in a calendar list of events concerning the agreements to repair the damage to Mr. Browning's property caused by the work done by Mr. Van Wyck on his abutting property. The Planning Board agreed to give the list to Town Council who is working on the problem.

Essex Planning Board
July 15, 1981

Present: D. Campbell; R. Bresnehan; T. Beal; B. Holton; M. Ginn
B. Story.

After a poll of the members of the Planning Board, the board voted to go into executive session to talk with Town Counsel John Tierney regarding various lawsuits. Mrs. Esmiol and Mr. E. Story were allowed to remain.

The doors were opened at approximately 9:00pm. Mr. E. Story presented Mr. Phillips' proposal for an addition of a second floor to his home on John Wise Avenue. After discussion, it was voted to allow further nonconforming use of Mr. Phillips' property as being not more detrimental to the neighborhood.

There was then a discussion of Mr. Canes proposed addition to old Essex Village. His plan is to turn a house into a restaurant, the house being currently within the same lot as Essex Village, and to add to small stores. After reviewing the plans the Planning Board determined that it needed further information on whether the proposed road was to be dirt or paved and some clearly defined information as to distances from the edge of the lot.

Mr. Story then presented Mr. Louis McMillen plan for a new house on the site of a camp off Eastern Avenue. After much discussion it was voted to request that the Building Inspector be informed to tell Mr. Mc Millen that as his lot has no frontage and is therefore a nonconforming lot he needs to go to the Board of Appeals.

Mr. M. Ginn requested permission to rent out boats on the marina beside his motel. The Baord determined that he needed no approval from them for this action.

The Baord then directed the Clerk to send a letter to Mr. Coughlin of Quinn Bros stating that they had inspected his fence and found that it met all their requirements.

There was then voted the motion to cancel the second meeting in August.

Essex Planning Board
August 5, 1981

Present: D. Campbell; F. Hardy; M. Ginn; B. Story & B. Holton.

The public hearing was held on the definitive plan for subdivision of Charles Mulcahy off Grove Street. It was established that the plan met the by-law specifications except that:

regulations require 24' road, hot topped, road is 12'.

Last lot, containing 2.6 acres is not shown fully on plan.

Mr. Mulcahy requested a waiver that the boundary be shown on the plan. There was a motion to that effect which did not carry. One neighbor, Mr. Sheldon Penoit felt that the land was too low to be developed and that 4 lots was too much for that site. A letter was read from the Board of Health, Police, Fire and DPW, stating no problems with the site.

There was a motion to waive the requirement to pave, leaving a 12' gravel road with round shoulders. The vote was unanimous in favor.

After much discussion there was a motion that the plan be accepted upon addition of a linen showing Parcel D meeting requirements of subdivision bylaws. The vote was unanimous in favor.

After notice duly given, discussion was opened on the revised subdivision bylaws. As there was no further discussion there was a motion to accept the revised subdivision bylaws. The vote was unanimous in favor.

Mr. Roland Adams bought the Fortier Hardware store and as the board determined that his use of the property would be lesser than the current use there was a motion that the planning board approval was not required. Vote was unanimous in favor.

Mr. Leroy Moore wants to divide a 2.7 acre lot on Pond Street creating a right of way to a back lot. He was told that he could either try to subdivide or go to the board of appeals. He chose the latter.

Mr. Lawrence Buxton has 1.6 acres on Lufkin Point Road, the plan for which needs signing by the planning board. The vote was unanimous in favor of signing.

It was determined that Cecily Penoyer, with a right of way to Forest Street has no frontage and needs to go to the board of

appeals.

Mr. Tommy Hall, developing a piece of land off Chebacco Road, mostly in Hamilton, having changed one lot partially in Essex needed planning board signatures on new linen. There was a motion to sign which carried unanimously.

David Campbell discussed his meeting with the attorneys involved in the Van Wyck developments. There was an inconclusive discussion as to how many lots might be appropriate on both of the Van Wyck developments, considering the total acreage and the needs of the other land owners on Apple Street in connection with the road study.

Essex Planning Board
September 16, 1981

Present: D. Campbell; F. Hardy; M. Ginn; B. Holton; R. Bresnehan;
T. Beal.

There was a discussion of the proposal of Dennis Outwater for development of three lots on Belcher Street. Mr. Outwater stated that lots 1 & 2 are on pavement and that lot 3 has 190' frontage which is paved. Mr. Outwater has a letter from the Selectmen stating that Belcher Street is a public way. It was determined that if Belcher Street is built on, the town does not have to upgrade the Street. Mr. Outwater stated that he would be willing to upgrade the street by widening and grading it.

Motion: To approve the plan as presented, subdivision approval not required because no subdivision is contained therein because each lot has frontage on a way, as described in Subsection C of the definition of "subdivision" set forth in Section 81-L of Chapter 41. The vote was unanimous in approval of the motion.

The Planning Board then met with the Board of Appeals on the board's sending Mr. Louis MacMillan to the Board of Appeals on his request to tear down and rebuild a house on Island Road. The lot is non-conforming, the house is livable but has no septic system. There was much discussion of 6-4.2 which states that a nonconforming property may be rebuilt if damaged or destroyed. The Boards' opinions ran from Mr. Hardy who felt that giving a permit would be doing no harm as the lot already existed, to Mr. Beal's feeling that it would be a bad precedent.

Motion: To reconsider motion of July 15, 1981 to send realtor to the Board of Appeals as the Board of Appeals has the leeway to change the rules. The vote was 3 for and three apposed so the motion did not carry as a reconsideration needs 2/3rds majority.

Mr. Charles Mulcahy presented the linen of parcel D for board approval relating to the August 5, 1981 approval of his sub-division.

Motion: to sign plan for parcel D. Vote, unanimous in favor, Mr. Beal abstaining.

Mr. Peter Van Wyck requested that the Planning Board consider the idea of pushing the fill in the dump back onto his adjacent land. The Planning Board felt that it would respond to a carefully presented plan.

There was a discussion of what records were being made available to Mr. Van Wyck, pertaining to his suits. The Planning Board stated that any minutes and any material which had been formally presented would be made available, and anything else would have to go through Attorney John Tierney.

The Selectmen have requested a review of events at Quinn Bros. The Building Inspector stated that Quinn has permits for all current uses on their premises. There was a question that current use might constitute an industrial park. There was further question as to whether the septic system could handle current uses. It was decided that Town Council would be called to get an opinion on the diversification of the property.

Motion: that C. Mulcahy be requested to forward to the Building Inspector and also to the Selectmen a list of current businesses at Quinn Bros. The vote was unanimous in favor.

Motion: to write a letter to Arthur Harrington to come before the board to discuss the problems. Vote unanimous in favor.

The Board then went into executive session.

September 16, 1981
Executive session.

Discussion surrounded the Perrotti/Score problem. It was stated that Mr. Score had not come in to request a special permit to live in his place of business. The Perottis have requested that the Planning Board enforce their by-laws and evict the Scores. The Board recognizes that through its attorney it will have to spend a lot of money and end up getting the Scores evicted no matter. The Board decided to request that John Tierney spend minimal time on the matter. The interrogatories were read to the board by M. Ginn and he was applauded for his efforts.

Essex Planning Board
October 7, 1981

Present: D. Campbell; F. Hardy; B. Story; M. Ginn; T. Beal;
B. Holton.

Mr. John Connillas of Western Avenue and Pickering Streets, brought in a plan whereby he wants to sell parcel "A", consisting of 105' frontage, and contains 11,432 sq.ft. to Katherine Tousey to be added to her lot. This would leave Mr. Connillas with parcel "B" containing 33,168 sq.ft, which would be a conforming lot. The Planning Board members signed the plan.

The Planning Board then discussed the zoning problems in Essex. There was a concensus that the new zoning should be presented at a special town meeting, that there should be three types of zones, residential/ commercial-residential/ light industrial-commercial-residential. It eas felt that the town water problem must be considered in any zoning thinking. There was a motion, unanimously approved to use the 2nd Wednesday of each month, starting in November, to work solely on zoning for six months.

Mr. and Mrs. Steven Score of the Old South Essex Post Office, appeared as invited to discuss the problem of their lack of occupancy permit as they dwell in a nonconforming building. The Scores will be represented by Attorneys Warren & Stackpole. After much discussion it was decided that the Scores attorneys should present a proposal to the Planning Board using bylaws 6-4.2 which refer to nonconforming usage and whether or not it is more detremental to the neighborhood. The Scores will be present at the next meeting at 8:00pm.

Mr. Fred Markham presented a plan which divides his lot on Western Avenue, ~~buying off~~ the large back piece ^{FROM} his abuttor, Harold Munroe. Mr. Markham was advised that his plan must contain at least 30,000 sq. ft. remaining with his lot in order to be signed by the Planning Board.

Mr. and Mrs. John Henderson of Southern Avenue presented a tentative proposal for dividing their six acres into two lots. They were advised that, given the 150' frontage, they must present a proposal for subdivision. There was a discussion of which of the subdivision bylaws might be required and which might be waived.

It is to be noted that the new subdivision bylaws went into effect on September 18, 1981.

Essex Planning Board
October 21, 1981

Present: D. Campbell; F. Hardy; B. Holton; M. Ginn;
R. Bresnehan; B. Story.

There was a plan presented for an addition to the property of Bob and JoAnne Marsolais of Conomo Point. As the approval in writing of the Conomo Point Commission was not available, the Board decided to postpone action until the document was submitted with the plan. Bob Perrigo was called, but was unavailable to give verbal approval.

Mr. Campbell presented a letter from Attorney John Tierney requesting that the Board approve or oppose a Motion to Intervine in the case of the Score's occupancy of the Old South Essex Post Office. The Board postponed a decision as the Scores were coming in for a hearing on the matter.

Mr. and Mrs. Steven Score, with their attorney, Howard A. Levine, presented a petition that the Board grant them an occupancy permit to dwell in the Old South Post Office where they have been living for three years, pursuant to Section 6-4.2 of the Zoning By-laws.

Mr. Campbell stated that Section 6-4.2 has been changed since 1978 when the Scores first applied for a permit, the changes now allowing the board to make a decision whether or not to grant a permit. When asked why the permit had not been granted in 1978, Mr. Ed Story stated that the lot did not meet land use regulations and was completely nonconforming as a residential lot.

Attorney David McKay, representing the Perrottis, stated that;

1. Pursuant to Chapter 48, Section 16 the Scores must wait 2 years to apply for a new permit,
2. If the Scores had been aggrieved by the action of the Planning Board they should have appealed to the Supreme Court within 20 days,
3. The Scores had received letters from the Town Counsel advising them to vacate. They had an extension from the Board of Health so they had stayed.

Mr. Allen Waller appeared with his Attorney Donald Koleman. He stated that the building had been built to house the post office with the plan to later turn it into a house. He stated that the building had been used as a residence since 1974 by his father, and that the Scores had bought the property from him with the understanding that they would be able, also to dwell on the property.

Mr. Hardy stated that the building clearly seemed to have been built for mixed use.

Mr. Story questioned whether or not the Planning Board would be flooded with similar requests if they granted a permit.

Mr. Hardy stated that each case must be decided on its own merits.

Mr. Bresnehan wanted a determination from Attorney Tierney on the ramifications of the vote. His concern was for setting a precedent.

It is Mr. Tierney's opinion that the Board can make a determination on the matter at this point. It was also determined that there were no bylaws in 1947-48 when the building was built for a mixed use.

It was then MOVED: that the Planning Board determines that the proposed alteration of use of the Old South Essex Post Office is not substantially more detrimental to the neighborhood and they therefore authorize the Building Inspector to sign the occupancy permit. The vote was four in favor, M. Ginn opposed, the chair abstaining.

The Planning Board then signed the plan of Fred Markham on Western Avenue, adding back land to his current lot.

ssex Planning Board
November 4, 1981

Present: R. Bresnehan; M. Ginn; F. Hardy; T. Beal, B. Story.

There was a discussion of a lot of land on Gregory Island owned by Mr. Ricci. He has had a trailer on the lot since 1974, the lot being 4750 sq. ft. According to the Bylaws, 6-5.12 the trailer is illegal and must be removed as no trailer is to remain on a lot more than three months. Mr. Ricci should be able to get an abatement on the land as it is not buildable.

Webby Jones requested a reading from the board on his land and home on Main Street, as to whether he might be able to sell it as a combination home/business. He stated that the drive could accommodate 8-9 cars easily. The board stated that he would probably have trouble getting any permits for multiple uses on a single dwelling lot. Bylaw 6-6.3 states that the board does have the capability of changing the use of a property, since the new bylaws, but even using his garage wouldn't conform to the business zoning regulations.

Dr David Sauer and Lyle Graham of Choate Street came in to get a reading on whether or not the zoning allowed the turkey farm on Choate street to build a new building for retail sales. They stated that the traffic problems on Choate Street were terrible, and as it is a scenic route, the road could not be improved and therefore, any new business would be even more dangerous to the use of the road. The board informed the men that they were helpless under the current zoning to block any new building.

Mr. Robert Perrigo brought in a letter stating that the Conomo Point Commission are holding on any recommendation on the Marsolais addition until they have viewed the new septic system.



CONOMO POINT COMMISSIONERS

Essex, Massachusetts 01929

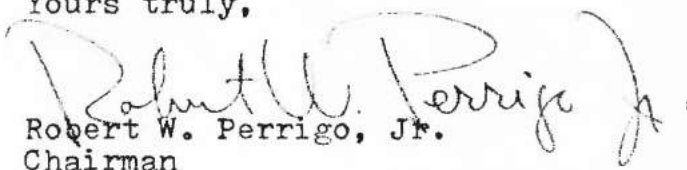
November 2, 1981

Planning Board
Town Hall
Essex, Massachusetts

Gentlemen,

Please be advised that the Conomo Point Commissioners are holding on any recommendation on the Marsolais building addition until we have viewed the new septic system plan (other side of the house from the present failing system) and the possibility of any changes which may be made in the plan you now have before you.

Yours truly,


Robert W. Perrigo, Jr.
Chairman

Essex Planning Board
January 20, 1982

Present: D. Campbell, R. Bresnehan, M. Ginn, B. Holton, T. Beal,
B. Story.

Mr Wesley Burnham brought in a plan to build a building for business use on his lot on County Road. The Planning Board established that the lot was large enough to meet the zoning business requirements. They advised Mr. Burnham to be sure to build a large enough septic system to cover any business use, and that any later change of use to residence would be highly unlikely. They advised him also to be careful to meet business parking requirements and back line requirements.

Town Council arrived and the Board was polled and voted to go into executive session. Mr. Ed Story was allowed to stay by unanimous vote.

Then Mr. Peter Van Wyck with his attorney, Bill Evans presented a plan for Turtleback Road. This was a plan for discussion, not a preliminary plan. The plan presented twelve lots off the current Turtleback cul-de-sac. The drainage on the plan is into existing water courses. There was then a question and answer session.

Planning Board q. - What is the plan for extending the utilities into the Essex Park development?

a. There is a ten foot easement into the other development.

q. Maximum of 12 lots?

a. Maximum of 12 lots.

q. Is there any number of fewer lots you would accept?

a. If there is too much congestion, I would make a decision for fewer lots.

q. If we felt that the traffic on Apple St. could bear only less of a load, would you consider less lots?

a. If I felt it was too congested, I would do less.

q. To clarify, suppose the Board were concerned with ability of Apple St. to carry huge load, but could carry less, are you prepared to consider less lots?

Attorney Evans then asked how many lots the Board might propose? The Board stated that it was willing to look into anything and consider the problem.

Mr. EVans stated that Mr. Van Wyck does not want to go to a lot of expense if the projected plan was not possible to do. He asked if there was anything unique about the plan that needed discussion.

Mr. Van Wyck stated that he had done a road profile and had cut down the grade to 7% grade.

q. Are you using the same engineer?

a. No, Hancock Associates will do plan.

q. How do you view this plan as responding to reasons for denial of last plan?

a. We have discussed this with the engineers. The country drains will lessen some problems, the grades and elevations are more workable.

q. What is your position on this proposal in terms of the litigation?

a. This plan is an alternative to litigation. We want feedback on this plan. Both the Turtleback for current development and the Essex Park for later development.

q. Would the two parts be connected?

a. No. If I say I will not connect them, I will not.

Questions were than allowed from the public.

q. Suppose this plan for Turtleback is approved and the Essex Park is not, will the utilities go beyond anyhow?

a. Water lines should not dead end.

q. There are two separate plans, will they be submitted as one?

a. We are submitting both so that Planning Board can have overview. One will be contingent on the other.

q. Date of plan?

a. January 20, 1982.

q. Rate of development?

a. Maybe about four houses a year.

q. Will we get difinitive plans separately for each development?

a. What do you want?

q. Who is owner of water course to Deer Park Rd?

a. Gloucester Engineering.

The Planning Board then stated that it would take the plan under advisement and that it would act quickly.

Mr. Coughlin then asked the Board to sign his plan which adds 21' to the side of his lot. As Planning Board approval was not required, the plans were signed.

The Board then went into executive session, Mr. Story being voted to remain.

Essex Planning Board

February 3, 1982

Present: D. Campbell; F. Hardy; B. Holton; B. Story; M. Ginn;
R. Bresnehan.

After a discussion of the Plannign Board budget and whether or not there would be any articles for the Town warrent, the Board nominated Bill Perkins and Fred Fawcett for the DPW Commission. The vote was 6 for, 1 against.

Mr. Stuart Pratt of the Finance Committee requested that the Planning Board be available for a meeting with the Finance Committee and the Selectmen regarding the idea of a moritorium on building in Essex. The Planning Board stated that it would be available either February 10 or 17.

The Selectmen requested help in writing from the Planning Board regarding the state of Bill Allen's yard on Southern Ave. The Planning Board told the Enforcement Officer that Mr. Allen was allowed to have carefully arranged used material on his property, and requested that Mr. Story see if there are any violations of this.

The Board then signed a Plan of a drain easement on Maple St. to town of Essex by Edwin C. Perkins.

Mrs. Schroeder presented a plan whereby she is trading 33,000 sq. ft. of her land with Mr. Leland for 26,000 feet contiguous with her house. As there was no subdivision involved and no violation of Bylaws, the Board signed the plans.

Mr. R. Perrigo of the Conomo Point Comission came to discuss the problem of the Bettencourt cottage. The Bettencourts have closed in the existing porch and then added a new porch without permission of the Comission, without Planning Board consent and without a building permit. As the lot is nonconforming, the Planning Board would have to approve. As the land is leased from the town and the Bettencourts are in clear violation of several laws, the Planning Board will get comment from John Tierney.

A plan was presented to break off a lot with the hen house on property belonging to Dorothy Doyle on County Road. as the plan meets bylaw requirements, the motion to sign was unanimously approved and the plan signed.

There was then a vote to go into executive session.

Essex Planning Board
February 17, 1982

Present: D. Campbell; F. Hardy; M. Ginn; R. Bresnehan;
T. Beal; B. Holton.

The Board discussed the budget for the next fiscal year. It was to be determined what had been spent on printing costs and the costs of printing the sub-division bylaws. There will be further discussion at the next meeting.

The building inspector was asked to hand deliver notices to Mr. Bettencourt of Conomo Point regarding his violations of the Essex bylaws. As there are violations and the occupants have no occupancy permit, the board will make every effort to prevent the Bettencourts from moving in this summer unless the problems are resolved.

It was reported that there has been no word from Mr. Van Wyck or his attorney regarding their negotiation on the Turtleback development off Apple Street.

Mr. Dennis Outwater presented his plan for lots 3A and 4 on Belcher Street. Mr. Outwater proposes to improve the road to the end of the properties. There was a discussion as to whether or not a citizen has rights to improve a town right of way. The Board is concerned as to access for public safety vehicles. The board refused to sign the plan until the road is found to be adequate. Mr. Outwater was directed to go to the police, fire department to see if road is adequate. It would accept letters from these departments.

The remodeling of John Kane of part of Old Essex Village was discussed. The plan submitted six months ago appears to be different from what is actually happening there. The Board directed the building inspector to have Mr. Kane bring his plan to the next meeting.

Essex Planning Board
March 17, 1982

Present: D. Campbell; B. Story; M. Ginn; R. Bresnehan; T. Beal;
B. Holton; F. Hardy.

The Board went into executive session for reasons of pending litigation. Attorney John Tierney was present.

The meeting was then opened to the public. Mr. Van Wyck and his attorney, Mr. Evans. The Board responded to Attorney Evans' letter.

- .the Board attempted to keep discussion to Turtleback only.
- .public ownership of road not Planning Board's responsibility.
- .board has no problem with drainage plans.
- .quality of gravel for road will be specified.
- .board not sure plan can be left open and developed variously.
- the matter is open to discussion.

Mr. Van Wyck asked that since the board has ties with other boards in town, that it might help Turtleback become a town road. He said that the petty restrictions which prohibit him from growing grass on a field. He gave some examples of Planning Boards' indecision:

1973 PB said no second access possible to Turtleback development.

1977 PB said no further work until second access was found.

1980 No further road without access to Essex Park Road.

He said he has had ten years of roadblocks, spent \$45,000 for a water easement when no water was visible. The question was then asked, how much he had sold the lot he had paid \$45,000 for?

Attorney Evans said that he was looking for some relief from restraining order. Attorney Tierney said that the Planning Board has only its bylaws and their parameter to deal with, that Mr. Van Wyck would need a gravel license from Selectmen to remove gravel. Mr. Beal said that Mr. Van Wyck has never responded to the Planning Board's concerns re: Lowland Farm restraining order. There has been no work done by Mr. Van Wyck to solve the water problems he created.

Mr. Van Wyck then asked if he could have a closed loop on Essex Park. He said he 'wanted to take this road where I want!'" The board said there was no way he could have carte blanche but that the sense of the board was that he would not be limited to 1200 feet. Attorney Tierney suggested that the two attorneys meet to iron out the finer points.

Regarding the perc tests, the planning board said that it might issue temporary relief so the tests could be done.

A plan was presented to close in a porch and putting on a second floor on a non-conforming lot owned by Curtis Jones of Wood Drive. The Board voted unanimously that since the plan was not substantially

more detrimental to the neighborhood that the board would sign the plan.

Dennis Outwater asked if his road on Belcher street was possible. Kirk Elwell of the DPW said that they didn't know the status of the road but that it has been a way and maintained as a way for years. IF it is a town road, Mr. Outwater should not repair it.

Essex Planning Board
April 7, 1982

Present: D. Campbell; R. Bresnehan; B. Holton; B. Story;
M. Ginn; T. Beal.

Two properties on Red Gate Rd, owned by Mr. Hiltz and Lyle Brown wanted additions on non-conforming lots. After discussion, the board voted unanimously that, since the plans were not substantially more detrimental to the neighborhood, the plans could be signed.

Dennis Outwater brought in a plan for Lot 3A on Belcher St. for approval and signature, the lot having 161' frontage on Belcher St. The plan was signed and the board agreed to meet with Mr. Outwater and the DPW to talk it out at the meeting on April 21, 1982.

At 8:00pm there was a Public Hearing to discuss the proposed by law changes. the changes were:

- 6-6.5 Erection of More than One Principle Structure on a single lot.
- 6-6.5 Business land use - lots to conform with residential lots.
- 6-6.6 Motel and hotel parking requirements.
- 6-6.7 Industrial land use, Class A
- 6-6.8 Industrial land use, Class B
- 6-7.3 Certificate of occupancy
- 6-8.1 Membership in Board of Appeals (for Selectmen) wording clarification.

The only discussion from the Board and the audience was on 6-5.5 where some members of the board and audience felt that the old law should just have a number of lots added to it.

On the motion to recommend:

- Article 36, motion that the board not recommend opposed (4).
for (1)
- Motion to recommend all other articles carried unanimously.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929
March 1, 1982

Board of Selectman:

The planning board is proposing several changes to the towns zoning by laws. For consideration of the May town meeting. As required by State law, we are required to submit the proposed changes to you, who in turn return them to the planning board for conduct public hearing.

Since the time is short, we would appreciate your very quick action on this matter. The proposed changes are as follows:

6-5.5

Erection of More than One Principle Structure on a Single Lot.

More than one structure which is housing a permitted or permissible principal use may be erected on a single lot, provided that lot area equal to that required for a single structure could be allotted to each structure and that all dimensional requirements for that use are met.

6-6.5 Business Land Use

a. Dimensional Requirements

1. Lot area 40,000 square feet, minimum Lot areas for land on street in existence on June 7, 1972 minimum 30,000 square feet.
2. Lot frontage minimum 150 feet.
3. Lot depth minimum 100 feet.
4. Front yard, minimum 25 feet.
5. Side yard, minimum 20 feet.
6. Rear yard, minimum 50 feet.
7. Maximum lot coverage by all buildings, 25 percent.
8. Maximum height of buildings, two and one-half stories or 35 feet.

b. Parking Requirements: As outlined in Section 6-5.8 and 6-5.9

c. Storage: All storage shall be in an enclosed building or screened from abuttor's view.

d. Access: Sufficient access from a public way shall be provided.

e. Signs: Total area of signs shall not exceed 32 square feet, and shall conform to the

requirements of Section 6-5.10.

6-6.6 Motel and Hotel Land Use.

a. Dimensional Requirements:

1. Lot area, minimum 90,000 square feet.
2. Lot frontage, minimum 200 feet.
3. Front yard, minimum 100 feet.
4. Side yard, 50 feet.
5. Rear yard, 100 feet
6. Building height, principal building, maximum two and one-half stories or 35 feet.
7. Building height, accessory building, maximum one story, or 15 feet.
8. Minimum distance between buildings, or 20 feet.

b. Parking Requirements: As outlined in Section 6-5.8 and 6-5.9

c. Storage: All storage shall be in an enclosed building or screened from abuttor's view.

d. Signs: Total area of signs shall not exceed 32 square feet, and shall conform to the requirements of Section 6-5.10.

6-6.7 Industrial Land Use, Class A.

a. Dimensional Requirements.

1. Lot area, minimum 90,000 square feet.
2. Lot frontage, minimum 300 feet.
3. Front yard, minimum 100 feet.
4. Side yard, minimum 100 feet.
5. Rear yard, minimum 100 feet.
6. Height of buildings, maximum 35 feet.
7. Lot coverage of all buildings, not more than 33 percent of total area.

b. Parking Requirements: As outlined in Section 6-5.8 and 6-5.9. All parking for the above use shall be off street and other than in the front yard. Loading and unloading facilities shall be located on the side or rear of the building.

c. Storage: All storage shall be in an enclosed building or screened from abuttor's view and be in the rear or side yard.

d. Signs: Total area of signs shall not exceed 32 square feet, and shall conform to the requirements of Section 6-5.10.

6-6.8 Industrial Land Use, Class B.

a. Dimensional Requirements.

1. Lot area minimum 40,000 square feet. Lot area for land on a street in existence on June 7, 1972, minimum 30,000 square feet.
2. Lot frontage, minimum 150 feet.
3. Lot width, minimum 125 feet.
4. Lot depth, minimum 100 feet.
5. Front yard, minimum 25 feet.
6. Side yard, principal building, minimum 20 feet.
7. Side yard, accessory building, minimum 10 feet.
8. Rear yard, principal building, minimum 30 feet.
9. Rear yard, accessory building, minimum 10 feet.
10. Building height, principal building, maximum two and one-half stories or 35 feet.
11. Building height, accessory building, maximum two stories or 25 feet.
12. Lot coverage of all buildings, maximum 25 percent of lot area.

b. Accessory Buildings: Accessory buildings may be used for any purpose other than human habitation, provided that they conform to the following:

1. Accessory buildings shall be located in rear or side yard only.

c. Parking Requirements: As outlined in Section 6-5.9. All parking for the above use shall be off the street and other than in the front yard. Loading and unloading facilities shall be located on the side or rear of the building.

d. Storage and Display: All storage and display shall be conducted in an enclosed building or screened from abutters.

e. Signs: Total area of sign shall not exceed 32 square feet and shall conform to the requirements of Section 6-5.10.

6-7.3 Certificate of Occupancy

a. Required. It shall be unlawful to use or occupy or permit the use of occupancy of any building or premises, or both, or part thereof created, erected, enlarged, converted, or wholly or partly altered or enlarged in its use or

Essex Planning Board
April 21, 1982

Present: D. Campbell; R. Bresnehan; M. Ginn; F. Hardy; B. Story;
B. Holton.

Mr. John Coughlin of Quinn Bros, Western Ave., brought in plans for an addition to the front of Quinn Bros building. As the addition meets all zoning requirements, Planning Board approval was not needed.

Plans for an addition to the Fairhaven Chapel on Western Ave. were presented. The addition brings the building within 10 feet of the lot line. IT was determined that, as there is nothing in the bylaws pertaining to churches and chapels, that Reveread Murray could go ahead with his plans.

Dennis Outwater met with the DPW and the Planning Board. After much discussion it was determined that the DPW did not know the status of Belcher street but, if the Town Counsel would establish an opinion as to whether or not Belcher St. is a public way, then have the Town Clerk certify that opinion, the DPW could then act to improve the road. They recommended that Mr. OUTwater not improve the road until its credentials were established.

Dave Jones of Choate Street questioned the legality of the Puttonen Turkey Farm using its buildings to sell. The Planning Board said that it was legal. He then asked if the sign on Essex Street were a billboard, which is illegal. He said he intends to use all resources to determine the type of sign and get it taken down, as the traffic on Choate Street is terrible since the retail store opened.

It was established that MR. Polumbo's request to create a third apartment in his building on Eastern Ave met zoning requirements and was merely a health department matter.

Mr. Peter Lane's plans for a solar addition to his home off Spring St. met all zoning requirements and did not need Planning Board approval.

Mr. Peter Van Wyck, after much discussion, was granted permission by the Planning Board to perc his Turtleback property. The motion: to give permission to do perc tests in relation to the Restraining order, permission limited to Turtleback only. The vote was unanimous in favor.

Mr. Van Wyck wanted to discuss his new plan for Turtleback, asking if he could formally present plan. The Planning Board accepted the plans for discussion, nor formal presentation, and D. Campbell said he would talk to Town Counsel regarding formal acceptance of plan.

Essex Planning Board
May 5, 1982

Present: R. Bresnehan; M. Ginn; F. Hardy; D. Campbell; T. Beal.

Dennis Outwater presented a plan for Lot 4 on Belcher Street with 251' frontage, containing 30,000 sq. ft. As the plan met all town zoning requirements, there was a motion unanimously passed to sign the plan.

Mr. Peter Van Wyck brought in a plan, subdivision not required. The land is off Essex Park Road consisting of three parcels, 4B, 4C, & 4D, of about 50 acres total. Parcels 4B and 4C are to be retained by Gloucester Engineering and parcel 4D is to be bought by Mr. Van Wyck. The board discussed the possibilities and decided that if lots 4B and 4C were combined, borders being ZZZ'd out and lot 4D shown clearly as a separately owned lot that they would be able to sign the plan. The plan was altered and then there was a motion unanimously passed to sign the plan.

Mr. Van Wyck then requested an informal opinion on the 12 lot plan for development off Turtleback Road. He wants to turn this plan into a definitive plan.

The Planning Board then went into executive session after polling its members to discuss the plan.

Essex Planning Board
May 19, 1982

Present: M. Ginn; R. Bresnehan; B.J. Frye; T. Beal; B. Story.

After discussion the following were duly nominated to fill the Planning Board's offices. There was a motion unanimously passed that:

M. Ginn be nominated Chairman,
B.J. Frye be nominated clerk.

Mrs. O'Maley requested that the agenda be posted prior to the meetings for the convenience of the public. The board felt that it would be willing to do this.

Robert and Joan Marcellais want to put an addition on their home at Conomo Point. They presented a letter saying that the town boards approved. Ed Story will send the letter to the Conomo Point Commission. The Planning Board stated that it must wait for recommendations from the Conomo Point Commission and the Conservation Commission before rendering a decision.

John Bediz of Western Avenue wants to put a 14' by 18' two story addition on the back of his home. The lot is 20,000 sq. ft but the addition is only 10' from the edge of the property. The planning board stated that if Ed Story could get letters of concurrence from the two affected abutters that they would be able to allow the addition.

Mr. Martin Stone presented the plan for Ernest Doucette of 12 Prospect St for an addition to a non-conforming lot, the lot being 117' frontage and 114' on the side. The Board allowed that if Ed Story got letters from the two affected abutters that it would find that the addition was not substantially more detrimental to the neighborhood and would allow the permit.

Mr. Peter Matson of Spring St with 120 + acres has an easement over property owned by Dr. Stayros. He wanted to know if the easement were moved would it affect the future development of his property. The board consensus is that there might be a future problem if the easement is changed as it then would not be prior to acceptance of by-laws. Mr. Matson said that no one ever questioned his lack of frontage when he built his house. The Planning Board said that any plan accepted now is good for the future if the plan is recorded.

Essex Planning Board
June 2, 1982

Present: M. Ginn; B.J. Frye; B. Holton; R. Bresnehan; B. Story.

Larry Woodman came before the Planning Board to request permission to build a 16' by 20' building to house a new sewage treatment system at Woodman's Lobster Pool. The building would be set in the marsh area to the left of the tent. He has talked to the Conservation Commission and the Board of Health and they say there should be no problem. The Planning Board stated that if the setbacks were sufficient, which wouldn't be determined until the plan is presented, that there would be no problem getting a permit.

Mr. Joe Talty came before the Board to discuss his purchase of the Cleveland Funeral Home. He wants to turn the space into offices. The Board determined that since there is no change of use they have no problem with the purchase. They then decided to write Mr. Talty a letter stating clearly that the property was to be used solely for business use and that any major changes in the building should be cleared with the Board.

Mr. Charles Mulcahy requested that the board put in writing the length of time his subdivision was good. He will receive a letter stating that the subdivision was good for five years even if the law changes but that after five years, if the bylaws change, he must conform to the new laws as defined by State law Chapter 40A section 6.

Mr. Peter Van Wyck wants to submit a preliminary subdivision plan for his land off Turtleback Road. He asked if he could submit under the old regulations as his proposals had mostly been submitted prior to the new bylaws. The Board said that that would be illegal as his earlier submission was refused, so that the new submission must comply with the new bylaws. Mr. Van Wyck asked if he might submit in 100 scale as 40 scale would be too big. He also asked if he might do some construction this summer. The Board determined that they would talk to Attorney John Tierney about the matter and asked if Mr. Van Wyck might leave copies of his new submission without formally presenting it so that the Board might discuss the plans with Mr. Tierney before the clock starts ticking.

Mr. Ginn requested that Mr. Van Wyck call for an appointment in the future so that he might be fitted into the agenda. He is tentatively scheduled to appear at the June 16th meeting at 8:30, pending Board discussion with Mr. Tierney.

Essex Planning Board
June 16, 1982

Present: M. Ginn; B.J. Frye; B. Holton; R. Bresnehan; T. Beal.

The minutes of the meeting of June 2, 1982 were read and approved. After polling the members, the board voted to go into executive session with Ed Story remaining.

The board then opened its meeting to receive three letters from abutters of John Bediz . There being no objection whatsoever, the Board hereby finds that the proposed addition as presented at the meeting on May 19, 1982 will not be substantially more detrimental than the existing non-conforming use to the neighborhood. The vote was unanimous.

Mr. Story then questioned the Cleveland Funeral Home on Martin Street. He said that the board should consider a finding of change of use. It was discussed that the ramification of the Board's position is that a disco could go in and the board couldn't stop it. He felt that the magnitude of the effects of the new use should be clearly defined to protect the neighbors and the planning board.

The Board determined that it should look at the word 'use' and redefine it. *as in change of use.

Regarding the sewage treatment system at Woodman's Lobster Pool, there is a question as to how clear the message was that Larry Woodman should come back with a site plan and also, if within wetlands, where is the Planning Board's responsibility and where the Conservation Committee. It was moved and carried unanimously to send a letter to Larry Woodman citing 6-7.2 and 6-10.5 of the Planning Board regulations.

As Mr. Van Wyck's attorney, Mr. Evans was not present and Town Council John Tierney was, the planning Board agreed to an informal presentation of the new plan for the Turtleback development. The Planning Board says that it is ready to hear the proposal but is concerned with how to limit the number of houses on the plan.

Mr. Van Wyck is scheduled for July 7, 1982 with his attorney. Attorney Toerney also plans to attend.

John Tierney, Town Counsel reported that he had received on 6. July, a letter from William Evans, attorney for Peter VanWyck. Mr. Evans apologized for not attending the Board meeting on 28, June; a meeting of himself, Mr. VanWyck, the Board and John Tierney had been scheduled. He said that he had found no substantiation for the idea that only one plan can be submitted on a given area at a time. He suggested that some kind of a "conservation restriction" be imposed to insure that the number of house lots on the plan which Mr. VanWyck was about to submit would not be further subdivided in future. Mr. Tierney said that such a restriction could probably be more easily challenged than a binding restriction by the Board which would appear on the deeds and insure the number of lots as well as the number of houses per lot, and that no road would pass through the lots. Messrs. Beal and Story wondered if this constituted "spot zoning." Should this restriction be placed by the Board or Mr. VanWyck? Mr. Tierney said the Board should do it because Mr. VanWyck might be able to say later that as he was the one who imposed it, he could change it. Mrs. Frye suggested that because this control was so important, perhaps a second legal opinion should be sought to make sure that the procedure was as binding as possible. She also expressed a wish to see a plan for development of Lowland Farms and the whole Turtleback extension area. Messrs. Beal and Holton agreed that they would like to see the Turtleback area plans, but said that the Lowland Farms area involved another lawsuit and was not up for discussion.

Mr. Tierney suggested that Mr. VanWyck be given the choice of declaring the plan he was about to submit as a new plan or an ammended plan to the one involved in the lawsuit. In the latter case he would have to speak to the criticisms of the old plan and adhere to the old subdivision regulations. If he were to opt for the new plan, it would be subject to additional fees and the new regs.

Elisabeth Frye, Clerk

Those present were Chairman Ginn, Thaddeus Beal, Roger Bresnehan, Elisabeth Frye, William Holton and Bradford Story.

Peter Dane of 98, Western Avenue requested permission to build an 11-foot addition to an ell on his home. He would convert an existing bedroom to a livingroom and bath with a bedroom above. Mr. Dane said that Robert Perrigo whose property is 12 feet away from the Dane house, has no objection. Mrs. Janet Hopkins, whose house is across Apple Street was present at the meeting and likewise had no objection. Mrs. Frederick Fawcett voiced concern that the addition was less than 100 feet from the Alewife Brook, and as such, would be a matter for consideration by the Conservation Commission. Mr. Beal made a motion that "the proposed addition to the house of Peter Dane of 98, Western Avenue be permitted pursuant to Sec.6-4.2 based on the finding of the Board that the proposed extension will not be substantially more detrimental than the existing non-conforming use to the neighborhood. which finding is made herewith."

Mr. John L. Canillas, Jr., of 62, Blueberry Lane in Hamilton has made application to the Building Inspector for a building on his property at the corner of Western Avenue and Pickering Streets. The Board concurred with the decision of the Building Inspector in approving the application.

The Board then voted to go into Executive Session before talking with Peter Van Wyck and his attorney, William Evans, because of the pending litigation.

The meeting reconvened, Mr. VanWyck and Mr. Evans came before the Board with a plan for the subdivision of the extension of his property off Turtleback Road. Town Counsel John Tierney asked Mr. Evans if the plan to be presented was to be considered a new plan and, therefore, subject to the new subdivision regulations and new fees, or an ammended plan subject to the old regulations and responding to the objections to the old plan. Mr. Evans replied that it was being submitted as a new plan, but that Peter VanWyck was expecting consideration with regard to time and waivers. He wants to dig two ponds this summer, the fill from which he plans to use on his new road. He requested that he be given permission by the Board to dig the ponds before the subdivision has been accepted. Mr. Beal responded that the plan must conform to Chapter 41, Section 81-S of the Mass. General Laws and the town subdivision regulations. This involves obtaining opinions of other Boards, notices to abutters, a public hearing, and printed notices of same, etc. The matter of the ponds is the business of the Conservation Commission, and the fill can be used on the road only if it meets requirements listed in the state and town regulations. Mr. VanWyck said that the Conservation Commission and the DEQE (to whom he had appealed before the Conservation Commission had given any decision) would not consider his letter of intent until the court stipulation is lifted. The Conservation had discussed his ponds on several occasions, but withheld their decision because of the stipulation. Mr. VanWyck suggested that the Board go with him before the Conservation Commission. He also stated that if the Conservation Commission denies his declaration of intent, he will then withdraw his subdivision plan and wait for a court decision. Mr. Evan proposed that the stipulation be ammended so as not to be subject to the digging of the ponds. Mr. Tierney suggested that the "Conservation Commission hear a notice of intent on the ponds and make

a decision, but that no work be done until the stipulation is lifted." Thaddeus Beal then moved that "in an effort to facilitate a determination on a notice of intent currently before the Conservation Commission concerning the building of two ponds by Peter VanWyck on his land off Turtle Back Road, this Board go on record stating its understanding that the September 1980 appearance and stipulation in Essex Superior Court, Docket # 185722 was not meant to preclude any determination by The Conservation Commission of such a notice of intent, but that any such determination would in any case be subject to said appearance and stipulation." Brad Story seconded the motion, which was unanimously voted.

The Board then received two preliminary plans, one for 12 house lots and the other for only 4 of those 12 house lots. Chairman Ginn said that the plans must be treated as two separate plans. Mr. Beal said that the Board was concerned with the number of houses and their impact on the traffic load of Apple Street, as well as that some kind of a binding restriction that would insure that the lots could not be further subdivided in future be imposed. Board members were given sets of the plans to look over before the next meeting.

Thomas Ellsworth presented a plan for construction of a house on his property on Belcher St. The Board reviewed it and gave it to the Building Inspector for approval.

Respectfully submitted,

Elisabeth Frye, Clerk

Essex Planning Board
July 21, 1982

Present: M. Ginn; B.J. Frye; R. Bresnehan; B. Story.

The minutes of the July 7, 1982 meeting were read and approved. Mr. R. Marsolais of Conomo Point would like to put an addition to the NORTH side of his house on Conomo Point. The addition would be a two car garage with a living room above it. There would be no new bedrooms, no new plumbing. M. Ginn said that the building is within 100' of wetlands and would need Conservation Commission approval. As the lot is non-conforming, Mr. Story would need letters from abutters with their consent.

Paul Borgman brought in plans for Lot A on Harlow Street, to build a house on 45,000 sq. ft. The Board of Health has given permission for a sewage disposal system. Ed Story recommends approval. It was reported that the driveway has already been built and the foundation dug for the house. As Planning Board Approval is not required the Planning Board decided to phone Ed Story who is in the hospital to be sure of his approval.

The Preliminary Plan for the Turtleback development was discussed. The twelve house lot plan was the one formally filed. It was determined that the plan was lacking parts of H of the Subdivision regulations such as ditches, wetlands,, swamps and waterbeds and large trees also missing from plans. The concensus of the board was that it would be all right to leave out the large trees on any plan. It was determined that the plan lacked drainage details and that financial arrangements such as performance bonds needed to be discussed. The Board felt that attorney Evans sould draw up financial plans and discuss them with the board. There was a discussion as to the length of the new road as an extension of Turtleback, considering that Turtleback was already over the allowed length for a cul-de-sac. Since the road is a compromise as the original plan was for a through road and the Board now feels that a through road is a bad idea, the board felt that a compromise on length might be appropriate. Mr. Van Wyck will be asked to correct the problems listed above.

The Board reviewed the May 20, 1981 minutes which stated that the board was polled on the number of lots each member felt appropriate for Turtleback. Mr. CAmpbell had felt that 6 lots was enough, Mr. Bresnehan 6 lots, Mr Story 8 lots. The Board then moved to consider a plan that would allow a maximum of 6 additional lots off Turtleback Road , five in favor, one abstention. IT was then stated that this vote was not binding in any way.

A neighbor complained that there was a new building, built without a permit on Mr. Van Wyck's own property. The building inspector will be informed of this matter.

The fact that Mr. TAlty has totally gutted his building on Martin Street and will do a lot of shipping and receiving at this location was discussed. The letter sent to him was reread. The board wants the building inspector to take a look and see if there are any violations.

PLANNING BOARD
4, August, 1982

Present were Chairman Ginn, Thaddeus Beal and Elisabeth Frye.

Although there was not a quorum, the Board looked at a plan of John and Valerie Henderson for a subdivision of their property on Southern Avenue. The plan proposes a pond and a road to their home and a new house lot. The Conservation Commission has given permission, and an order of conditions for a driveway across the wetland and the building of pond is forthcoming.

Mr. Henderson said the lot was perked on April 14, 1982. He is in a hurry to get started and asked the Board to look at his rough plan and make suggestions so that there would be less time spent after he submits his finished plan. The Board suggested re-routing the proposed road, considered the shape of the lot in relation to our Land Use by-laws, and otherwise suggested that he read the Subdivision regs, which he has in his possession. Thaddeus Beal told Mr. Henderson that he didn't feel that a preliminary plan will be necessary, so the Hendersons plan to bring in a definitive plan on August 18th.

Because of the necessity of making some decisions on the proposed subdivision off Turtleback Rd. by Peter VanWyck, there will be a special meeting of the Board on August eleventh. The plan is to ask John Tierney to attend the August 18th meeting to assist in listing the conditions of acceptance or refusal of the preliminary plan.

CONSERVATION COMMISSION

9, August, 1982

The members asked the Hendersons why they had not told the Commission that they were planning to subdivide their property. At no time, either at their meeting or during an on-site inspection of their property had anything been mentioned beyond their wish to build a pond and a driveway through the wetland. They issued an order of conditions: no grade of the road should exceed 2 degrees, the abutments should be notified, the fill from the pond cannot be used on the road, and the road should end in a t-shaped cul de sac. The Commission wants to see the subdivision plan.

Respectfully submitted,

Elisabeth Frye, Clerk

PLANNING BOARD
11, August. 1982

A special meeting was held for the purpose of discussing the preliminary plan of Peter VanWyck for further subdivision of his land off Turtleback Road., said plan dated March 31, 1982, and submitted to this Board on July 7, 1982.

Those present were T. Beal, R. Bresnahan, E. Frye, M. Ginn, W. Holton, and B. Story.

Thaddeus Beal suggested that Mr. VanWyck be invited to attend the August 18th meeting of the Board with his engineer to further address the matter of wetland areas, standing and moving water, and drainage. The preliminary plan did not provide enough information on these subjects treated in H and I on page 8 of the subdivision regs for preliminary plans--also Section 6, numbers 10 and 12 of the requirements for definitive plans. Section 6.05, number 2 pertaining to the Conservation Commission should also be discussed at that meeting, as well as any waivers Mr. VanWyck intends to request.

The number of house lots was then discussed. Eloise Hodges voiced her concern about the increase in traffic onto Apple St. that would be generated by 12 more houses. She also inquired about the traffic study for which the Planning Board had requested that the Town vote funds. Mrs. Frye and Mr. Holton both said that the addition of 1200 feet and 12 houses to a private road that is already longer than the subdivision regulations specify was not in keeping with the purpose of those regulations, as set forth in Section 1, number 1.01 concerning public safety.

R. Bresnahan made a motion that the "Board accept the number of 12 lots on the preliminary plan of Peter VanWyck for further subdivision on Turtleback Rd. dated March 31, 1982 and submitted to this Board on July 7, 1982, provided that in the future we can legally keep that number at 12 and prevent the road from connecting with any other road." Brad Story seconded the motion. R. Bresnahan and M. Ginn also voted in favor. E. Frye and W. Holton were against the motion.

Robert Marsolais addressed the Board about an addition to the north side of his home at 110, Conomo Point Rd. This plan shows a 2-car garage with a living room above it. A cistern will be located on the east side with a deck over it. T. Beal said "I move that this Board does hereby make a finding that the proposed addition to the Marsolais seasonal cottage at 110, Conomo Point Rd., described in a 5/15/82 application for a building permit will not be substantially more detrimental than the existing non-conforming use to the neighborhood, and that, accordingly, a building permit should issue therefor, subject, however, to any other requirements that may be imposed by any other Town Boards. Brad Story seconded the motion, and the motion was voted unanimously.

Elisabeth Frye, Clerk

PLANNING BOARD MEETING
18, August, 1982

Those present were Chairman Ginn, T. Beal, R. Bresnahan, E. Frye, W. Holton, and B. Story. Michael Ginn reported to the Board that when he had called Mr. VanWyck to ask him to come to the August 18th meeting with his engineer to discuss certain aspects of his preliminary plan for his subdivision off Turtle Back Road (i.e. drainage, standing and running water, road construction etc.) Mr. VanWyck said that he didn't wish to discuss that plan and was going to spend his time on pending litigation. Later he telephoned Michael Ginn to say that he would be at the Sept. 1 meeting with his lawyer and another plan for that area with the road going from Apple Street to Essex Park Road. Bill Holton suggested that the Board request that he put his withdrawal of the 12-house plan in writing so that the Board would not waste more time working with it. Arthur Hodges asked the Board to explain why they had gone along with the number of 12 houses without even suggesting to the developer that he build a lesser number as had been discussed at several earlier meetings. Michael Ginn said the decision was made in an attempt to work with Peter Van Wyck and his lawyer. T. Beal said the plan showed 12 houses, and that is what the Board was working with. Mr. Hodges asked if the Board was accommodating Peter Van Wyck in hopes that he would withdraw his suit. Michael Ginn said that that was not the case. Thad Beal then moved that a letter be sent to Mr. VanWyck stating that "Based on the reported conversation between the Chairman of the Planning Board and Peter VanWyck concerning the status of the preliminary plan for subdivision of his land off Turtle Back Rd. submitted to this Board on 7, July, 1982 and the failure of such plan to provide the information called for under Paragraphs H and I of Section 5.01 (3) of the Rules and Regulations Relative to Subdivision of the Town of Essex, this Board, to the extent required to take formal action on such plan, disapproves such plan on the basis that insufficient information is provided to properly assess questions relating to road construction, standing and moving water and drainage, among others, but that this Board remains available to further discuss such plan in the event that the applicant chooses to go forward with it and supplies the additional required information.

John and Valerie Henderson came with their lawyer to present a definitive plan for the subdivision of their property on Southern Avenue. (See minutes for Aug. 9th) Peter Henderson, speaking for his mother, Mrs. Elizabeth Henderson, who was also in attendance, said that the deed to the applicant's property specified that "only one dwelling shall be constructed or placed on granted premises." Michael Ginn stated that that was a decision to be made by the Hendersons and their lawyers; if John wished to submit the plan, The Board must take action on it.

Mr. Hautala, engineer for the Hendersons, was at the meeting to answer any questions. Some of the points to be considered were the grade of the road as it enters from Southern Avenue, the fact that Parcel 1 appears to be two parcels as it meets the subdivision road, and the fact that the road appears to directly abut Mrs. Bartlett's property. Conservation Commission wants to see the plan

August 18th, 1982 cont'd.

again to consider the house lot and the road which has been moved since they approved the plan. The pond for which they had given approval is no longer a part of the plan. A public hearing is scheduled for Sept. 15th, and notices will appear in the Gloucester Daily Times on September 1st and 8th, as stated in Ch.41. Section 81-F of the Mass. General Laws. The plan will be discussed further on Sept. 1.

Mrs. Eva Paglia presented a plan for new construction on the site of The Essex Package Store on Main St. Brad Story moved that "the Board approve in concept the replacement of and an addition to the existing building, now The Essex Package Store, as presented by Mrs. Paglia on August 18th, 1982, and express its committment, when presented with a proper application for a building permit in conformance with the proposal, to make a finding that the proposed construction shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

The Board of Health has approved the septic system subject to State approval. Conservation is against the plan which almost doubles the size of the old building and will require that the septic tank be suspended and anchored in a wetland. Andy Story said that the State has not approved the system.

Elisabeth Frye, Clerk

PLANNING BOARD MINUTES
Sept. 1, 1982

Present: Bresnahan, Frye, Ginn and Story

Peter VanWyck came to the meeting with his lawyers, Evans and Tully, and a stenographer. Mr. Evans told the Board that Mr. VanWyck was submitting an ammended definitive plan originally dated March 4, 1981 in accordance with Chapter 41, Sec. 81U of the Mass. General Laws. Copies were to be submitted by him to the Town Clerk and the Board of Health. He stated that corrections had been made by his engineer, and he wishes the Board to state specifically where it does not comply, if it does not comply. This plan was turned down by the Board in May of 1981, and is the subject of a court case that Peter Van Wyck has against the Town.

Mr. Evans then referred to the letter in which the Board had denied the preliminary plan submitted on July 8, 1982. He requested that the stenographer turn off her machine while it was read by Chairman Ginn. The letter stated that the plan had inadequate information in certain areas which were listed and stated the Board's willingness to further discuss the plan should Peter VanWyck decide he wished to go ahead with it and provide the additional information necessary for a decision.

Mr. VanWyck and his lawyers wished to see certain Planning Board minutes. They were again made available to him.

Elisabeth Frye, Clerk

PLANNING BOARD
September 15, 1982

Present: Bresnahan, Frye, Ginn, and Story

Chairman Ginn asked for suggestions for a new member to fill the vacancy created by the death of Frank Hardy. Those absent were to be notified so that names could be submitted to Michael Ginn. Earl Spafford, who said he had been notified by the Selectmen, came in to say that he was still interested in the position. He ran for the office in the May 1982 election. He said he felt that agricultural interests should be represented on the Planning Board and the Conservation Commission.

At 8 p.m. there was a public hearing on the proposed subdivision of property belonging to John and Valerie Henderson on Southern Avenue. Their lawyer, Mr. Flynn, explained what they wanted and why, namely access to their property and to the new lot via a driveway across their swamp. George Brown, lawyer for Mrs. Elizabeth Henderson and others of her family, stated that he hoped to be able to effect some kind of agreement between the parties involved that would make the subdivision and road unnecessary. Larry Simpson representing the Trustees of Reservations asked if there would be vegetation on the culvert to keep silt from going onto Mrs. Bartlett's property. John Henderson replied that timothy and vetch would be sown on the culvert and on the edges of the road. Mike Cataldo of the Conservation Commission said that there had been an appeal by abutters to the state to review their decision. He also said that John and Valerie Henderson had requested an amended order of conditions, deleting the pond which they no longer plan to build. Fred Fawcett asked if the stipulation by the Police Dept. that the road enter from Southern Avenue at a 0% grade would mean that the road would have to be wider. He also wondered if that would affect the springs that the Hendersons say are at the side of the road. George Brown asked where the brook comes from and goes to. He also stated that this road could possibly become a road to a larger subdivision in the future. ~~The 44-foot allowance left for the road abuts Mrs. Bartlett's boundary line.~~

The Board then considered the plan, relating it to the points listed in Section 6.02 of the Subdivision Control regulations, Definitive Plan Contents, as follows: 1. Can omit the name. 3. Add the name of abutters across the street. 10. Incision of wetland should be lined on the ~~map~~ plan. 12. Draw in the Base Flood elevation if it applies. Peter Winslow and Peter Henderson Jr. asked about the possibility of flooding on Mrs. Henderson's land.

The Board then looked at the amended definitive plan for Peter Van Wyck's proposed subdivision of land located between Turtleback and Essex Park Roads presented to the Board on August 31st and dated Sept. 1, 1982. It was considered in relation to the reasons for which it had originally been turned down as stated in a letter dated January 9, 1981, from the Essex Planning Board to Mr. VanWyck disapproving it as a preliminary plan, as well as reasons contained in the document entitled "Additional Determinations of the Essex Planning Board re March 4, 1981 definitive plan. The consensus was that there had been little change, and the most objectionable features still exist.

Elisabeth Frye, Clerk

Planning Board
6, October, 1981

Present: Beal, Bresnahan, Frye, Ginn, Holton, and Story

Vito Pascucci, owner of the Cape Ann Auto Body of Grove St., requested a building permit for an addition (36' x 38'). He had letters from the buttors stating that they had no objection to the construction which is 4' from the rear boundary. The Board approved the building permit on the grounds that the proposed addition shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

Garcia Kimball of Essex Realty told the Board that she has buyers for the Charles Knowlton house at 76, Western Avenue. The house is now a 2-family residence, and the potential buyers, Mr. and Mrs. Stanley Patey, wish to convert it to a 3-family house, which will involve no exterior changes to the building. As the by-laws make no provision for multi-family residences, Thad Beal stated that the fact that three (or more)-family houses have been taken out of the by-laws could be taken as prohibition of same. Roger Bresnahan made a motion to postpone the vote on the application until the next meeting when the Board will have had a chance to ask Town counsel for an opinion. The motion was passed 4-2, the two against being W. Holton and B. Story. In April, 1981, the Board had allowed Tony Palumbo to add a 3d apartment to his house on Eastern Avenue. A special meeting will be held on October 12th, so that the Pateys will not be held up if the 3d apartment is to be permitted.

Dan Greenbaum, who is a candidate for membership on the Planning Board, said he is a city planner by training and is employed in Gloucester by the Mass. Audobon Society in "Resources for Cape Ann." He has drafted ordinance changes, revised the use schedule of land in Gloucester and done work on sewer studies. He doesn't wish to prevent growth, but rather to regulate it so that it is done in the best possible way for the community.

George Brown, attorney for Mrs. E. Henderson, Peter, Michael, Diedre, and Jane Henderson Maynard, wanted to go on record as objecting to approval of the subdivision plan of John and Valerie Henderson on behalf of his clients after having brought up the following points and questions:

1. Sec.6.01-1-H of the Town's subdivision regulations regarding ownership and covenants and deed restrictions
2. Sec.3.04 requiring that the applicant's engineer certify that an adequate water supply will be available
3. Sec.6.02-12 drainage
4. Have you waived topography on the plan? B. Story said, "We feel that all we need is shown."
5. Have you considered the elevation of the pipe and the type of pipe? Brad, "Yes".
6. Are you placing a restriction on future development? No, any further development would require submission of a new plan.

~~and Valerie Henderson for the submission of their property on~~

Planning Board
6, October, 1982

Brad Story moved "that we pass the definitive plan of John and Valerie Henderson for the subdivision of their property on Southern Avenue contingent upon the addition of the following to the plan:

1. drawing-in of the road from Southern Ave. at zero degrees for 30 feet.
2. certification of adequate water supply to the new house lot
3. wetlands to be lined in on the plan
4. include names of abutters across the street
5. write on the plan that no lot is to be sold until the road has been built.

Roger Bresnahan seconded the motion and the Board unanimously passed the plan.

Elisabeth Frye, Clerk

PLANNING BOARD
October 12, 1982

Present: Beal, Bresnahan, Frye, Ginn, Story, and Holton

The Board met with Mrs. Garcia Kimball and Mr. Richard Tomiaiolo of the Essex Realty and Mr. and Mrs. Stanley Patey, who wish to purchase the Knowlton house at 76, Western Ave. and convert it from a 2-family to a 3-family residence. Town Counsel, John Tierney, stated that the by-laws set forth what the town allows. They can be both permissive and prohibitive. "If you haven't said it, you have prohibited it." See attached letter for the opinion and jurisdiction. The Town voted at a special town meeting to remove from the by-laws Section 6-6.4 which addressed multi-family residences and apartment houses (June 23, 1971). If a 3-family house existed before that date, it is permitted. Stanley Patey was concerned because Tony Palumbo had been permitted to add a 3d apartment in April of 1981. Most of the Board felt that Town Counsel had not been consulted at that time and therefore the decision had not been correct. Mr. Tomiaiolo this should be judged on merit as a special case. Michael Ginn replied that the Board did not have the authority to grant it. An ammendment of a by-law has to be voted in town meeting. Bill Holton made a motion that the Board allow this use and publish a proposed ammendment which would re-instate multi-family residences and would come to a vote at town meeting. Future applications would be retroactive to the date of publication. Several members felt that this allowed the applicant to act at his own risk, as there was a possibility that the Town might not pass the ammendment. Bill Holton withdrew the motion.

Michael Ginn stated that "the Board, going along with the opinion of Town Counsel, ruled that 3-family houses are not allowed under current by-laws. He added that there should be further discussion and work done toward presenting an ammendment to town meeting. Bill Holton suggested that the Board get Tierney's opinion in writing.

At 8:30 the Board met with the selectmen. Daniel Greenbaum was unanimously elected by members of both Boards to fill the remainder of the term of Frank Hardy.

Elisabeth C. Frye, Clerk

EXECUTIVE SESSION
12, October, 1982

John Tierney advised that unless the Board could deny the VanWyck plan (31, August, 1982 submission) on very specific grounds, the denial would not be upheld in Court as the "traffic" issue would probably not be allowed. He cited the case of "Northlander Corp. vs. the Planning Board (no town name given) in which the Supreme Judicial Court ruled that the subdivision regulations were "rubbery" and not specific enough to let the developer know in advance what was required. It is not enough to say that an access road is too narrow or that the curves are too sharp to handle the increased traffic that the subdivision would generate.

EXECUTIVE SESSION
20, October, 1982

Thad Beal had checked out the Northlander case and discovered that the town involved was Falmouth; it had been heard in the Appeals Court, and had been subsequently overturned in the Supreme Court before the Board had turned down the original plan submitted by VanWyck in March of 1981. It was then decided that one of the reasons for rejecting the amended plan submitted on August 31st could be the traffic issue and the inability of Apple St. to handle traffic from a through road--Turtleback to Essex Park Road. John Tierney said that the Supreme Court found that the subdivision laws are by their nature "general" to suit the various communities. If a plan is turned down, a Board should suggest to the developer ways in which he might develop his land.

The Board discussed reasons for rejection relative to the traffic situation. Turtleback Rd. as an access road aggravates an existing dangerous condition (Apple St.). The grade of the hill is too steep. Guard rails were suggested as a possibility. Apple St., by virtue of its blind curves, steep grades, and the many activities that take place on it, (bicycling, horseback riding, jogging etc.) cannot handle the traffic increase that would result from the subdivision through-road.

John Tierney would bring with him to the public hearing on October 29th a draft of the reasons for rejection of the plan as based on statements by the Board at the Oct. 20th meeting. After the hearing, the Board will finish the job, making the final Certificate of Action to be duplicated and delivered mailed on October 30th, 1982, the 60th day after receipt of the plan.

Elisabeth C. Frye, Clerk



Office of Town Counsel
TOWN HALL
ESSEX, MASSACHUSETTS 01929

October 13, 1982

Mr. Michael Ginn, Chairman
Planning Board
Town of Essex
c/o Essex Town Hall
Martin Street
Essex, MA 01929

Re: Three Family Structures

Dear Michael:

Pursuant to the Planning Board's request forwarded by you to this office, I have reviewed the validity of restrictions of three family homes from construction in the Town of Essex.

A review of 6-1 "Zoning By-Laws" for the Town of Essex indicates that the Town, in the adoption of its Zoning By-Laws, enumerated the types of structures and uses that were contemplated as allowable within the boundaries of the Town. The Zoning By-Laws need not be both permissive and prohibitive in form. They may utilize one or the other, or both forms. The fact that the uses permitted are enumerated without a statement that all other uses are prohibited, does not invalidate the Zoning By-Laws. McQuillan Municipal Corporations (3d e.d.) Section 25.124; Rhynne Municipal Law, Section 32.6 Page 834; Building Inspector of Chelmsford vs. Belleville 172 N.E.2d 695.

"It is a familiar principal of interpretation that expressed mention of one matter excludes by implication other similar matters not mentioned. Building Inspector of Chelmsford vs. Belleville, Supra.; Foster vs. Mayor of City of Beverly 315 Mass. 567, at 569, 53 N.E.2d 693, 694 151A.L.R.737.

Town of Essex Planning Board
October 13, 1982
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Thus, it would appear that it was the intention of the Town, in formulating its Zoning By-Laws, to prohibit the use of three family residences within the Town. In that the Courts will generally protect such by-laws by asserting that every presumption exists in favor of the validity of an ordinance passed under its enabling provision, it would seem that this restriction will be sustained unless there is no substantial relation between it and the furtherance of any of the objects mentioned in the statute. The "statute" referred to in such language is the Zoning By-Law itself in Chapter 40A, both of which state that the purposes are for the promotion of the health, safety, and welfare of the Town's inhabitants.

Thus it would seem that this restriction would only be set aside if it involves mere arbitrary exercise of power having no substantial relationship to the objects sited. Where the reasonableness of a restriction is fairly debatable, the Court cannot substitute its judgment for the local legislative body. Caires vs. The Building Commissioner of Hingham 323 Mass. 589, 83 N.E.2d 550.

If the restriction of three family dwellings is a legitimate promotion of a public objective, then the Court will find it constitutionally valid as a general police power unless it is clearly arbitrary, unreasonable and having no substantial relation to the public health, safety, morals and general welfare. Village of Euclid vs. Ambler Realty Company 272 U.S. 365 47 S.Ct. 114. In prior instances the Courts have found it permissible to lay out zones where family values, youth values and the blessings of quiet seclusion and clean air make the area a sanctuary for people. Village of Belle Terre vs. Boras 416 U.S. 1, 94 S.Ct. 1536. The power to regulate and restrict is granted to a city (or town) for the purpose of "promoting the health, safety, convenience, and morals or welfare of its inhabitants. Regulations so enacted may be designed so as, among other things, to prevent over-crowding of land and to avoid undue concentration of population. Philip vs. Board of Appeals of Springfield 286 Mass. 469, 190 N.E. 601.

I believe that the foregoing should assist the Board in determining any further action that it may desire to take with regard to the question of three family structures in the Town of Essex. If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,


John F. Tierney

JFT/clm
cc Board of Selectmen

PLANNING BOARD

October 20, 1982

Present: Ginn, Beal, Bresnahan and Frye

The Board went into executive session to discuss action on the definitive plan for subdivision of land off Turtleback Rd. submitted as an amended plan by Peter VanWyck on August 31, 1982. and the pending litigation.

Valerie and John Henderson attended with their engineer, Matt Hautala. They were told that the Board was unable to sign their subdivision plan until after October 26th. The plan had been approved subject to five conditions listed in the minutes of October 6th. There is a twenty-day waiting period before the signing during which any appeals may be made. The Board checked the five corrections. Only one had not been addressed. As there is no town water on the Henderson property, the Board had requested a written statement from the engineer that an adequate supply of water would be available. Mr. Hautala said that he would submit in writing that in his opinion this was the case. The Board planned to sign the plan on October 29th if Town Clerk said there had been no appeals.

Mike Cataldo, grant's co-ordinator, asked if the Board was ready to agree to low-income housing in Essex. He explained that the Town would not be eligible for State funding if it had not made such a provision by examining its by-laws and demonstrating a willingness to explore the possibilities for such a project. As there is no provision for multi-family dwellings or apartment houses in our by-laws at present, the issue becomes complicated. The Board agreed to discuss the matter and its many ramifications further at another time.

Peter Smick of the law firm of Gregor I. McGregor which has been retained by a group of "concerned citizens" asked the Board how it would meet its 60-day deadline and stated that the plan should be submitted as a new rather than an amended plan. It should come in under the new rather than the old regs. Although Chapter 41 Section 81U of the M.G.L. doesn't say how long an applicant has within which to submit an amended plan, nor is the statute clear on which regulations apply, case law has made it clear that the revised application is to be treated as a new application.

The Board then reviewed the plan with special attention to road grades and drainage. Information on wetlands in the area, where water comes from and goes to and how much, was inadequate, so the Board was unable to tell if the culverts were large enough or properly located. David Elwell was helpful in locating swamps, ponds, and seasonal running water. Roger Bresnahan said that the construction of a road in so many wet areas will have an important environmental impact. Thad Beal asked that John Tierney be asked to prepare a finding that the Board may require a 7% grade where the old regs specify 7-10% if they deem it necessary in the best interests of public safety.

Elisabeth C. Frye, Clerk

Essex Planning Board
October 29, 1982

Present: M. Ginn; D. Greenbaum; E. Frye; R. Bresnehan; B. Holton;
and B. Story.

This meeting was a public hearing on the Definitive Plan for Subdivision off Turtleback by Peter Van Wyck.

The reading of the minutes of the last meeting was waived. The first issue under discussion was the through road from Essex Park to Turtleback. The board was reminded that there has already been a public hearing on this matter and that Mr. Van Wyck had attempted to clean up the problems of contours and drainage but that the road was the same.

Attorney Gregor Mc Gregor was present to represent the interests of Apple Street. It was established that neither Peter Van Wyck nor his engineer was present at the hearing.

It was established that three of the eight sheets of the submission were missing. It was established that on sheet 5, station 5-6 that the grade is 9.5% on the curve and the regulations say 7% maximum. It was noted that Attorney Tierney has told the board that it could take a position on the 7% grade, and that the DPW has said that they want the grade kept as close to 7% as possible. It was also noted that on sheet 6, station 11 to 00 the grade is 8.8% on a curve and at station 32 the grade is 8.1% on a curve.

The board then discussed the drainage. It was determined that there were not enough contour intervals to make logical guesses as to where water might run. It was determined that the wetlands are not properly or clearly indicated. Some of the specific problems indicated were:

Station 3 + 25 indicates a 12' conduit. The question is if that can handle 40' to 70' runoffs from a large slope.

Station 14 + 75 has insufficient contour intervals and board cannot picture what is there making it hard to determine if a 12" culvert is sufficient.

Station 16 + 18 shows insufficient information to address site.

Station 18 + 90 also shows insufficient information to address site on a low spot where water could be a large body of water making it hard to determine if an 18" culvert is sufficient.

Station 20 + 50 insufficient information to determine if a 12" conduit is sufficient.

Station 34 + 75 shows no contours at all with an 18" conduit.

There was then a discussion as to how many house sites were being requested on the whole development. There is no determination as to how many house sites Mr. Van Wyck plans on the whole development. The board feels strongly that no one else on Apple Street will ever be able to develop their property in any way if this plan goes through.

Attorney McGregor then gave strong reasons why the board should disapprove of the plan.. He said that Mr. Van Wyck had given no purpose for his road changes. He said that the plan was difiniteve in name only and that it did not contain enough information and was virtually the same as his last rejection. He feels that the amended plan should be treated as a new submission and should be considered under the new regulations. He feels that the board has used totally valid reasons for disapproval and that the regulations are clear enough to go by. He then went into more specifics as to why the plan was inadequate and said that it should be disapproved under the old and new regualtions. He said that the stipulations should be enforced until the board is satisfied that all impact has been minimized.

The public then spoke of public safety in the Apple Street area and reminded the board that the first plan was turned down in large part because of the traffic hazard. They were also worried that MR. Van Wyck was already putting in culverts, tires and changing some contours. IT was also stated that Apple Street had never been laid out or accepted by the Town of Essex.

There was then a motion to disapprove the plan because of all of the issues of traffic impact and that all of the issues of the last difinitive that caused that disapproval have not been met and because of insufficient information in regards to drainage, grading and etc. The vote was unanimous in favor of disapproval.

Essex Planning Board
November 3, 1982

Present: M. Ginn; E. Frye; D. Greenbaum; B. Holton; T. Beal;
R. Bresnehan.

The minutes of the October 20, 1982 meeting were read,
corrected and accepted.

Mike Kopanon is interested in purchasing a house on Eastern Avenue sited on 3.6 acres with 164' frontage. He wants to change a one family into a two family by taking out bedrooms and adding one bathroom and one kitchen. After discussion there was a motion that: based on the oral proposal by Mike Kopanon that he purchase the premesis at 150 Eastern Ave. and convert same to a two family residence by eliminating the present business use, that this board hereby finds that the proposed alterations of the existing non-conforming use be permitted pursuant to 6-4.2 of the bylaws, it shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. The vote was unanimous in favor.

In anticipation of a scheduled meeting with Peter Van Wyck at 8:30pm, the Board discussed whether or not it would entertain anything further in regards to the plan that was just turned down of Mr. Van Wyck. The Board determined that it would like a time limit on any discussions which relate to matters which had been previously discussed by the Board with the applicant.

The Board then discussed the fact that they all feel that they should spend time planning for the future development of Essex. There was discussion as to whether to have whole meetings just for planning or turn the meetings over to planning after 9:00pm. IT WAS DECIDED TO TURN THE 11/17/82 MEETING OVER TO PLANNING AT 9:00pm.

Mr. Peter Van Wyck then came before the board. He stated that he had supposed that the board would not take action on October 29, 1982 on his Turtleback difinitive plan and that he stated that he wanted to attempt to narrow the areas of concern of the board and a discussion of the outstanding issues followed.

Mr. Holton stated that Mr. Van Wyck had withdrawn the tear-drop proposal at the last minute after extensive discussion by the board. Mr. Van Wyck said that he wanted to work with the difinitive plan that had just been turned down, and he wanted to work simultaneously with one member of each of the Essex Boards to solve his problems. The Board responded that no single member of a board could bind a board and that such a proposal should be left to the lawyers. Mr. Van Wyck then explained that the missing pages had been submitted with the first submission and that only pages with changes had been resubmitted. The board was tasked to reconcile the pagenations with pre-existing submissions.

3/4/81 [signature]
w/ [signature] 1, 2, 3, 4, 5

-2-
11/3/82

The Board then considered the matter presented by the office of Community Development on diversity of housing by examining zoning by-laws. The Board wanted to know the implications of the request for their active support. After discussion the note was changed to cover the by-law discrepancies and signed, as a "bargaining start."

A letter was read from the Perotti's attorney asking for a correction of the parking lot problem. He said that the Scores should not be parking within five feet of the fence they had put up.

The meeting was adjourned.

Essex Planning Board
November 17, 1982

Present: M. Ginn; D. Greenbaum; E. Frye; B. Holton; T. Beal & B. Story.

Tom Ellsworth, speaking for the Trustees of the Reservations, and for Mary Stavros, owner of the Cape Ann Golf Course, requested that the Board sign the plans for subdivision of her property on John Wise Avenue and John Wise Road where she is turning part of her property over to the Tru-tees. The land she is giving to the Trustees will merge with other land gifted to them, the merger creating enough frontage to meet subdivision requirements.

There was a motion to approve the plan, subdivision not required, subject to the notes on the plan which create usage restrictions. The vote was unanimous in favor to sign the plan.

Mr. Tom Shea requested permission to put a bakery in his garage on his business property. He would then lease the property to a bakery wholesaler. The space is 15' x 17' and would use the parking used in the evening for restaurant customers. The Board established that the building is extant and has been a business before, that the situation involves a pre-existing non-conforming lot and building. The board then decided that it must be careful to protect future use of the building.

There was a motion to find that the proposed use for a wholesale bakery operation would not be substantially more detrimental to the neighborhood than the existing non-conforming use. The vote was unanimous in favor. The Board requested that Mr. Shea be sure to go before the Boards of Health and Conservation.

The question arose as to whether or not Tim Holland of Southern Avenue can have a home occupation of welder in his home. The chairman will set a time for him to come before the board to discuss the matter.

Mike Cataldo presented further remarks on the proposal for state and federal funding for multi-family low income housing in Essex. He said that many state and federal grants in other areas depended on the town's co-operation on this matter. Even though Essex zoning does not allow multi-family housing, it was determined that the state law on the matter overrides the local ordinances. It was decided that Mr. John Lehr of the State board will come before the Board on Dec. 1, 1982 at 7:30pm to answer questions on the proposal.

The board then discussed zoning. After much discussion it was determined that the board would begin by making a list of potential changes in the bylaws.

The Board reviewed the 1970 comprehensive plan produced by the Sewall Company of Old Town Maine. It was decided that designing zones in Essex would be very difficult because of the character of the town, but that people's property investment should be able to be protected. IT was also decided that the Board might need technical help to review what was being planned by them.

The discussion will continue at the next meeting.

Essex Planning Board
December 1, 1982

Present: M. Ginn; B.J. Frye; R. Bresnehan; D. Greenbaum; T. Beal, B Holton.

Mike Cataldo presented John Lehr of the Governor's Housing Program, Office of Community Development, spoke to the Board on the program for family housing, that is, subsidized housing in the community managed by local agencies. He said that the state has control now of a large number of Federal grants to use for subsidized housing.

He said that the town is not bound to do anything but compliance will improve town's chances for state funds. Mr. Beal asked for a description of Chapter 705, how it might affect Essex and does it override town zoning. Mr. Lehr said that the money may be used in anyway the community sees fit, within certain guidelines, ie: new construction, renewal of extant structures; conversion of old municipal buildings, etc, and that 3-5 units would probably be appropriate for Essex. Mr. Beal then asked for a realistic turn around time for a town new at applying for funds. Mr. Lehr said about 180 days to get everything together and that the state would like to advise during process of choosing site, etc.. Mr. Lehr stated that the application is only looking for demonstrated support by the community. He said that the local housing authority would own and manage the properties and that there would be no cost in real terms to the community. Mr. Ginn asked if there was any risk of the subsidies becoming a burden of the community. Mr. Lehr said that it was highly unlikely that the state support would end.

Mr. Beal then moved that; the Planning Board support the intentions and goals of the Board of Selectmen as expressed in the memorandum of agreement with respect to housing development dated 11/1/82 and shall exercise its best efforts to support the implementation of that agreement. The vote was unanimous in favor of the motion.

Mr. Story presented a proposal for a new sign at the Post Office Complex. The request was for 102 square feet, 6' by 13', which would be closer to the building than the present sign. After discussion the board recommended that the new sign be no closer to the road than the current sign and that it not restrict the vision of cars.

It was reported that Tim Holland of Southern Ave only wanted a small sign advertising his mobile welding unit on his property, and to be able to park his business truck in his driveway. The board recommended that as long as no material is visible and that the sign is no larger than 6 sq. feet they would have no objections.

The Board then brought up the Peter Van Wyck litigation and after polling the members, decided to go into executive session, Mr. Story and Mrs. Esmiol to remain.

The Board then renewed its discussion of Zoning changes. The first step was to make a list of problems and changes.

- Cluster zoning
- Home occupation
- Industrial B uses 6-6.8 Side lot requirement too small and back lot requirement also scant.
- Clarify by-law with respect to multiple use, ie: business and residential.
- Multiple family dwellings need specifications
- Look at other by-laws to see if they have better definitions of business, agriculture, etc.
- 6-4.2, permission to build within 3 years should be changed to 2 years.
- Consistant definition of 'screening'
- Issue of apartment houses and condominiums.
- 6-5.6 and 6-6.7c screening.
- Parking requirements for business use in addition to 6-5.8i,t,k. also, can a lot have more than one front yard re: parking requirements.
- Should overall square footage of development include paved areas?
- Signage provisions in 6-6.5.
- Are there any implications for our by-laws in state law changes, re: non-conforming use?
- Hazardous waste/toxic substance/septic system bylaws need creating.
- What is and what isn't an industrial park?
- Conditions for construction of wind generators vs. special permit, or some combination of both?
- Should parts of town have lot size zoning...1-4 acres? Should perc tests be assessment of lot's usability?
- Should zoning surround town's planning of amenities?
- No protection for current or future watersheds.
- Idea of creating ordered growth with cluster zoning and open space.
- Should zoning be tied in with sewer planning or elevation map? Idea of land under 15' elevation not having any density of population.
- That commercial and industrial development not be detrimental to current and planned residential housing.
- Conform 6-3.18 with 6-3.28. Public ways.
- Signage...square foot limitations in the aggregate.
- Uses subject to special permit at Board discretion, as structures over 35'; gas stations; decible levels and the like.
- Recheck other town by-laws for their ideas and comprehensiveness.

Essex Planning Board
December 15, 1982

Present: M. Ginn; E. Frye; B. Holton; B. Story.

Mr Richard Durant wanted to know if he could get a building permit to build on Lot 4, of Dennis Outwater's property on Belcher St. There was a unanimous motion to allow a building permit based on 6-6.2, p. A, as the lot size is 30,001 sq. feet and meets all requirements as to frontage.

Reverend Frank Murray of Western Avenue and Centennial Grove Road brought in plans for an addition to the Fairhaven Chapel. The proposed building would be 6' above the road and 3 1/2' from the stone wall on Western Ave. It was pointed out that there are no by-laws regarding chapels and churches. The Board recommended a practical approach to the setback. It was established that the building would actually be about 15' from the edge of the road. The Board has no objection to the proposed addition.

The Board then voted that its decision still stands regarding the Board of Appeals letter to the Planning Board concerning its decision on Charles B. Knowlton of 76 Western Avenue.

Essex Planning Board
January 5, 1983

Present: M. Ginn, E. Frye, B. Holton, D. Greenbaum, T. Beal
B. Story, R. Bresnahan

A letter from the Board of Appeals to Ed Story was read. The letter ordered him to give a building permit to Charles B. Knowlton of 76 Western Ave. for construction of a third apartment. The order has a one year life. It was noted that the original meeting and also the second meeting of the Board of Appeals were not properly noticed. The Planning Board decided that it would not appeal this decision, but that some aggrieved party could as the meeting were not properly noticed.

Mr. Kneeland of Nucletronics, Inc. came before the Board to announce that his firm was leasing the old Industrial Cab Building on Western Avenue. He said that the firm is owned by Swedish interests and would be designing and fabricating scientific instruments with medical and physics research applications. When questioned, he said that there would be no toxic wastes, that the firm would employ up to 20 persons, that there would be no excess noise, and that even though their first contract with Bell Labs involved a microtron accelerator, there would be no radiation problems. He did state that people might notice that their TV reception was affected. He asked the Board to tell him if there would be any zoning problems if he condominiumized the location, and what the other possibilities of subdivision might be, as his firm is interested in buying the building and sharing the ownership with other companies (or with one other company).

The Board was then advised that Jane Adams had requested a building permit for a second apartment in her building on Main St. next door to the Essec Radio and TV. The apartment has already been built and rented in space formerly allocated for office use on the second floor. There is another apartment on the second floor, and the first floor houses an antiques cooperative. The Board was advised that the neighbors were worried about the amount of parking available for the second apartment. The Board determined that it should make a finding on the matter and that Mr. Story will investigate. The Bevilaquas will be invited in to discuss the matter along with any other concerned parties.

The Board then moved to go into executive session with Mr. Story remaining. The roll call was unanimously in favor. As he left, Mr. Fawcett strongly urged the Board to hire special counsel to help with the lawsuits brought by Mr. VanWyck. The Board noted his statement.

PLANNING BOARD

19, January, 1983

Present: Ginn, Beal, Bresnahan, Frye, Greenbaum, Holton and Story

Mr. and Mrs. Roland Adams, owners of the building at 38 Main St came before the Board because of a complaint by Betsy and John Bevilacqua, owners of Essex Radio and TV, whose lot abuts the Adams lot. The Adams' building contains an antique shop on the first floor and two apartments on the second floor. One of the apartments has been there for several years. The new one was made by adding a shower and kitchenette to a former office and toilet. The Bevilacquas have said that there is not adequate parking space for a second apartment and as a result, their space is being used. Mrs. Adams said that the space between the two buildings is ~~for use~~ available to either for parking, but that they don't use it and have also rented two spaces behind their building to alleviate the parking problem.. The Adamses did not obtain a building permit before adding a second apartment. As the building is on a non-conforming lot, in determining whether the addition of the second apartment is more detrimental to the neighborhood than the existing non-conforming use, the Board decided to deferrany decision until the meeting on February 2, 1983, at 8 p.m. in hopes that the Bevilacquas and any other interested parties will attend. The Bevilacquas will be notified of the meeting by mail.

Bill Holton has plans for a home occupation in an accessory building on his property at 2, Maple Street. As presently described, it would meet all criteria of home occupation as defined in the Town's by-laws.

Peter VanWyck advised the Board that it should do its job which is to "plan, not police". He said the Board should take a position on the wastewater and sewage proposals--in the affirmative. He said the proposed sites (the landfill and his Low Land Farms property) were excellent choices because land otherwise "un-perkable" could become available for high density development. Bill Holton pointed out that the proposed wastewater plant is for South Essex and the causeway. It is not a long-range solution that will serve other areas in the future. VanWyck told the Board it should be planning housing for the elderly and should zone the Town with some areas designated for large lots and others for a higher density of smaller lots. Michael Ginn thanked Peter Van Wyck.

After the Board saw the last 2 sections of the December '82 new Docket #82-2624 filed in Superior Court, ~~the last section~~ entitled "Affadavit in opposition to defendants' motion to strike and motion to dismiss by Peter VanWyck" and "memo of law in opposition to defendants' motion to strike", both dealing with the civil rights issue, Dan Greenbaum moved "that we ask Town Counsel to seek and obtain the previously offered assistance of the Attorney General's office in response to paragraphs 13 and 14 and prayers 3 and 4 of ~~the complaint and the motion~~". The motion was passed unanimously (with the exception

the complaint. The motion

PLANNING BOARD

con't.

19, January, 1983

of Beal and Story who had gone home).

*The following is part of the regular meeting and occurred before the Executive session:

The Board considered a list of proposed changes and additions to the by-laws for possible inclusion on the Town warrant. Selected or further discussion at a special meeting on January 27, 1983, were the following:

1. abandonment
2. multiple-family dwellings
3. 6-4.2-non-conforming uses. Permission to build changed to 2 years to conform with MGL.
4. Sign provisions as follows: To see if the Town will vote to amend section 6-6.5, Business Use, by adding the following:
 - d. Signs. Total area of signs shall not exceed 32 square feet.
5. Wind generators *delete*
6. Erection of More than One Principal Structure on a Lot (deleting 6-5.5 as it exists and substituting as proposed in Article 36 of the 1982 Townwarrant)

Elisabeth C. Frye, Clerk

Essex Planning Board
February 2, 1983

Present: B.J. Frye; B. Holton; R. Bresnehan; B. Story; T. Beal; D Greenbaum.

With Roger Bresnehan in the Chair the Planning Board went over the final warrents for the public hearing scheduled on February 23, 1983.

The Board then opened to an informal public hearing on the matter that the Adams did not have a building permit to convert an office in their building into an apartment and that the work was ~~well underway~~ *finished and the apartment rented*.

The neighbors, Mr. and Mrs. John Bevilaqua, stated that the history of the property was relevant to the current problem. They said that there was no single parking space for the building, that Jeffrey Reebon had done a lot of work on the building when he owned it without building permits, that in 1972 there was one lav upstairs and no plumbing downstairs, that in 1981 Roland and Jane Adams had put in an inside wall for a staircase, hot air heating system, a toilet on the first floor and other changes without a building permit.

Mr. Story said that in 1977 there was a permit for upstairs alterations to create space for the same business as downstairs

Mr. Bevilaqua then stated that the septic system was too small for two apartments and that it was on a neighbor's property anyhow.

Mr. Adams stated that the issue is a change of use from business to apartment. He said that the septic system had been inspected by Mr. Capel. Mr. Story said that the Board had no report from Mr. Capel on the capability of the system.

Mr. Adams said that there have been no problems with the septic system and asked if an apartment were more detrimental than a business. He stated that there would be less of a parking problem with an apartment and that he would be willing to provide off street parking spaces if it would solve the problem, though there was no standard in town that two spaces be required with any other apartments. Mr. Adams stated that there were four functions when he bought the building, three businesses and one apartment.

The Board stated that there comes a point where a magnitude of business use amounts to being an alteration of use..

Mr. Adams stated that no other neighbors had complained about the parking problems. He went on to say that the board knew of the three businesses in 1981 when he got a permit to put a door in the side of the building to have access to the upstairs office.

The Board discussed that the new bylaws require more parking spaces for businesses than residences. They requested that Mr. Adams be willing to provide two parking spaces for the unit. He agreed.

There was then a motion: that a building permit for a second apartment in the Adams' property be denied on the grounds that conversion from an office to an apartment would be substantially more detrimental to the neighborhood than the current use. The motion carried three to two with the Chairman not voting.

Essex Planning Board
February 16, 1983

Present: R. Bresnehan; B.J. Frye; B. Holton; T. Beal; D. Greenbaum; B. Story.

Mr. Roger Bresnehan was acting chairman.

Barbara Dyer came in to discuss her permit for an addition to the barber shop at 69 Main Street. The building currently houses a barber shop, antique shop in the cellar with two apartments, on a non-conforming lot.

She brought in plans to add a breezeway and shop with a garage underneath the side of the building. There is a large parking lot on the premises which will not be used for the addition. The permit requests no additional plumbing. The building will be post and beam construction and will be used as an antique shop in connection with the space already used for a shop.

The Board said that letters from the abutters would help in determining the affect of the new addition on the neighborhood. The Board decided it would like to have an informal hearing on March 2, 1983 so that they would have time to view the site. Mrs. Dyer asked if there were any problems that might be foreseen. The Board said that it would like a plan for the parking, and have the plan state that it would entail only two businesses on the property. There was then a motion to have an informal discussion and consideration at 8:00pm on March 2, 1983 and that the Gloucester Times would give notice of the hearing. The motion was seconded and the vote unanimous in favor.

Chuck Johnson from Hancock survey came in for signatures on a plan with approval not required. The land is in Hamilton and Essex and is owned by Nippe, Hall and Desmond, on lots off Chebacco Road. Lot M5 is to be combined with lots Me and A-1, and conveyed to Duca and Wolf. Lot M6 is to be conveyed to Duca and Wolf or the current owners. Only one small piece in Essex is involved, which isn't changing hands. As a motion was not needed, the plan was signed.

Essex Planning Board
March 2, 1983

Present: B.J. Frye; B. Holton; B. Story; T. Beal.

Barbara Dyer came before the Board for an informal hearing on her request for a building permit for an addition to the property at 69 Main St. She said that Carlton Carter and the owner of Skipper's Galley both approved of the addition. She brought in plans of the lot showing the amount of parking. She stated that the conservation commission had said that the addition was more than 100' from the river and that the plan did not need their approval.

Mr. Beal said that the building would be a fine addition to the causeway and that there was substantial parking, which distinguishes this non-conforming addition from several other downtown requests. He felt that the board should be assured that there would be a permanent right of way onto the parking area. Mr. Story reminded the board that the addition was non-conforming in terms of the distance of the building from the sidelines.

Mr. Beal then moved: That based on the representations of the applicant, Barbara Dyer, that she has spoken to and received both concurrence and encouragement from all her neighbors and abutters, for the proposed addition to her property at 69 Main St, as set forth in her application for a building permit dated 2/14/83 and specifically conditional upon (i) the proposed addition having no plumbing and being used only as a single business extending the existing antique business in the basement of the existing building, specifically restricted to a single business use, (ii) obtaining and filing with the Registry of Deeds a right of way for access to her parking lot from the property owner abutting the east side of the property, and (iii) constructing the access to the parking lot in a manner to facilitate the free flow of traffic, notwithstanding the fact that such access is not represented on the plans; and based on the special qualities of the neighborhood, the particularly suitable design of the proposed addition and the enhancement it will bring to the causeway, the board finds that the proposed extension of the existing non-conforming use for the non-conforming structure as set forth in the application is not substantially more detrimental to the neighborhood than the existing non-conforming use and structure and that based upon the foregoing, the building permit be issued.

The vote was unanimous in favor.

Reverend Frank Murray presented the board with his new plans for an entrance to the parking lot of the Fairhaven Chapel off Centennial Grove Road through land owned by the town. He plans to amend his warrant for town meeting and wanted to know if the board had any suggestions or problems. The board felt that the matter is out of their hands.

Frieda Arkin of 1 Winthrop Street requested a building permit to raise the roof of her house. After reviewing the plan the board decided that the proposed alteration was not substantially more detrimental to the neighborhood than the current use and therefore they would allow the alteration.

Mr. Story presented a proposal by Quinn Brothers to close in the truck entrance to the Post Office on Western Avenue. According to tenant of the building, Richard Tomiello, none of the abutters objected to the proposed alteration.

The Board, after review of the proposal moved: That based on the plot plan labeled Quinn Brothers Iron Works of the Post Office, the accompanying letter of the postmaster, and the nature of the proposed alteration of the non-conforming structure, the Planning Board finds that such extension would not be substantially more detrimental to the neighborhood than the existing non-conforming use and structure and authorize the building inspector to issue a building permit upon application for permit which in his judgement conforms with the plan presented to this meeting. This motion is subject to the expression of the neighbors that they have no objection.

The vote was unanimous in favor of the motion.

Mr. Story said that a prospective tenant of the Burnelle building on John Wise Avenue wants to build staging in the building and that he told the tenant that he could not do that.

There was then a motion to adjourn the meeting.

Essex Planning Board
16, March, 1983

Present: M. Ginn, E. Frye, W. Holton D. Greenbaum, B. Story,
R. Bresnahan

Edwin Perkins told the Board that he wants to add to the quonset building on his property on Main Street. The existing non-conforming building is 18" from the property line between him and Pike's Marina. Pike's building comes up to the line. Ed Perkins must go to the Conservation Commission as the addition will be less than 100 feet from wetland in two places. Brad Story moved that the "Board approve the proposed addition to the non-conforming building of Edwin C. Perkins on Main Street on the grounds that it is not substantially more detrimental to the neighborhood than the existing non-conforming use." The motion was passed unanimously.

Ed Story told the Board that Robert Burns wishes to add a breezeway and garage with an apartment above it to his property on School Street. Brad Story moved that "the Board approve the proposed building of Robert Burns on his property on School Street on the grounds that the proposed non-conforming building is not substantially more detrimental to the neighborhood than the existing non-conforming use providing that the Building Inspector receives letters from the abutters stating their approval of the project."

Essex Planning Board
April 6, 1983

Present: M. Ginn; R. Bresnehan; D. Greenbaum; T. Beal; B. Holton.

There was a motion to waive the reading of the minutes of the prior meeting. The vote was unanimous in favor.

Mr. Walter Rich of Water Street brought in plans for an addition to his garage which would be 20' by 20', a single story addition to a 2 1/2 story garage, the addition being 10' from the border of his property. As the lot is non-conforming, the board wanted assurances that the neighbors did not object. There was a motion that the Board finds that the proposed addition at 16 Water St. is substantially not more detrimental to the neighborhood than the existing non-conforming use and that the building inspector give a permit pending receiving letters from the abutters not objecting to the addition. The vote was unanimous in favor of the motion.

Mr. Paul Herrick of Cape Ann Sign Company brought in a proposal for new signage at Quinn Bros on Western Avenue. It was determined that to allow the new signage would make the current non-conforming use less non-conforming and far more attractive to the neighborhood. There was then a motion that the prior non-conforming signage use of Quinn Bros on Western Ave be permitted to be altered by removing all existing signage other than the sign presently located on the roof and to replace such removed signs with the form of proposed signs as presented to the Board at its meeting on 4/6/83, the Planning Board having found that such alterations subject to such conditions will not be substantially more detrimental to the neighborhood than the existing signage. The vote was unanimous in favor of the motion.

Mr. Paul Russell of Gullwing Service Company came before the board to present his plans for renovation of the interior of part of the Industrial Cab Building on Western Ave. His company renovates Mercedes. Mr. Russell discussed his plans for containment of various pollutants used in the remodeling. The board had no objections to his proposed use of the property.

Barbara Dyer's application for construction was reviewed. It was noted that she has a new cut off the highway rather than access through her abutter's property, the new cut creating a situation of less than optimal parking as far as the Board could determine. The Board determined that no building permit be issued until Mrs. Dyer meets the requirements as established in the vote of the board's meeting of 3/2/83.

Mr. Ginn then read a letter from Attorney John Tierney regarding the Van Wyck litigation.

It was then proposed that a part of the next meeting be set aside to assign amendment presentations to the board members.

There was then a motion to adjourn.

Essex Planning Board
April 20, 1983

Present: M. Ginn; B.J. Frye; R. Bresnehan; D. Greenbaum; T. Beal; B. Holton.

There was a discussion of the parking lot in connection with the proposed addition to Barbara Dyer's property on Main Street. The board had given its original approval subject to enough parking spaces. Mr. Ed Story said that if they use the extant curb cut they will have the same amount of parking as if they had used the right of way. The board decided that they need a to scale drawing of the parking spaces. Mr. Story will bring the plan to the next meeting.

Mr. John Rohner is trying to place his business of building wire lobster traps in Mr. Brunelle's storage shed on John Wise Avenue. He came before the board to discuss the limited use of the property as decided by the Board of Appeals. He was told that the site does not have enough square footage to contain more than one business and that the storage building could not be used for any other use and, due to its closeness to the wetlands, could never have any plumbing. He was told that if his office were in the main building, he could use the accessory building for storage, but not for manufacturing.

Mr. Joseph Ginn came before the board to discuss the building of a two bedroom home on the back part of his eighteen acres on John Wise Avenue. It was noted that there were already four dwellings on the property, but that the property had enough frontage for many more dwellings without violating the zoning bylaws. Mr. Ginn said that the land was in a family trust and he was trustee and that the new dwelling would not be sold off, but would become a part of the common trust. The board had no objection to the proposed building.

Mr. George Hayes came before the board to request that the board sign plans for conveyance of a 10' strip of land of Peter Ross on School Street to Esmerilda Singer. The variance had been granted on 2/15/66 and the old plan had been signed by the Planning Board in 1967. Since there had been a conveyance of back land, a new plan needed to be signed. The board agreed to sign.

Mrs. Kimball, representing Francis S. Lowe of 74 Western Ave, came before the board to get their opinion on her splitting up her land into three parcels, the first parcel having 111' frontage and 1.56 acres with no existing building; the second having 173' frontage and 1.06 acres, the third with a 30' existing roadway and 7 acres. The Board, after much discussion, decided that she would have to go to the Board of Appeals on the first parcel, due to the fact of limited frontage, that the second lot met zoning requirements; and that she should determine the extent to which she wanted to develop the third lot, that is, with a roadway into one 7 acre homelot or with the possibility of a subdivision, which would require a public hearing and a waiver of the 44' requirement unless she got a 14' further right of way from her neighbor. The board felt that there could be negotiated a sensible plan with subdivision not required if she only wanted one lot.

Essex Planning Board
April 20, 1983

Present: M. Ginn; B.J. Frye; R. Bresnehan; D. Greenbaum; T. Beal; B. Holton.

There was a discussion of the parking lot in connection with the proposed addition to Barbara Dyer's property on Main Street. The board had given its original approval subject to enough parking spaces. Mr. Ed Story said that if they use the extant curb cut they will have the same amount of parking as if they had used the right of way. The board decided that they need a to scale drawing of the parking spaces. Mr. Story will bring the plan to the next meeting.

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Essex Planning Board
4, May, 1983

Present: M. Ginn, E. Frye, W/ Holton. D. Greenbaum, B. Story,
T. Beal, and Bresnahan

Ed Story brought in a revised plan of the access to the parking lot of Barbara Dyer's new building at 69, Main St. The Board revised the old order of conditions as follows: "Based on receipt of a more detailed plan and an exact survey of the property at 69, Main St., the Board finds that a right of way as previously required will not be necessary provided that all other requirements of the original motion be adhered to."

Based on applications presented by Ed Story, Brad Story moved (1) "that the Board approve a building permit for the addition of Steve Gammons to a house at 2, Sumac Drive on the grounds that it is not substantially more detrimental than the existing non-conforming structure and (2) "that the Board approve the application of Peter L. Hatch for a building permit to construct a 2-car garage on his non-conforming lot on Belcher St. on the grounds that it is not substantially more detrimental than the existing non-conforming use to the neighborhood. Both motions were passed unanimously.

Peter VanWyck requested that the Board and Town Counsel meet with him and his lawyer at its next scheduled meeting to discuss drainage and the road grade on his Turtleback subdivision plan currently in litigation. Michael Ginn told him that the Board would speak with Town Counsel.

May 18, 1983

With a quorum present, Michael Ginn call the the meeting to order.

Michael Ginn resigned his chairmanship and called for the election of new Planning Board officials. William Holton was elected Chairman, Brad Story, Vice Chairman, Michael Catado representative to the Conservation Commission, Daniel Greenbaum representative to the Sewer Study Committee and Rolf Madsen clerk.

Peter VanWyck wishes to meet with the Planning Board to discuss his planned subdivision of Turtle Back Road. The board agreed to meet May 24 at 7:30 to meet with Town Council John Turney or at his convience to discuss the proposal, before meeting with Peter VanWyck.

Sargent Collier of Haskell Court present a plan, subdivision not required, for a 50 acre parcel of land adjoining his property which he wishes to purchase from Ellen Lothup.

Upon discussion that the newly created parcels would have adequate frontage and assurances from Mr. Collier of no intention of further subdivisions of the parcel. The board unamiously approved and signed the plan.

Peter Gillmore, council for the Cannons of Addison St. presented a plan to convey a 948 sq. foot piece of land, to Laura Amero. The board aproved that since this was actually a subdivision, a plan for subdivision, aproval not required, along with a neighborhood effect study must be presented to the board in order for them to act on this proposal.

Michael Ginn stated that the Department of Public Works had complained to him concernig the renovations to the building at Martin St. owned by John Coughlin. The department of Public Works complained that the new drains in the building caused excess drainage into the parking lot at Memorial Park. Inspector Edward Story said that there was no more water being drain in the lot than before.

The planning board also responded to a letter from the Board of Health, requesting that before granting approval to additions to existing structures, that the Board of Health be notified. They cited the addition to the Post Office Building as an example. The Board agreed to respond by letter to the Board of Health that premission to the Martin St. complex was only for a closed in entrance and not for any expansion of the area actually in use.

In response to a letter written by Mr. and Mrs. John P. Caesar of Cambridge requesting information on a location to establish a small Bed and Breakfast Inn, the board agreed to invite the Caesar's to meet with them to discuss the existing business land use regulations of the zoning bylaws and suggested they consult a realtor in the area for a location for they could not specify any existing site.

The Board moved to discuss at a latter date an open space plan which would make Essex eligible for existing State Funds.

There was a motion to adjourn the meeting.

May 24, 1983

There was a motion to meet in executive session and it was so moved by the board.

There was a motion to allow Thaddeus Beal to meet along with the board and it was so moved.

Town council, John Tierney, met with the board to review the resulting litigation from the boards rejection of Peter VanWycks definitive subdivision plan for a parcel of land off Turtle Back Road. Mr. Tierney reviewed the civil suits three major areas of contention, the board's rejection due to traffic considerations, technical questions and considerations and the civil rights claim.

Mr. Tierney said, that in his opinion, the board was within its jurisdiction to reject Mr. VanWycks plan and hoped that judgement of this case could be accomplished by going to trial, resolving the traffic issue in court. Once resolved, Mr. Tierney said, Mr. VanWyck could resubmit his original definitive plan to the board to solve the technical problems. Mr. Tierney felt that with the other issues resolved, the civil rights issue could be dismissed.

Mr. Tierney said that even though no trial date had been set, it would be more advantageous to the board to wait until July to go to trial.

With discussion concluded with Mr. Tierney, the board moved out of executive session.

Charles Mulcahy of Milk Street resubmitted his stale definitive subdivision plan. Mr. Mulcahy said that since it had been over six months since the board's approval, and the plan had not been recorded, it required new signatures by the board. Since the plan was an exact duplicate of the plan previously submitted and approved by the board, the board resigned the plan.

The meeting was adjourned.

June 1, 1983

Andrew C. Kourlitis, of 24 Lufkin Street, requested Planning Board approval for an addition of an 8 x 10 deck on their non-conforming lot. Upon noting that the planned addition satisfied all set back requirements, Michael Ginn moved that the addition to Andrew C. Kourlitis property at 24 Lufkin Street be approved on the grounds that it would not be substantially more detrimental than the present non-conforming use to the neighborhood. The Board unanimously approved the motion.

Sam Stuart came before the Board requesting a building permit for a dwelling on a non-conforming lot on Maple Street. Upon examination of the plot plan, it was noted that the lot had neither the frontage or square area required by the town by-laws. Bill Holton noted the State's Zoning By-Laws, especially Section 6 pertaining to Pre-existing, Non-conforming uses, Structures and Lots and as to whether this particular request would pertain to that. The Board decided to request a clarification from Town Council and requested a neighborhood effect study by Mr. Stuart before moving on this proposal.

Mr. Harold Pratt of Southern Avenue came before the Board requesting approval for the conversion of a garage to a single family dwelling. Upon examination of the plot plan, it was noted even though there was adequate area and frontage, it appears that the dwelling would not satisfy the set-back requirements. Before moving on this proposal, Bill Holton agreed to meet with Building Inspector Ed Storg for an on site examination.

Mrs. Dyer of Main Street requested the Planning Board's approval for the continuation of a deck on construction of an antique shop at 69 Main Street which had been approved previously. Being a non-conforming lot any changes in the plan required the Board's approval. Mrs. Dyer had stated to Ed Storg that the construction of the deck was necessary to provide easy access by the handicap and old to her shop. Upon discussion of the Board, it was questioned why this had not been considered in the original plan and how the change would effect traffic. Elizabeth Frye moved that Barbara Dyer's proposed June 1 balcony addition to her construction on 69 Main Street on the grounds it shall not be substantially more detrimental than the present non-conforming use the the neighborhood. Seconded Brad Storg. The Board unanimously approved the motion.

Bill Holton stated that he would like to invite various experts to come before the Board to exam the zoning issue. The Board agreed that this would be a good direction to persue.

The meeting was adjourned.

July 6, 1983

All members were present.

Sam Stuart appeared before the Board to seek permission to build on a 8270 sq. ft. lot on Maple Street. Mr. Stuart had appeared two weeks previously and action had been postponed, pending opinion by town council. Town Council, in a letter dated June 13, 1983 stated that in order to act on the proposal, The Board must determine what Town by-laws were in effect at time of conveyance. In this case it was 1964. Since the by-laws as of July, 1959, stated that 30,000 sq. ft. and 150 ft. of frontage were required, Daniel Greenbaum moved, based upon the ruling of Twon Council and finding the lot not in conformity with the by-laws in effect in 1964, and in accordance with Sec. 6, Chapter 40A concerning lots held in common ownership with any adjoining, The Planning Board cannot issue a building permit for the said land. The Board approved the motion with the Chairman voting present.

Tom Shea came before The Board to seek an expansion of living area at 122 Main St., a non-conforming lot. Two additional bedrooms would be added. Brad Storz moved that the proposed expansion of living area at 122 Main St. be approved on the grounds that the proposed expansion should not be substantially more detrimental than the existing non-conforming use to the neighborhood pending receipt of by the Building inspector of approval by all the abutters. The motion was approved.

Wesley Burnham of County Road came before The Planning Board seeking a change of use classification of his lot on County Road from a non-conforming business use to a non-conforming residential use. Mr. Burnham had appeared before The Board on May 10, 1982 requesting to build an office building at the site which at the time conformed to the Town of Essex Business use by-laws. A change in the Business use by-laws, approved at Town meeting in May of 1983 made the lot non-conforming. It was his contention that the lot would be more beneficial to the neighborhood as a non-conforming residential use. This was substantiated by a petition signed by 15 of the neighbors. It was noted that Mr. Burnham had appeared before The Board previously, requesting permission to build a residential structure, but had been turned down because the property failed to meet the Town's by-laws, but was forwarded to the Board of Appeals with a recommendation for approval of a variance. Daniel Greenbaum moved that the Planning Board alter the existing Business use on County Road owned by Wesley Burnham to an non-conforming land use for a single family residence on the grounds that the proposed use shall not be substantially more detrimental than the existing non-conforming Business use pending the receipt of letters by The Building Inspector of neighborhood approval. The motion carried with ~~four~~ ^{FIVE} years and two present.

The Board, after an on site examination by William Holton, acted on Harold Pratt's proposed conversion of an accessory building into a single family residence. Since the lot only had a seven foot side set back with only 17 feet to the abutters dwelling it would be non-conforming use.

Selectperson Mary Mears came before The Board to seek approval to move forward on tests on the Van Wych property for the Sewer Study project. Daniel Greenbaum moved to authorize Town Council to agree on our behalf to a change in concent decree governing The Lowland Farm property for the sole purpose of performing a geohydriological test on the Lowland Farm property, adjacent to the town Landfill, for the Sewer Study project. The motion was approved.

David of came before The Board requesting permission to build on enclosed breezeway and extension of principal structure. The Board noted he had approval by the abutters and that there was no additional bedrooms. It was moved and unanimously approved that David proposed alteration shall not be substantially more detrimental than the existing non-conforming use to the neighborhood.

Sam Stuart again came before The Board requesting a building permit for a dwelling on a non-conforming lot on Maple Street. The Board noted that there was some question when title was convey on the lot and decided to seek information from Sally Sou , town clerk as of what town by-laws were in effect as of 1963 for lot requirements.

After an on site examination of property owned by Harold Pratt who seeks permission to convert a stone building into a principal residence. It was noted that there was only 17 ft. between residence and a 7 ft. set back. The Board decided that before acting, it would request approval letters from the abutters and an elementary sketch of the dwelling.

The Board agreed to send a Board member to represent them at a Board of Selectmen's meeting concerning parking at the E.A.D. lot on Western Avenue.

The meeting was adjourned.

June 15, 1983

Garcia Kimball, representing Frances S. Lowe presented before The Board a plan to convey a .532 acre piece of land to Frances J. Yulling. Upon discussion, The Board noted that the lot lacked adequate frontage, but was buildable, subject to Town Council legal concurrence, since it was an existing lot before the Town's by-laws went into effect. Approval of the plan, it was noted, may jepordize the buildability of the lot. Brad Storz moved we approve the plan under subdivision control law not required. It was approved unanimously.

John A. Goodwin, representing Alma Mears, presented before The Board a 3 lot subdivision of a parcel of land between County Road and Western Avenue. Daniel Greenbaum, noting that the new lots would satisfy all the by-law requirements, moved the Planning Board approve the plan under subdivision control law not required.

Mrs. LaRoche, representing Dr. John Donovan came before The Board with a plan to convey a 7.116 acre lot into a 22.1295 acre lot to form one lot. Daniel Greenbaum noted that this did not really require Planning Board approval but moved The Planning Board approve the plan under the subdivision control law not required. The Board unanimously approved the motion.

Peter Gilmore, representing Jerone M. and Susan F. Cannon returned before The Board with a plan to convey a 945 sq. ft. section of land to Laura F. Amero. The Board noted that the plan satisfied all requirements and Brad Storz moved the Planning Board approve the plan under subdivision control law not required. It was unanimously approved.

Mr. George Estes of 12 Town Farm Road came before The Board to seek permission to close in a 8 x 20 portion of his existing porch on Conomo Point. Since it was a non-conforming lot, it required Planning Board approval. It was noted that the plan lacked abutters approval and official approval by the Conomo Point Commissioners. Daniel Greenbaum moved that the proposed addition to George F. Estes residence presented at the meeting of June 15 be approved on the grounds that the proposed alteration shall not be substantially more deterrental than the existing non-conforming use to the neighborhood provided that the Building Inspector receive letters from all the abutters stating no objections and that the Building Inspector receive a dated copy of the Conomo Point Boards approval. The Board unanimously approved the motion.

Michael Buckley of 95 Western Avenue came before The Board to seek permission to add a second story to his house. Since it was a non-conforming lot it required Planning Board approval. Noting that the neighborhood did not object and the septic system had been approved, Brad Storz moved the proposed addition be approved on the grounds that the proposed alteration shall not be substantially more deterrental than the existing non-conforming use to the neighborhood. It was unanimously approved.

Brad Storz moved that The Board approve the interior work only required to convert the accessory building owned by Harold Pratt to a single family residence on the grounds that the proposed conversion shall not be substantially more detrimental than the existing non-conforming use to the neighborhood pending receipt by The Building Inspector letters of approval by all the abutters. The motion carried unanimously.

Garcia Kimball, representing Frances Low came before The Board seeking clarification whether Mrs. Low's lot on Western Avenue was a buildable lot. Upon discussion, it was noted that the Land was held by Mrs. Low for over 50 years and in effect it superseded all town by-laws. Some members of The Board questioned whether the transfer of ownership would make this, a non-conforming lot due to only 111 ft. frontage, unbuildable if it was a pre-existing non-conforming lot it would be buildable. Daniel Greenbaum moved that the Planning Board find that the single parcel belonging to Frances S. Low and shown as containing 1.56 acres, more or less, on Western Avenue, in accordance with Sec. 6, Chapter 40A concerning residential lots not held in common ownership with any adjoining land is a pre-existing non-conforming buildable lot for single or two family residence provided that Town Council concurs. The motion passed with Michael Ginn voting present.

Dorothy Wendall came before The Board to seek permission to build an accessory building. This did not require Planning Board approval and it was suggested that when she had determined exactly what she wanted to do, either an addition or an accessory building she check with the Conome Point Commissioner and The Building Inspector.

Joan Bucklin of 36 Story Street came before The Board seeking advice on a subdivision at 36 Story Street. She showed a rough plan. The Board explained the present by-laws and gave her a copy of the Town's subdivision control laws and suggested that she seek professional assistance if she wished to persue to matter further.

Ms. Jessie R. Moore of Southern Avenue came before The Board seeking approval for her property for Business use in order for her to operate an antique business. Since The Board could not locate a subdivision plan for her plot, the question on whether her lot met the Business Land Use by-laws were postponed until one was provided. It was suggested she contact her attorney who performed the title search.

Bard Storz moved that The Planning Board go on summer schedule, meeting only on the first Wednesday of July and August. The motion was unanimously approved.

The meeting was adjourned.

PLANNING BOARD SPECIAL MEETING

17, July, 1983

Present were Chairman William Holton, Elisabeth Frye, Michael Ginn and Daniel Greenbaum. Michael Cataldo and Rolf Madsen arrived later and were not present at the executive session held with John Tierney before the meeting with Peter VanWyck, his attorney, William Evins, Evin's assistant, and Frank Hancock, Mr. Van Wyck's new engineer and head of Hancock Survey.

Bill Holton told Peter VanWyck that the Board had agreed to discuss drainage and road grade in order to clarify points cited in the Board's denial of Van Wyck's plan of March 4, 1981 and the so-called amended plan to that plan submitted on 30, August, 1982, said plans dealing with the proposed further subdivision of Van Wyck's property off Turtleback Road.

Numbers that were used in the discussion (and follow here) are those used in the denial of the amended plan on 30, October, 1982.

#6 Michael Ginn explained that the plan showed no detail for drainage and no topographical information for the Essex Park Road end of the subdivision. There was no indication of houses or streets off the main street at that end of the subdivision.

The last paragraph of the October denial stated that pages 2, 3, and 4 of the plan are missing. Mr. Hancock said that a full set of plans should be submitted.

#8 The old subdivision regulations call for a grade of 7-10%. The D.P.W. said re: the March 1981-plan that the 10% grade, which was dropped to 9½% in the amended plan, was too steep for the emergency vehicles that would be required to use it. Secondly, the curves of the road intensify the effect of the grade, and thirdly, this is a major subdivision road from Apple St. to Route 22. Mr. Hancock said that of course the lower the grade, the better, but that the lower grade required more filling. Mr. Evins wanted a compromise because of the cost. Frederick Fawcett observed that the developer's cost was not a proper subject for discussion. The Board should only clarify what is unclear in its denial.

#10 Michael Ginn said that wet areas had not been indicated on the plan so the Board had no way of telling if the culvert sizes were right. Mr. Hancock stated that the contours of the earlier plan "didn't make sense", but that the amended plan was more thorough. At this point, Mr. Evins inquired, "What if we resubmit the plan as a new plan under the new regulations if we can solve the technical aspects?". He asked the differences between the old and new regulations. Bill Holton said that the Board and Peter Van Wyck couldn't agree on the traffic issue which would have to be settled in Court. VanWyck agreed saying, "We will go to Court on the traffic and clear up other things here." He said the Board could keep the topo map he exhibited for the first time that evening.

#13 The Board will look at the topography map and see if it covers the whole area encompassed by the development.

#14 The numbers on the ~~house~~ lots on the March plan differ from those on the amended plan. Mr. Hancock said that is because of the Land Court's order. The lots must start with #17.

#9 Mr. Evins said that Mr. VanWyck had requested waivers on the catch

basins. Bill Holton said they were denied because "they were important to us" based on the opinion of a former Chairman, David Campbell. Mr. Hancock said that country drainage with the water channelized in swales and then dispersed over the land was fine in this situation. He said, "You don't need catch basins." The plan doesn't address the effect of runoff further away from the road. Mr. Hancock said a plan should define the type of drainage to suit the situation. The first plan didn't have enough information of this kind. Mr. Van Wyck said "The reason we have water problems is because we direct water into areas where it doesn't belong. If the Board would let Nature take it's course, we wouldn't have water shortages."

Town Counsel, John Tierney arrived and asked Mr. Evins if he was "satisfied that he had been treated right" and asked "Do you want further clarification?". "Now is the time." Bill Holton said that the road grade was the biggest subject of disagreement. Mr. Evins said that he would write to Mr. Tierney who will then notify the Board of the letter's contents. Mr. Van Wyck said he would not submit a corrected plan with all pages included, well-defined drainage etc. until after the traffic issue has been decided in Court.

E.C.F.

August 3, 1983

Bruce Fortier came before The Board representing Jesse Moore of Southern Avenue to request concurrence by The Board that her property satisfied the town's by-laws to maintain a home occupation business, an antique shop. He provided a signed subdivision plan dated October 2, 1974 which showed adequate frontage. Upon discussion on the validity of the said plan, Michael Catado moved The Planning Board accept the plan as approved by The Planning Board on October 2, 1974 and recognize the 150' frontage contained on said plan. The motion was not carried and tabled by a deadlocked vote of 3 to 3. Brad Story moved The Planning Board find Jesse Moore's proposed business as described by Bruce Fortier, i.e. one room, low volume, low traffic, low profile, as acceptable to The Board as a home occupation.

Carlton W. Crowler and Robert J. Bertagne came before The Board to show a subdivision of a 33.7003 parcel of land into four lots. No action was taken by The Board.

The Board went into executive session with Town Council.

Dorothy Wendal came before The Board again to discuss plans for an accessory building or boat house on her property on Conomo Point. The Board provided advice as how she should proceed and suggested she speak with the Conomo Point commissioners.

Building Inspector Ed Story presented a plan by Callahan's Resturant for additional story to have a nightclub. Upon discussion Michael Catado moved that The Planning Board deny the plan presented by Ed Story for Callahan's Resturant on the grounds of Mass Law 6-4-2. As it is the feeling of The Planning Board that an increase in the seating capacity at Callahan's Resturant would be substantially more detrimental to the area where the resturant is located. We find it more detrimental for the following reasons.

1. Increased pedestrian traffic crossing over the causeway to the parking lot presents a public safety problem, especially in light of the proposed use of the addition (lounge).
2. Increased vehicular traffic entering and exiting a busy main street in an already congested area of the causeway is not in the best interest of public safety.
3. A parking problem already exists for the establishments along the causeway and proposed addition would only magnify the overcrowded conditions.

The motion was unanimously approved.

The meeting was adjourned.

Essex Planning Board

September 21, 1983

Present : W. Holton; E. Frye; D. Greenbaum;
M. Ginn; B. Storey.

Meeting called to order 8. 40 p.m.

Ms. Garcia Kimball, Essex Realty Group, requested a letter from the Planning Board stating that a parcel of land, the property of Frances Low of Western Avenue, was a buildable lot. This had been discussed at the Board meeting of June 15, 1983, and a motion made and passed. The Board complied with the request.

Elizabeth Frye suggested that the Board begin to think of ideas for the new by-laws, to consider troublespot areas which may need a by-law change. The Board agreed that it would be a good idea to have a consultant come and talk to them about by-laws. It was decided that they would ask Stuart Pratt and/or Phil Herr to visit with the Board to give their viewpoints.

Peter Perrigo, Wood Drive - Ed Story came before the Board with a map showing three lots of land that Perrigo wishes to buy. He was told that a map with the sub-division should be brought in, but that approval was not required. Story was told that Perrigo should be told that two remaining lots adjoining the property does not make a buildable lot.

D. Greenbaum brought to the Board's attention that the Essex County Greenbelt Association has a set of maps showing all of the protected open spaces in Essex County. The Board felt it would be helpful to have those maps that were relevant to the Town of Essex. Greenbaum said he would check to see which ones would be suitable to order.

It was decided that more copies of the by-laws were needed. Rolf Madsen, Clerk to the Planning Board, said he would have more copies made, but it was felt that a minimal charge should be made to persons requesting a copy, to cover the cost of the work.

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The Board discussed a letter from Roland Powers that had been passed to them by the Board of Selectmen. It contained several complaints in relation to the property and its use of David Hidden, off Western Avenue. It was felt that some of the complaints were not within the bounds of the Planning Board, so the Board decided to check with the other Boards first, i.e. Board of Assessors and the Police Department, before taking any action.

Meeting adjourned 9 p.m.

Essex Planning Board

October 5, 1983

Present : W. Holton; E. Frye; D. Greenbaum;
B. Storey; M. Cataldo;

Meeting called to order 7.50 p.m.

Leonard Pike, 47 Alan Road, S. Hamilton - E. Storey appeared before the Board with an application for a business building to be located on Pike's property at 174 Western Avenue. Questions pertaining to traffic problems were discussed, but the Board was told that Pike's application was for business and not for commercial use. The Board moved to approve a building for business use for Leonard Pike at 174 Western Avenue, as described in the application, provided that the building is in conformance with Section 6-6.5. Motion was seconded by B. Storey. The Board voted unanimously to approve the motion. The motion was made by D. Greenbaum.

D. Greenbaum told the Board that he had spoken to Consulting Planner Phil Herr, who said he would be glad to come and speak to the Board about the town by-laws. His appointment was tentatively set for the next Board Meeting on October 19, 1983 at 7.45 p.m. A letter was sent to him to officially notify him of the date and to invite him to come. A copy of the by-laws was also enclosed with the letter.

Nancy Roberts, 77 Eastern Avenue - An application was received by the Board from N. Roberts to change the porch of her house into a shop for antiques and collectibles. The house is a two family, but there would be no alterations to the existing building. There is also room in the rear for parking. D. Greenbaum made a motion that the proposed use of the porch at 77 Eastern Avenue as an antique business would not be substantially more detrimental to the neighborhood, provided that the owners submit to the Building Inspector letters received from the abutters stating that they have no objections to its use. B. Storey seconded the motion. The Board voted unanimously to approve the motion.

John Cushing, 113 Martin Street - came before the Board with a proposed addition to his house of a two-car garage, with workshop for restoring antique furniture, and a greenhouse for passive solar heat. Cushing stated that the repairs and refinishing of antique furniture was solely a home occupation.

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B. Storey moved that the proposed addition of John Cushing would not be substantially more detrimental to the neighborhood, pending receipt of letters of approval from the abutters and the D.P.W. concerning relocation of his driveway. D. Greenbaum seconded the motion and the Board voted unanimously to approve it.

Sam Stuart of Danvers has appealed the Planning Board's decision to the Board of Appeals, which will hold a Public Hearing on October 25, 1983.

It was noted that the Board of Appeals and the Building Inspector have upheld the decision of the Planning Board on the Brunelle property.

It was decided that the Board should have all their ideas for the revision of the by-laws by the first week of November. One question to be answered is how businesses are defined in the by-laws.

A letter was sent to the Essex County Greenbelt Association, 82 Eastern Avenue, stating that the Board would like to order their "Protected Open Spaces" maps numbers 4, 5 and 7.

Meeting adjourned 9.30 p.m.

Essex Planning Board

October 19, 1983

Present : W. Holton; D. Greenbaum; E. Frye;
M. Cataldo; B. Storey; R. Madsen.

Meeting called to order 7. 40 p.m.

The Board met with Phil Herr, a Consultant Planner, to discuss the by-laws in connection with the future growth of the town. Some questions raised for discussion were non-conforming lots, zoning, the definition of businesses and business use.

It was felt that the Board should also invite other Consultants to meet with them for further discussion of the Town's by-laws.

Dick Tomaiolo, Essex Realty, Martin Street - submitted to the Board a map for a proposed subdivision on Belcher Street, the property of Carlton W. Crocker and Robert J. Bertagna. Questions were raised as to whether Belcher Street is a Public Way and whether it is an acceptable width to handle traffic. The D.P.W. was asked questions regarding the width of Belcher Street, which is 35 - 40 feet, and the Board was told that in the perspective of the D.P.W. that was wide enough for a road. The D.P.W. also stated that if the Planning Board agreed that Belcher Street is a road they would accept the decision and plough it. D. Greenbaum brought up the question of fire protection, i.e. lack of hydrants. M. Cataldo felt that if this was approved a precedent would be set. (4 lots)

D. Greenbaum made a motion that this plan does not require approval of the Board under the Subdivision Control Act, contingent upon the promised improvements by the Town D.P.W. The motion was seconded by W. Holton. M. Cataldo and E. Frye voted to approve the motion, R. Madsen voted no, B. Storey was not present at the time the motion was made.

M. Cataldo made a motion that at the next Planning Board meeting on November 2, 1983, the Board invite the D.P.W. and John Tierney, Town Counsel, in order to discuss the issue of Public and Private Ways and to identify them. D. Greenbaum mentioned that Belcher Street as a public way should be discussed. Issues to be discussed are fire protection, a legal ruling as to the Town's obligation to these roads, the quality of the road and the cost to the town. M. Cataldo said that he would notify John Tierney and the D.P.W. about attending the next meeting.

Essex Planning Board

November 2, 1983

Present : W. Holton; R. Madsen; M. Cataldo; B. Story;
D. Greenbaum; M. Ginn.

Meeting called to order 7. 35 p.m.

Minutes of previous meeting read and approved.

A letter was received from Phil Herr, Consultant Planner, with his response to the meeting with the Board on October 19, 1983.

A letter was read to the Board written by M. Cataldo asking that members of the D.P.W's, Conservation Commission, and Town Counsel, John Tierney, attend the Planning Board meeting on November 16, 1983, to discuss the legal status of town roads, and to establish a policy for upgrading these roads. The letter was approved and copies were sent to the above Boards.

W. Holton brought to the Board's attention the changes to the property at the corner of Main Street and Burnham Court. The Board had approved plans for the property to become an antiques co-operative, and had received letters from abutters saying they had no objections to the change. A large tree has been removed and the front yard bulldozed and hot-topped to allow for parking, and the Board now feels that because of these changes it is now detrimental to the neighborhood. The question was raised whether the Board could regulate aesthetics. M. Cataldo felt that future applications should be given two weeks before action is taken, to allow the Board members to view the site and then make a decision.

Lawrence Shanks came before the Board with a map showing a parcel of land on which he wants to build a house. The lot is a non-conforming lot with only forty foot frontage. Shanks felt that when he subdivided his land, map Lawrence S. and Alberta Shanks, October 17, 1977, it may have been approved as a house lot, because it has been assessed as a house lot. The Board recommended that he check the Minutes of the Meeting of the Board of Appeals to see if it was approved.

Phillip Weld - a question came before the Board of a piece of land adjacent to his, but he cannot find out who owns it. The map in question had not been signed off by the Board, and there is no record of it. A plan has never been filed with the Registry of Deeds and there is no copy in the Assessor's Office.

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E. Story spoke to the Board with regard to the small building that is across the street from Callahan's restaurant, and owned by Thomas Makris, who also owns the restaurant. Makris wants to use the building for a business, but because of a by-law change last year the property is now a non-conforming lot. Story also raised the question of abandonment. It was also noted that nothing can be done to the septic system. The Board felt that Makris should go through the formal procedures and come before them with a proposal of the type of business and if there will be alterations to the building before deciding whether the new non-conforming use is more detrimental to the neighborhood. W. Holton suggested that Makris should also come with a plot plan.

Peter Van Wyck met with the Board to discuss planning for the future use of the land he owns. He felt the Board should be concerned with long-range planning. W. Holton said that he should bear in mind that with many future plans traffic would be a consideration. Van Wyck was looking for input on a plan for roads, but W. Holton felt that at this time it would be a mistake to make any suggestions. Greenbaum advised that the Planning Board is considering long range plans for a land control map showing town roads, but at this time felt it was too premature to make suggestions, that the town has to resolve its problems with roads. Greenbaum also said that he felt part of the problem was inadequate plans and maps and although they do not have to be extremely detailed, there should be enough information on them so that the Board can see what is going to happen. It was also mentioned that there are specific requirements in the by-laws of what the preliminary plans should have, and if these requirements are not met, the the Board will not be able to give any constructive feedback. Peter Van Wyck said that he felt that if he draws in the lot lines that they become immovable. W. Holton said that the purpose of the preliminary plan is to hash out problems of plot lines, etc., and that it is not definite. Reference was also made to the town dump property and what is going to happen to it once it is officially closed.

Michael Ginn made a motion to adjourn the meeting.
Motion seconded by Brad Story.

Meeting was adjourned at 10 p.m.

Essex Planning Board

November 16, 1983

Present : W. Holton; R. Madsen; M. Cataldo; M. Ginn;
E. Frye; D. Greenbaum; B. Story.

Meeting called to order 7. 45 p.m.

Nancy Roberts, 77 Eastern Avenue - Board received list of abutters (reference Minutes of Meeting 10/5/83). Roberts will now have to go to the Board of Selectmen for antique license approval, pending signatures of abutters.

John Scott, Harry Homans Drive - Board received a complaint about a possible business being run at a house adjacent to his owned, by Hodgkins. The complaint includes used car lot, garage, auto body work. with five unregistered cars there at present. Holton spoke to Ed Story to clear up the complaint.

Josephine Perotti - Board received a complaint about a fence between her property and the property of Stephen Score. When the Planning Board, in the late 70's, approved the use of the building as a radio station, there was a stipulation that the exterior of the building could not be changed in any way.* Score came before the Planning Board for permission to put up the fence, who decided at that time that it was a civil case. Ed Story still feels this is a civil case between Score and Perotti. Greenbaum felt that the Board has no way to make a ruling on it. Perotti wants one of the Board's to make a decision one way or another. W. Holton asked the Board if this case should be given back to the Selectmen for their ruling. The Board agreed with this. (*It was suggested that the fence may be in violation of this stipulation).

Lawrence Shanks - talked with E. Burnham and said that in the Minutes of the Meeting of the Board of Appeals he was granted a variance on the parcel of land in question making it a house lot (reference Minutes of Meeting 11/2/83). M. Cataldo said he will check with the Chairman of Board of Appeals and check the wording of the Minutes.

Meeting of Planning Board with D.P.W. and Conservation Commission about town roads, particularly Belcher Street and Conomo Drive. Holton asked D.P.W. what their position is regarding Belcher Street. They said their future plans were geared to money. They have accepted funds for Belcher Street under Chapter 90 for road improvements. Holton asked how wide would the road be and D.P.W. said 30 - 40 feet.

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F. Fawcett, Chairman of Conservation Commission said that the Crocker subdivision on Belcher Street runs through wetlands and before anything is done a Notice of Intent must be filed and an Order of Conditions given. The D.P.W. said that they are not going to encroach on wetlands other than where the town road goes and when that occurs they will file the necessary documents.

Alexandra Dawson, an environmental lawyer; and attorney for the Metropolitan area, ^{Planning Commission} attended the meeting. She said that town roads must be voted on at a Town Meeting, and that there are ways to determine if town roads are public under Chapter 84. Dawson felt that the Town Meeting should make decisions like this, rather than a Board, and that Boards are asked to make difficult decisions they shouldn't have to make. R. Borden asked Dawson if it would be legal to declare a moratorium on all subdivisions at the moment. She said no because then the town would be open to lawsuits. Greenbaum said that there were two things to do (i) to get things officially accepted and (ii) set up some standards for governing this type of situation.

D. Greenbaum made a motion to wrap up this discussion and to meet with the Ways Committee at the next Board meeting. M. Cataldo seconded the motion, the Board voted unanimously to approve.

The Board thanked Ms. Dawson for coming, who in turn offered to send a memorandum to them covering what she had discussed at this meeting.

Holton asked the Board if it was a positive thing having Alexander Dawson here. She was here as a recognized expert and friend of the Board, not as a consultant, and should she be invited to come again. Greenbaum said he felt the Board should look at the memorandum that Dawson is going to send, discuss it and then decide whether they need to have Dawson in again. It was also felt that this should be discussed with John Tierney for his input on the situation.

The Board met in closed session with Selectman Peter Ferriero to discuss Judge Elbert Tuttle's decision that a ruling by the Planning Board on Peter Van Wyck's subdivision is null and void. Holton asked the Board if they should appeal. The Board has thirty days from November 4 to appeal. Frye felt that a new lawyer was needed on this appeal. She noted that a stipulation had been signed without the Board's

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knowledge, that being that Van Wyck could limit construction to 51 houses. Cataldo felt that the Board should discuss the situation with Tierney before going to another lawyer. Ferriero said Tierney has prepared additional information and has done some more research on this. Frye said she felt that they must have an environmental impact study. She wants to know if anything over fourteen houses comes under the new regulations or not.

It was decided that the Board meet with John Tierney on Monday, November 21, 1983.

M. Gim made a motion to go out of executive session. R. Madsen seconded. The Board voted unanimously to approve the motion.

R. Madsen made a motion to adjourn Board meeting. Motion seconded by B. Story.

Meeting adjourned 10. 35 p.m.

Essex Planning Board

November 21, 1983

Present : W. Holton; M. Cataldo; B. Story; R. Madsen;
E. Frye; M. Ginn.

This meeting was called in order to discuss whether the Board should appeal the decision of Judge Elbert Tuttle, and in the event an appeal is made whether the Board should continue to use Tierney, Town Counsel, or get another lawyer.

M. Cataldo said that he had been in touch with G. McGregor to ask whether it would be appropriate to appeal and whether there would be any chance of winning the case. One of the main questions raised was the number of house lots being set at 51; was this in the Minutes of the Meeting? If this number was never discussed by the Board, they could get out of the stipulation. Also was 51 the number of house lots being discussed during the trial. The key points are how it came to be, why it came to be and was it discussed with the Board. The questions of twenty-nine cars per hour was raised, and whether anyone challenged this fact or questioned the validity of the report. The Board felt that if they appeal the case, it should look to be relieved of the stipulation of fifty-one houses.

The Board then met with John Tierney to discuss re-opening the case. He was asked about the stipulation of fifty-one houses. Tierney said that this was not a stipulation on his part, but was presented by Van Wyck in his defense that he does not plan to construct more than fifty-one houses. This does not mean that the Planning Board agrees to the number, but that the plaintiff will build no more than that. Tierney felt that the statement does not have an adverse affect on the Town, that it was either fifty-one houses or as many as Van Wyck could possibly construct on his property. The question was asked where the figures came from on the traffic study presented by the plaintiff, and was told that the numbers came from the study of a development of single family homes. Tierney did say that he thought it was not a case of the Planning Board traffic study expert making errors, but that the Judge just flatly disagreed, that he heard the facts, then decided against them and substituted his own opinion.

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M. Cataldo asked if there were grounds to appeal this case and was told yes. He then asked how this would affect the Planning Board's ability to regulate subdivisions based on traffic and would this set a precedent. Tierney said that this was a precedent only for this case.

A motion was made by Cataldo that the Planning Board appeal the judgement of the court case against Peter Van Wyck. The motion was seconded by Holton. B. Story and E. Frye voted in favor of the motion; R. Madsen and M. Ginn opposed.

It was also discussed whether the Planning Board should continue to have Tierney if they should appeal the case. B. Story and M. Ginn were in favor of retaining Tierney at this time.

The Planning Board met with the Selectmen in an executive session to discuss the appeal of the case of the Planning Board versus Van Wyck, that there appeared to be grounds to appeal the decision of Judge Tuttle. The Board felt it should be appealed based on the stipulation of fifty-one houses and other legalities, and as the Judge had said that the Board had exceeded their authority they would like to know where and how. Tierney said in his opinion the Board did everything they could in that they got an expert opinion and gave the facts rationally. He also said that the appeal would not necessarily go before the same Judge.

Selectman Addison said that it appeared that there would be an appeal and therefore would like to know how much it would cost. It was estimated that the cost could possibly be \$10,000 - \$14,000. Selectman Mears asked the Board to make a judgement at that time as to whether Tierney would be counsel or not.

The Planning Board left the meeting to discuss whether to have Tierney try the case again. The Board then went back to the Selectmen with the decision that Tierney would try the case again.

Meeting adjourned at 9. 30 p.m.

Next meeting to be held December 7, 1983.

Essex Planning Board

December 7, 1983

Present : W. Holton; M. Cataldo; M. Ginn; D. Greenbaum;
E. Frye; R. Madsen.

Meeting called to order 7.35 p.m.

Dennis Outwater came before the Board with a plan for a subdivision on Belcher Street, Plan of property of Dennis Outwater, November 9, 1983. The subdivision would be for four house lots, three new lots with less than 40,000 square feet and one existing lot. M. Cataldo said he would like to have a legal opinion on whether Belcher Street is a town road or not and reiterated that he would not approve any more developments until he had the answer to this. Outwater said he had been told Belcher Street was a public way and that the D.P.W. had told him as soon as they had money they would upgrade his end of the street, but then found that they had started work on the other end of the street. D. Greenbaum said that the matter of where the D.P.W. chooses to spend their money is up to them and is not the business of the Planning Board. The issue is whether the road is adequate and what criteria is needed to say that the road is adequate. The Planning Board has a right to say whether the road is up to standard or not and therefore does not have to sign the plan if it feels the road is not adequate.

The question of whether the size of the proposed lots would have to be changed was also raised. D. Greenbaum said lots under 40,000 square feet in size are allowed under Town by-laws, but only if they are proposed for a street which was in existence before 1972. The Board plans to make a site visit to the proposed subdivision on December 19, 1983, at 9 a.m.

D. Greenbaum made a motion to postpone a determination on this pending a site visit by the Board to the site and on receipt by the Board of a statement by the D.P.W. how they plan to improve the road and until the Board has developed general criteria for road improvements on undetermined roads in the town. R. Madsen seconded the motion. The Board voted unanimously to approve the motion.

Peter Perrigo brought before the Board a plan of land of Frank Anzaldi, dated December 5, 1983, (reference Minutes of 9/12/83) showing the three lots he is going to buy. R. Madsen moved to approve Peter Perrigo's plan of land of Frank Anzaldi dated December 5, 1983, on Annabelle Drive, subdivision lot approval not required. W. Holton seconded, the Board voted unanimously to approve the motion,

December 7, 1983

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The Board met with Anthony Palumbo of the Ways Committee. They will propose to the Selectmen that a new Ways Committee be formed, with representatives from the Planning Board, Department of Public Works, Conservation Commission and the Board of Selectmen and Palumbo of the Ways Committee. M. Ginn suggested having the County Engineers lay out the Town roads but E. Frye felt that the Board should not be too hasty to embark on this.

The Board then discussed the report they received from Alexandra Dawson (reference Minutes of 11/16/83), which contained procedures for laying out, altering and accepting Public Ways.

It was decided that W. Holton and M. Cataldo meet with the D.P.W. at the weekend to try to come to some understanding about future work on roads such as Belcher Street.

John Scott, Harry Homans Drive, (reference Minutes 11/16/83) Holton went to look at the site of the complaint and said that Russell Hodgkins is building a two-car garage. Holton felt that a letter should be sent to Hodgkins asking him to come before the Board to discuss this matter at their next meeting. Ed. Story, Building Inspector, had issued a building permit for this, which prompted the Board to state that they felt that they should have a list of building permits which have been issued each month with a brief description about each one.

Merrill Savage, 8 Dodge Street, wants to have a Home Occupation at above address. The Home Occupation would consist of making sail covers for boats, and awnings. Savage goes out to take the necessary measurements and then makes up the article in one room of the house. The Board approved, providing that she does no outside sales from the above address. A letter was sent to her notifying her of the Board's decision.

M. Ginn suggested to the Board about them initiating a small park at Conomo Point. He felt the Board should meet with the Conomo Point Commissioners to discuss this.

It was felt that the Board should draw up a warrant for the Town meeting for appropriation of money for hiring a consultant for input on a planning scheme or by-laws. M. Ginn was assigned to do this.

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The Meeting went into Executive Session to discuss the appeal of the Planning Board versus Van Wyck. Holton felt that Tierney went into the case strictly on the traffic issue and would have felt better had there been other issues presented as well.

The Board said they want to receive communication from Town Counsel on anything that occurs between him and Van Wyck.

Flood Control - M. Ginn said he would call the State Flood Hazard Dept. for information.

W. Holton felt that he must resign his position as Chairman of the Planning Board, if possible by January 1, 1984.

R. Madsen motioned to adjourn meeting at 11.05 p.m.
M. Cataldo seconded, the Board voted unanimously to approve.

Essex Planning Board

December 21, 1983

Present : W. Holton; R. Madsen; B. Story; E. Frye;
M. Ginn; D. Greenbaum; M. Cataldo.

Meeting called to order 7. 45 p.m.

The Board ruled that they should see all building permit applications for any exterior alterations or any alterations to a building on a non-conforming lot.

Russell Hodgkins, Harry Homans Drive - The Board met with Hodgkins to discuss a garage he is constructing on his property. The garage will be 26 feet by 28 feet in size. He said that he is building the garage for his own use, as he repairs and restores cars for himself. When asked by the Board about the number of unregistered cars in his yard he said that he has three, but that two of them will go into the garage upon its completion, and that the third is one that he uses for ploughing. He was given a copy of the by-laws, and the Board said they would notify the neighbors of the intended use of the garage.

The Board made a site visit to Belcher Street to see if it could be travelled. At the narrowest spot the road bed was 12 feet in width and the right of way was 32 feet from stone wall to stone wall.

Dennis Outwater came before the Board again with his plan for three house lots on Belcher Street. Holton said that he would have no trouble in approving the plan, but felt that he could not authorize it until the Board has an agreement with the D.P.W. about fixing up the road to a certain standard. The Board has ~~sixty~~ ^{thirty} days to review the plan from the date when Outwater first presented it on December 7, 1983, therefore they felt they should hold off signing the plan and during the interim meet with the D.P.W. to work out an agreement with them on the construction of the road.

D. Greenbaum said he wants to see some standards set for such roadwork and to have it put in writing. The areas of construction that the Board feels must be agreed on are the width of the right of way, width of the roadbed surface, the maximum grade of the road, width of the shoulders, the grade at intersections, the minimum road base, which was felt ought to be 12 inches of packed gravel, with standards set for the type of gravel, a road crown minimum of one quarter inch per foot and drainage. A question raised was the relocation of walls and trees that are there at the moment. Greenbaum said he would draft something for the next meeting of January 4, 1984. Holton suggested that he and Cataldo will talk to the D.P.W. to let them know the Planning Board's intent.

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Cataldo informed the Board that funds are now available from the Executive Office of Communities and Development for the purpose of assisting cities and town in their updating of comprehensive community plans. The application must be submitted by January 6, and if funds are received they must be spent by the end of June. Cataldo feels Essex is eligible for these funds, which could be between \$3,000 to \$5,000.00. If funding is approved, the Board discussed using it to hire a consultant, and for planning uses such as public ways, land use incompatibility, and open spaces. Greenbaum made a motion that the Planning Board endorse and submit a letter to the Executive Office of Communities and Development for planning funds for the purpose of updating of comprehensive community plans. Story seconded; Cataldo abstained because of conflict of interest. With all members present, the Board voted unanimously to approve.

A letter was sent to the Conomo Point Commissioners asking them to meet with the Planning Board at their meeting of February 1, 1984, with regard to long-range planning on Conomo Point.

Story moved to adjourn the meeting at 9.30 p.m.
Madsen seconded.

Gillian B. Palmbo

Essex Planning Board

December 19, 1984

Present : Elisabeth Frye, Chairman; William Holton;
Michael Ginn; Michael Cataldo; Alden Wilson;
Everett Burnham; Rolf Madsen.

Minutes of the meeting of December 5, 1984 were read. Cataldo motioned to accept the Minutes, Ginn seconded. The Board voted unanimously to accept the motion and the Minutes were approved as read.

Frank Hancock, Hancock Survey Associates, appeared before the Board for their signatures on the subdivision plan for land owned by Nina Little, Spring Street. Frye said she had received all Form F from the relevant Boards. She told Hancock that according to 81U there is a twenty day waiting period so people may appeal the Board's decision, after it has been filed with the Town Clerk. Hancock then asked to have the motion read from the Board's meeting of November 7, 1984. There was a general discussion concerning the time period for signing the plan. The linen was signed by Holton, Ginn, Wilson and Cataldo. A letter was sent to Nina Little stating the Board's approval of her plan.

Peter Van Wyck, Low Land Farm - Van Wyck told the Board he is clearing the land of scrub growth and will be trying to bring it back to its original state. He would like to use part of the land for farming; one area he pointed out on the map is being prepared to receive the Essex River Dredging material. He intends to pick up stone walls and to save them for further use. When asked who the stones belonged to between his property and the Town he replied that he will only be picking up the inner walls. Van Wyck said that at the moment he has filed a Notice of Intent with the Conservation Commission for a pond in this area. The top soil will be used for the field and the fill for the road. He added that he doesn't plan on using this land for the next two years. Van Wyck then outlined his plan to take care of the water problems at the entrance to Apple Street and the Browning and Hildonen properties, and that he was here to try and get some agreement with the Board. Holton told him that he, Van Wyck, had agreed, with his lawyer and the Board's lawyer present, to correct the drainage on Browning's property. Van Wyck told him that there was nothing in the stipulation that he had to do anything to correct anything. There is a drainage problem and this plan would be how he is going to correct this. He cannot handle this drainage problem unless the total is looked at, that he cannot control Browning's drainage unless he drains the field. Holton asked Van Wyck why the whole thing has to be done, why he can't just correct Browning's drainage. Van Wyck said that in order to get the drainage

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ditch to work he has to drain the field. Holton then told him that he wanted to correct the problem but only on his terms. To get the stipulation lifted he was willing to do it on a long term basis, but that he had promised to do the corrections in 1981 on through 1983. Van Wyck then said, "I have a plan here and the D.P.W. has approved it." Holton said that it had only been approved tentatively, based on corrections they want, and that we should only address the things that should be done first. Frye said that this is involved with a lot of other projects. The Board is asking Van Wyck to correct the drainage to get the stipulation lifted and not to drain a 3-acre area. Holton told Van Wyck that the D.P.W. has not said this is a good long-term plan. All they are addressing is the problem area.

Holton then said he would like to have the Planning Board sit down with the D.P.W. and Van Wyck's engineer to discuss the proposal so that they can be clearer as to what Van Wyck is doing. Van Wyck said he was here in good faith and that if he is going to correct the drainage he is going to do it so that it works. Van Wyck was asked how he proposed to blend the fill in on Greenbaum's property. He said that it would have to be sloped to blend in. The fill will come from the pond, that any fill he has to work with will come from there. Holton said he feels Van Wyck wants to get it done on a long-term basis and that he's afraid when the Board gives their approval that they have the same problems as before. Cataldo said he felt the thing to do would be to do it in steps. Van Wyck said he would do that, that he would get approval from the Conservation Commission, the D.P.W. and the Board and then he will start. Holton said the plan ought to be looked at on a broad approach. The only problem is that when the Board gives their approval then Van Wyck decides to change something, and so the Board should take the necessary steps to make sure this does not happen. Van Wyck said he was perfectly willing to do the catch basin first, but he won't do it until he has total approval of the plan, and approvals from all the Boards. Van Wyck reiterated that the stipulation says there is nothing he has to do to have the stipulation lifted. All it says is that he has to come before the Board with plans. Ginn asked him why he was so insistent on building up the area at Greenbaum's. Van Wyck said it was because he has trouble with water. Wilson said he thought it looked like a reasonable plan once the drainage was corrected. Ginn said he felt a site visit would help. Frye then asked Van Wyck to leave the plans with the Board so they can discuss this further,

Madsen motioned that the Board cease discussion on this plan and move to other business. The motion was seconded

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Cataldo. Wilson, Burnham and Ginn voted to approve the motion; Holton and Frye voted present.

Peter Mugford, Gregory Island - Frye told the Board that Barbara Esmiol and Phillip Court are very distured about the decision made by the Planning Board (Minutes of December 5, 1984) and would like to come in to talk to the Board.

Frederick Markham - The D.P.W. said that if Markham added on a 3' piece on to a 12' pipe they feel it would be just as well to leave it as an open pipe as have a catch basin. Burnham motioned that we accept the preliminary plan submitted by Richard L. and Deborah J Taves dated October 13, 1984 subject to the following :- a detailed plan of the drainage at the intersection area at Pond Street, the drainage to be provided by an open existing drain, removal of the tree providing a single entry as required by the D.P.W., the hammerhead as shown in the plan to be gravel, the remainder of the road to be paved to a width of 16 feet.

The motion was seconded by Madsen and the Board unanimously approved the motion.

Cataldo motioned to adjourn the meeting. The motion was seconded by Madsen and the Board unanimously approved.

Meeting adjourned 10 p.m.

Gillian B. Palumbo

Essex Planning Board

December 12, 1984

Present : Elisabeth Frye, Chairman; Everett Burnham;
William Holton; Michael Cataldo; Michael Ginn;

A special meeting of the Planning Board was held for discussion of the Conomo Drive situation between the Board, Town Counsel and Mark Glovsky, attorney for Frederick Richardson.

Tierney stated that they were getting two sets of questions. Is it a public way or not. Is it something that needs subdivision approval or not. When we can get those answers can we move to the next step. Tierney continued, "Mark (Glovsky) had indicated that the Board had not made a determination that it was a public way and you had not made a determination that it was a Form A plan or a subdivision for Form A approval. There was some discussion as to whether or not, without final consent of the plan, it could be brought up to some sort of passable format or some road that would be acceptable by the Board. My answer to Mark and my same answer to you is, I don't think the law provides for that unless Mark's client takes a serious risk, which I would recommend to the Board that they make it very clear that the risks were all his. My interpretation of the statute is that they allow you to do two things : (i) make a determination if it needs a definitive plan to be filed and all your considerations of the rules and regulations or (ii) they can make a determination that it is a Form A plan subdivision approval not required. Those are the two things this Board can do. The only way that you can start putting covenants on there, like performance bonds, is if you made the determination that it is the type of plan which is going to require a definitive plan to be come subject to the rules and regulations and then the statutes advise the ways to put covenants and things of that nature on there. You either determine it is a Form A subject plan or it is not."

"Your determination had been, in my understanding, was that it was an existing way but not one that met the statutes requirements. I think there is one way to go where everyone is fully protected, including Mark and his plan, and that is to go with a definitive plan, because everyone knows what the rules are, so you can put on covenants to make sure they live up to their performance, so everybody knows they won't be dropped out in the cold if they follow the rules and everything has to be up to snuff before the plan can be approved. Now they don't want to do that and I can understand this, but as far as the Planning Board is concerned, it would be my advice to you that if they don't do that that they go on a Form A type plan and you will not sign the Form A plan until after all the work is done. This

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Board as now constituted could not serve any lasting assurances because you cannot bind a future Board to the vote of this Board, that when they did live up to whatever informal arrangement you made that this particular Planning Board approve it. It's very likely that four or five of you will disappear between now and the time it came to a vote."

Glovsky then said that since the last meeting he has had an opportunity to talk to Richardson and he outlined to him the alternatives open to solving this problem and the hopes of the Board and discussed if he were going to assume certain risks in not being able to bind the Planning Board to a vote after the work is done to go ahead on that basis. Basically, what we would be proposing is, you did already vote to approve this so long as we upgraded the road in a certain fashion and posted a bond, we would like to, as long as we have the feeling that once we've satisfied the requirements of 3.05 we would be able to get the approval not required plan approved go ahead at our own risk and upgrade the road the way we anticipated upgrading. We will agree the Planning Board is subject to change and if there is a different Board and I were to come in with a Form A plan having done the work and the Board says we don't like that idea anymore then we would have no option but to come back with a definitive plan or do something else. We would be willing to waive whatever we have to waive in order to make sure that the Planning Board would not feel that they have an exposure (?) to this.

The simplest way to do it, and you will have to determine whether this would be appropriate, would be to go ahead and do all the road building work, the grading, the resurfacing, the clearing, everything but the bituminous; that would then bring us up to the standard of 3.05. We would voluntarily post a bond. We would like to do the bituminous after the lots are developed so this road surface isn't affected by the construction. That bond would be there even though we wouldn't have been obliged to post a bond, and we would then have a Form A plan available to you to sign with a road that had been upgraded to the standards of 3.05. We would voluntarily giving you the bond with respect to the bituminous, that it would be at that point the plan should come. We would give you a statement saying that at this point or sometime in the near future that notwithstanding we might go ahead and do the work. We can come back here and if you decide not to pursue it on a Form A basis then we are not going to have any recourse.

Tierney said, "The only other problem that we talked about is the extension of that road. There should be some sort of assurance that whatever the Planning Board wants at that front end of those three houses, as far as the road goes,

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you will comply with the requirements they are going to put on any extension of that road, that is your concern."

Glovsky told him, "That would be the same right as the Planning Board would have at any time. If the Planning Board didn't feel the road was adequate they might say, notwithstanding the fact you are putting in a good new subdivision road we don't feel that this is adequate. Even though we are improving part of the Marino property, in this case we couldn't have done anything with our three lots if we just improved the road from Marinos to the end of Richardsons. We had to take it from Richardson through Marino to Pond Street.

Tierney said, "We will be checking to make sure the rules and regulations have a provision here saying that your Board can consider the adequacy of the adjacent roads and to ask for something to be done with regard to them once you consider it a subdivision.

Holton then asked Glovsky, "If your clients are willing to go to this extent with something other than the normal route why not go with the subdivision rules and regulations right from the beginning and filing a definitive plan.

Glovsky told him, "At the time it came to me Hancock Survey had prepared a Form A plan. I got a call from Mr. Richardson asking if I would come to the Planning Board with Form A plans. I looked at the plans that Hancock had prepared which said Conomo Drive, Public Way. I knew nothing at that moment of Conomo Drive and I came in that first night and started to find out that Conomo Drive wasn't in fact the road I expected it to be. Had I had that knowledge before the plan was prepared I may have suggested that Fred Richardson, but we had come so far along and then got involved with the question of whether it was public or private, so unfortunately the course this has taken never gave an opportunity to step back. At this point we have three buyers that have been waiting to get to work on these lots. We know its adequate for these three lots and the definitive plan process could take several more months and open us up to significant exposure, so we are going to run the risk and go ahead and do the road work. We certainly wouldn't do it for the balance of this land."

Holton said that there was one thing that concerned him and that was as soon as we sign it as a Form A then we've accepted it as a Public Way. Glovsky said that there is a note on the plan stating that endorsement of the plan does not affect the legal status of the road.

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Holton then said, If it comes to a point when we want the Court to decide the status of the road, after all the money that has been spent on it and the court says it is public, who is liable for all the expenses incurred. Tierney told him a Form A can be private or public. He added the Board should make sure the road be made adequate up to standards for developing the whole thing. The Board should also consider that later on this will be developed and should try and bind this in.

Glovsky said that someone had suggested that Pond Street may not meet the standards of this new part of Conomo Drive, that it is insufficient to serve more than three lots and therefore deny it on the basis of inadequacy of Pond Street. Mrs. Fawcett asked if (i) written permission had been obtained from the other owners of Conomo Drive and (ii) how can you have a 40' right of way when the deeds specify either 18' or 30'. Tierney said, "I assume at some point in time they are going to have to get releases or purchase the easement." Glovsky pointed out on the map that according to Hancock Survey Richardson owns all the property and Marino owns the rest. Mrs. Fawcett felt part belonged to Emerson. She then asked about the owner's unknown land. Glovsky told her that was why they moved the road over. A discussion followed about ownership of the property. Tierney felt this was not relevant at this time and was up to the developers.

Frye then asked, "At what point do we sign off?" Tierney told her, "My advice to you is not to sign off. No plan should be signed until you are satisfied the road meets the requirements under Chapter 81L. At this stage, going with the facts I have, I'm assuming under 81L there are 2 or 3 categories there but have found the road fits under none of those categories, so it is not a Form A plan, so you cannot sign a Form A plan. There are two choices now, they go on at their own risk, the risk being that nobody challenges the fact they own the road, they get the whole thing done to whatever degree they want and you still don't sign a Form A, or they go forward and file a definitive plan.

Cataldo asked Tierney a question, "There have been certain statements made, certain members of this Board have been asked about the validity of their voting on the issues having to do with this road. What are the considerations prior to anyone voting on this issue? I would like this cleared up."

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Frye then said she would like to hear from the D.P.W. about dead-ending the road. Glovsky said the way they are approaching this is that they are upgrading an existing way and not creating a new subdivision. They have a road that forks here (pointing to map) and they would go 150' further. They propose some sort of hammerhead so there would be adequate turning in this area, but not necessarily a cul-de-sac here which is right at the area where there is a steeper slope, because it wouldn't make sense. Frye then asked, "What good is a turn-around at this point when the road goes further?" Glovsky said, "We only have to improve the road far enough to give us the 150'. Kirk Elwell of the D.P.W. said, "In lieu of a cul-de-sac you should have something at least to back into or provide something perhaps on Lot 3. We should have something at the head of the hill so if we do get up there we can get out of trouble by pulling off.

Glovsky then said that the Conservation Commission has asked for detailed plans of the water shed and drainage. Tierney then said the premise that the Board is working on is that it has not accepted it as a Form A right now. Glovsky said, "We understand it's not accepted as a Form A right now." Tierney - "When they come back to you, the Board, with a Form A plan at some point in time asking you to accept it, then they have to show you what is there and how it got there, and somebody, a clerk of the works, is going to have to provide evidence as to exactly what it is." Glovsky - "Once we have satisfied the Order of Conditions of the Conservation Commission we would then do the work with respect to bringing the road up to 3.05. At that point, I would like to come in to the Planning Board with a Form A plan knowing that we intend to do the bituminous I would then submit a Form A with the gravel way and voluntarily, aside from the Chapter 41, agree to post a bond with respect to the bituminous. The Planning Board could then determine whether or not the road, based on what is existing at that time, is adequate. A bond wouldn't necessarily have to be considered but it would be there. If you tell me right now, prior to coming in, to be sure the work is done properly, we will get somebody to function independently during that construction period.

Elwell suggested to the Board that seeing at a later date they may be looking at future expansion of a road, you don't want to place a narrow road down the center then try to build little pieces on either side of it later. You want to set it to the side to start, then later on go to the left or right and develop the whole strip. Glovsky said, "We can do it that way." Mrs. Fawcett then asked, "Can this Planning Board give Mr. Richardson permission to build a road on somebody else's property, on owner's unknown land, which may, in fact,

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be public land?" Glovsky said that although he didn't think the question was relevant, the only point they feel they are building on land of owner's unknown is a very small triangle, and there they will only be upgrading the existing way, they will not be expanding. It is 11' wide where it crosses so they will have to go ³24' outside the owner's unknown area.

Glovsky was asked why they hadn't considered going to court on this situation, to which he said that even if they went to court and they said it was a public way. we come back and tell the Town to fix the road; the Town tells us they don't have any money to put in the road, we in turn sue the Town to raise the money to put in the road, then we wouldn't have a friend in Town. It would take us five years and we wouldn't accomplish much for us or for the Town. We are trying to avoid that. We have been dealing with the Board for a while; I think we have an understanding of what the Board's thinking is. We know the Board may change its complexion between now and when the road is done, that is a risk too, and the Board also may just change its opinion.

Tierney said that is something you have been advised about. Cataldo advised Glovsky to take the time to deal with the different Boards if you are going through the process of building the road.

Tierney then referred back to the question of a conflict of interest with certain members of the Board. Glovsky said he raised the question not only because he was concerned about people doing the wrong thing, but he didn't want to have the vote of the Board tainted either. His attitude is that anyone who has property that abuts or is close by Conomo Drive is going to be financially affected by development that takes place on Conomo Drive. If the Planning Board says its public and opens it up for development, that would have an affect on the property values; if the Planning Board says its private, and makes it very difficult for development, that also will have an affect on property values. Tierney told Cataldo the decision comes down to whether or not you are affected in the same nature as other citizens of the Town, or there is a peculiar affect on you. He added that if Cataldo or Frye 'felt uncomfortable about this, all they would have to do is to put it in writing to him that they want another opinion, and he would forward it to the Ethics Committee, and they would give a confidential opinion. If you do feel in any way in jeopardy over this matter, then you don't need to do that.

Glovsky said when they come in with a Form A plan, they will come in with a certification from Hancock Survey saying they supervised the construction of the road.

Essex Planning Board

December 5, 1984

Present : Elisabeth Frye, Chairman; Michael Cataldo;
Michael Ginn; Everett Burnham; Alden Wilson.

Meeting called to order 7.30 p.m.

The Minutes of the meeting of November 20, 1984 were read. Cataldo motioned to accept the Minutes as read; Wilson seconded and the Board voted to approve.

Ed Story gave the Board a building application for Stephen Taliadoras, Lot 2, County Road. The application is for a dwelling with two storeys and 3 bedrooms. The distance from the right side line is 75', from the left side line 83', and from the rear line 135'. The building size is 42' in height and 28' in width.

Ginn motioned that we approve the building permit of Stephen Taliadoras based on the plans presented for Lot 2, County Road. The motion was seconded by Burnham and the Board voted to approve.

Frank Hancock of Hancock Survey Associates appeared before the Board to have the Board sign the subdivision plan for land owned by Nina Little. The Board had asked for responses concerning this from the Conservation Commission, Board of Health, Fire Department and the D.P.W. As the Conservation Commission was the only response received, it was felt the Board should wait until they had received comments from the other Boards. Frye said she would also show this to Town Counsel for his input and then have Hancock come in December 19 in order to have the plans signed. (Form F)

Peter Mugford, Gregory Island Road - The Board had received a letter from the Board of Assessors dated November 20, 1984 stating that they are at present assessing Mugford's building as an outbuilding, but have found that there is a sink, toilet, shower and bedroom. They would like the Board to make a decision as to whether the building should be assessed as a home. There was some discussion as to whether a building permit issued was for a garage. The Board was told that there was a camp there which burned down in 1973, which was rebuilt and that it had been framed up before the application for a garage was applied for.

Burnham motioned that the Board recognises this building as a reconstruction of an existing camp and it be assessed accordingly. The motion was seconded by Cataldo and the Board voted to approve.

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Frederick Markham - the Board reviewed the preliminary plans with Markham, Matt Huatala and attorney Alan Swann who is representing Markham. As there was some concern about drainage, Huatala said the D.P.W. would put in a catch basin to collect the water. They would make use of the existing culvert, together with the additional catch basin. The Board asked that this be shown on the definitive plan. When asked what standards should be used for the road, the Board said the standards for 10 houses or less. Markham said he would prefer a gravel road. Frye asked him how he would keep it on the 8% grade. She said that Markham must request the waiver which will be shown on the definitive plan. Wilson said his only concern would be the question of whether it's the D.P.W.'s decision for drainage. Huatala said that the Conservation Commission is not in favor of catch basins, but the D.P.W. is, so he wasn't sure what to do. Burnham said he feels this would be up to the D.P.W. Huatala then told the Board that according to the regulations, plans are supposed to be on a 40 scale, but if they do that the plan would have to be extremely large. Ginn said he felt the Board waived the 40 scale for a plan of Van Wyck. Huatala said he will give the Board a cross section of the road. He will be waiving the detail of the construction area 1:40 and the overall plot will be 1:100. The waivers are as follows - (1) water, (2) sewerage, (3) hard top, (4) scale. Turn around - is it needed? It was felt that the hammerhead would fit in well, that this was not a dead end but the first part of a subdivision road. The preliminary plan must be reviewed and acted upon by the Board by January 5, 1985.

Maria Motel - Cataldo felt the Board should send a letter to the Maria Motel updating the Board's position as he thought it was left up in the air. Frye didn't feel they had to because at the meeting of September 18 it had been decided the Board should wait for the results of the die tests done by the Board of Health.

Mark Glovsky - Frye told him that she had talked to Town Counsel about the performance bond, who told her that this situation doesn't require a bond. The Board will sign off when the work is done. Glovsky said that when he talked to Town Counsel, he didn't seem to be familiar with the motion that the Board voted to allow approval on an approval not required basis provided his client fulfill the conditions mentioned. Glovsky then said that Town Counsel didn't seem familiar with 3.05 and suggested that Town Counsel get together with him and the Planning Board to see if they could find a solution for this situation. Frye reiterated that Town Counsel had said no performance bond.

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Glovsky again told the Board he felt that there was a conflict of interest with certain members of the Board. Cataldo said he had no financial interest in this and is therefore not in conflict, but in any case had voted present on all motions. Glovsky said he would be willing to meet with Town Counsel and the Planning Board at their convenience. Cataldo asked if they were bidding this job, and was told that they were, to which Cataldo replied that he would like to see a copy of the specifications. Glovsky then asked what the Board would like him to bring to the meeting. He was told the dead end issue should be addressed and to show plans for drainage and elevations. There was some discussion of the supervision of the work and Glovsky told the Board that if they want to hire someone and the price is reasonable, Richardson would pay for it. Glovsky then said again that with all the information he had obtained that he's convinced Conomo Drive is a public way, and that they were doing more than is reasonable. Glovsky said he would call Town Counsel to set up a time and date for the meeting.

Cataldo motioned to adjourn the meeting. The motion was seconded by Ginn and the Board approved the motion.

Meeting adjourned 10 p.m.

Gillian B. Palumbo

Essex Planning Board

November 20, 1984

Present : Elisabeth Frye, Chairman; Alden Wilson;
Everett Burnham; Michael Ginn; Rolf Madsen;
William Holton.

Meeting called to order 7.35 p.m.

Burnham motioned to approve the Minutes of the meeting of November 7, 1984 as read the section pertaining to Wesley Ward. The motion was seconded by Wilson and approved by the Board.

Wesley Ward, together with Chuck Johnson of Hancock Survey met with the Board. Ward told them there is an existing gravel drive on the property and therefore they are proposing a 14' wide, 12" deep composite gravel driveway. There is a culvert at the beginning of the driveway which they will have to lower. To take care of minimum slope requirements the first 300 feet will be 1% grade, then a vertical curve to an 8% grade. The entire roadway will be 800 feet long and 14' wide. Ward said he believed that 14' would be adequate. Frye then asked him if he would have any problems going for the extra 2', because of people who may build later. Ward said he felt if the extra 2' was put in then the Board would be inviting a subdivision. Holton asked him, "Why do you feel 10, 2 and 2 is adequate for your house." Ward told him because it would be for only one house. Holton then asked him if he realized that this was a private road. Ward said, "No, I did not. Do you want it to be improved for a public way. What standards are we complying with." Frye told him, "The standards for 10 houses or less." Ward then said, "We did not want to saddle the buyer with the extra cost. We didn't realize that Essex wanted its standards to be for a public way. You could give us a waiver for this one house." Holton told him, "We disagree. We have a stake in the future and should not be put in the position of deciding one way or the other. We have a set of standards that will apply to everyone and we felt that we really must be consistent in this for all concerned." Ward said he had no problem with the 16 feet for a 10 house subdivision but not for one house. These roads have to do with traffic. Holton said that traffic is one aspect, safety and getting fire apparatus in and out are others. There are certain standards that we have to apply and we want to be consistent. Holton then told him there are certain things they can waive under the 60-page subdivision rules but there are certain things they can't. We can waive hydrants and drainage. Ward said, "We have gone out of our way to abide by the standards and feel the extra 2 feet is unnecessary. We are bearing 80% of the cost of this part of the road, that in the future other people will be using. I feel we shouldn't have to bear the whole cost of it."

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Frye then said, "Do you feel that we should vote on this. This is a difficult decision to make."

Holton motioned that we accept this if the width is brought up to the 10 houses or less standards that we agreed upon and not until then. The motion was seconded by Ginn. Burnham voted to approve and Wilson opposed.

Holton said, "If the Board feels in a case like this that the 10 houses or less does not apply then we should come up with another set of standards. I appreciated the 44' easement but the point is that we must be consistent with the standards." Ward then asked if the Board would act on the Form A laws subject to the road being finished. Frye told him they could not do that. Holton said he feels a letter of intent should be drawn up for this kind of situation. Frye said there should be some discussion on what should be in the letter for Ward and that Town Counsel could help them with it.

John Matheson met with the Board with a plan of land of Natalie E. Swaney and a Form A. Holton motioned that we sign the plan of Land of Natalie E. Swaney dated November 5 1984, subdivision approval not required as presented. The motion was seconded by Burnham and the Board voted to approve. The Board signed the linen.

Glen Warren met with the Board for an informal discussion as he is interested in purchasing 22 acres on Belcher Street, (Choate Street end). Warren told the Board that he plans to subdivide the land into four lots and would like to informally discuss his proposal with them. He said the lot owners there have got together and have decided on a deed restriction that state the lots shall not be less than three acres. After look at the plan it was felt that one of the lots did not meet the requirements. The Board then had a discussion on the definition of a front yard and dimensional requirements. Warren asked the Board if there were any other issues apart from the pork chop lot. Ginn suggested he keep in mind the location of the wells with respect to the septic system. Warren said he is not going to submit a Form A to the Board until he has had perc tests done next Spring. *lot with*

Edwin Bjork, Essex Realty, representing Marjorie Grinnell, was given a letter from the Board stating their motion on the change of use of the property Grinnell is purchasing on Western Avenue. (Minutes of November 7, 1984).

Madsen motioned to adjourn the meeting, seconded by Holton. The Board approved the motion. The meeting was adjourned at 9.15 p.m.

Gillian B. Palumbo

Essex Planning Board

November 7, 1984

Present : Elisabeth Frye, Chairman; Michael Ginn;
Rolf Madsen; William Holton; Everett Burnham;
Alden Wilson.

Meeting called to order 7.35 p.m.

Ginn motioned to accept the Minutes of the meeting of October 17 as read. The motion was seconded by Burnham and the Board voted unanimously to approve.

The Board was given a Plan of Land of Natalie E. Swaney, dated November 5, 1984. The Board was told that the property exists as two separate lots but that one small piece of land will be transferred from Lot 2 to Lot 1. The Board felt that subdivision approval not required should be annotated on the plan.

Warren and Brian Heath, Skippers Galley, told the Board they have an erosion problem at the side of their restaurant which they would like to repair. They said they have checked with the Corps of Engineers who said the Heaths did not need their permission for this work. Ginn asked the Heaths if they would be going further to the centre of the channel. They said they would not be increasing land area, just keeping what is there, but that this is a severe problem which must be corrected. The Heaths said they would be building a loose stone wall, built at a canter, filled behind it with tailings and rip-rap for banking. Ginn said he would like to see in writing the proposed plan just to have it on record.

Burnham made a motion that the Board approve the repair of the erosion problem with a rip-rap wall provided it stays within the property line. The motion was seconded by Holton and the Board voted to approve it unanimously.

Marjorie Grinnell, Old School House, Western Avenue, came before the Board for a change of use permit, from a storage building to a single family home (Minutes of October 3, 1984). She gave the Board a plot plan, a plan of her proposal for the interior and letters from abutters stating their approval. She told the Board she had not been able to get statements from two abutters, but they will be forthcoming. It was recommended that if a clothes washer be used then a dry well be put in. Frye said she had been expecting to receive a letter from the Board of Health stating there would be enough room.

Ginn made a motion pending receipt of two letters from the abutters that we accept this plan before us deeming that the

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- | | | |
|--------|---|--------|
| 7.02.8 | Trees | (None) |
| 7.03 | Drainage | (None) |
| 7.04.1 | Water system (No municipal private well for Pcl. A if dwelling ever proposed) | |
| 7.06.4 | Lots - The subdividing of the land shall be such as to provide that all lots shall front upon a public street. (This - private way) | |
| 7.07 | Monuments | (None) |

Hancock added that there are no drainage calculations as he does not propose any drainage, and also he did not want to bother with a cross drain as there isn't much run-off. Hancock told the Board that he has looked through the regulations and feels he is not asking for anything out of the ordinary. Tyler then read to the Board the covenant concerning the proposal and suggested that they have Town Counsel look at it to see if it is satisfactory. He added that he would like to receive some acknowledgement from the Clerk that everything has been filed, that abutters were notified, etc. Holton then asked, "Is it still up in the air, or is this where the road is going, that is on the map." Hancock said the main problem is getting by the Stavros house and having an adequate road. Hancock was then asked, "On the dead end are you using it as the entrance to the garage," to which he replied, "The set backs for the house will have to be measured from the turning circle." Holton then said that he did not feel the waivers were unreasonable. Tyler told the Board that what is reflected in the Covenant will be good for thirty years down the line. Ginn said he did not have any problems with this as a paper road. Tyler told the Board that the only possible buildable lot is the 3.25 acres willed to Dr. John Little.

Wilson made a motion that the subdivision plan of Nina Little, Spring Street, be approved and to include the list of waivers attached and recorded at the Registry of Deeds as being adequate for construction of one dwelling on Parcel A shown on plan dated October 29, 1984, subject to the terms of the covenant dated November 7, 1984 filed with the Registry of Deeds with the said plan. The motion was seconded by Holton and the Board voted unanimously to approve. It was noted that the waivers will be printed on the mylar.

David Lane, Castle Neck Nurseries, John Wise Avenue - the Board received a building application for a greenhouse on the front of the building on the existing porch.

Madsen made a motion that the Board approve the building application of David Lane, Castle Neck Nurseries, John Wise Avenue on the grounds that the proposed building is not substantially more detrimental to the neighborhood than the

November 7, 1984

existing non-conforming use. The motion was seconded by Burnham and the Board voted unanimously to approve.

Alan Swann, attorney, together with Matt Huatala, appeared before the Board representing Frederick Markham and Mr. and Mrs. Tyack, Markham's daughter and son-in-law. Swann gave the Board a Form B. He also showed them a copy of a plan that was approved by them in 1970. He told them that Markham had purchased the property a number of years ago and had conveyed Lots 1 and 2 to members of his family. Because of a boundary dispute the remaining parcel of land is not a buildable lot, and so would like to create a buildable lot by taking a piece of land from Parcel B and adding it to Parcel A. Swann said he categorized it as a two-lot subdivision by rearranging some boundary lines. He said he was submitting this on a preliminary basis to get some input from the Board, as Markham had been turned down by the Board of Appeals on the original 32,429 square feet. (June 14, 1984). Burnham then said, "Frontage on a new lot is 200 feet. What position does it leave the other person in with the right of way. Will it jeopardize him?" Swann told him that they were leaving the right of way as is. When asked about the grade, Huatala said it had been bulldozed down to an 8% grade.

Swann said they were here to see how much of a road is required. He was asked if Markham has an easement to get to his land. Huatala said that the subdivision road will become his road. Our road will stop at his property and the rest will remain as is. Frye then asked the Board about the road he should make, with drainage being a consideration. It was decided that the Board should take home the maps and give some thought as to what should be included on the definitive plan. It was noted that there will be sixty days to act on this.

Trustees of Reservations - Wesley Ward. Swann said he is representing Stephen Wedlock and Kim Pederson who are proposing to buy the property. The property is located at the corner of the Old Manchester Road and Conomo Drive. They had been asked by the Board to get an easement, and were going to get one from the owners across the street, but now it will all come out of the Weld property. (Minutes of September 18, 1984). Swann said they are coming in with an approval not required. Frye asked, "Are the standards used for the Henderson property enough for this". Swann was told that the road has to be improved before the Board can call it adequate and the road has to be adequate before the Board will sign off on the plan. Frye said the Board will have to come up with the standards they require. Madsen feels the Board should all look at this property to see what the potential is for house lots further down the road.

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Holton suggested that the Board use the standards for ten houses or less.

Madsen made a motion that we deny the plan of Mass. Farm and Conservation Lands Trust due to the fact that the Planning Board deems the Old Manchester Road inadequate according to our Subdivision Control Law, Section 3.05. The motion was seconded by Ginn and the Board voted to approve the motion.

Swann was given a copy of "Standards for Ways serving fewer than 10 houses." Ginn felt that according to the Minutes of September 18, 1984 we may be requiring the applicant to do more than is necessary. He asked if the Board had spoken to Town Counsel and the D.P.W. on this.

Madsen motioned to adjourn the meeting. The motion was seconded by Burnham and the Board voted to approve.

Meeting adjourned 11 p.m.

Gillian B. Palumbo

Essex Planning Board

October 30, 1984

Present : Elisabeth Frye, Chairman; Everett Burnham;
Alden Wilson; Michael Ginn; William Holton.

Meeting called to order 7.40 p.m.

Frye said she tried to call Town Counsel, but was told he was on vacation. She also spoke to Alexander Dawson who told her that although there is no provision for this in the statutes, it is the Planning Board's option, but that the Board should be very careful about what is written down.

Frye then reviewed the situation of Conomo Drive and the standards required for the road. Frye then said that we sign off when we consider the road adequate. Holton told the Board that this is a unique situation; it is not a subdivision and so does not fall under subdivision approval not required. He then asked, "Who should fix up the road and are we going to sign a plan on a promise that the road will be adequate some day." Burnham told him that Richardson is going to fix up the road with no expense to the Town. Holton said it doesn't fall under a Form A and it doesn't fall under a subdivision. We can't sign a plan on a way that doesn't exist. Ginn then said that when this first came up he wanted the court to decide, but as things went along he feels that the route we are taking is perhaps better. Burnham said the road proposed is more than adequate for three houses, but the Board must uphold the same standards further along the line. Ginn said he felt that this was a way to get the road in here without cost to the Town, but which will have pretty good standards. Burnham then stated that we are not going to sign the plan until it is up to our standards.

Frye then told the Board that the Conservation Commission had asked (i) why is there a road with no place to go. They felt there should be a turn around or something similar, and (ii) the easement that will come from Mrs. Marino, it was felt that the Board needed some proof that the easement will definitely come out of the estate. The Board then discussed informally what things should be worked out before work begins on the road.

1. Figure out about how many houses will be up there and use our standards for fewer than ten houses.

2. Future developments for ten or more lots will require that those parties bring the standards up to those of the D.P.W. Where do we draw the line on who upgrades the road. We should ask Town Counsel because we do need different standards for more than ten houses.

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3. Who widens the road? This will in no way affect the status of the road.

4. The money business or a performance bond. Check with Town Counsel and leave it up to him. Holton asked why the Board insisted on an insurance bond, if we have accepted no responsibility for the road. Burnham told him the bond is basically a guarantee between the buyer and owner that the road be built in accordance with our specifications. It's a guarantee that the road will be finished. It was felt that Town Counsel should be asked what might be the best guarantee for this.

5. Hire a clerk of the works during and after.

It was requested that the Minutes be read into the meeting. Burnham motioned that the Minutes of October 17, 1984 be accepted relative to the Conomo Drive and Little property. The motion was seconded by Ginn and the Board approved the motion.

The Board then reviewed the plan of Frederick Richardson dated October 17, 1984 - Easement plan of land. It was noted that there are no contour lines on the plan.

Ginn motioned that the meeting be adjourned. The motion was seconded by Holton and the Board voted to unanimously approve.

Meeting adjourned 8.55 p.m.

Gillian B. Palumbo

Essex Planning Board

October 17, 1984

Present : Elisabeth Frye, Chairman; William Holton;
Everett Burnham; Alden Wilson; Michael Ginn;
Rolf Madsen.

Meeting called to order 7.35 p.m.

Ginn motioned to accept the Minutes of the meeting of October 3, 1984 as read. The motion was seconded by Burnham and the Board voted to approve unanimously.

John Drometer, who bought property at 19, Winthrop Street wants to change it from a two-family to a three-family. He is going before the Board of Appeals on October 24, 1984 on a land variance. The regulations state that 10,000 square feet per unit is required and the total square footage for his property is 15,000 square feet approximately. Parking is also a question.

Old School House, Western Avenue - The lot size of the property is 11,000 square feet. There is 9 feet in the back and the rest is in front. The Planning Board must have a letter from the Board of Health on this and also a Public Hearing is necessary.

Mark Glovsky, Conomo Drive - showed the Board a preliminary plan of the proposed road. He said the original plan had a 50' easement which they have kept, but at one point the easement becomes 44 feet. They have an agreement with Lou Marino's widow to take the necessary land for the easement. Glovsky said there will also be a note on the plan stating that 'the endorsement of this plan by the Essex Planning Board does not affect the legal status of Conomo Drive.'

Frye told the Board that they have 14 days to look this over. She also told Glovsky that in the Minutes it was stated that he wants to have the approval of Town Counsel. Frye said she had heard from Alexander Dawson who told her that a Form A is not legally enforceable unless done according to the law. There is also no structure in the statute for covenants or bonds. Glovsky said he would like to talk to Town Counsel about the length of time of the road work as some of the property owners would like to get their foundations going. Holton then said he would like to get a written ruling from Town Counsel. Glovsky said the road could be deemed adequate if the road base is put in and a bond be given for the money to finish the surface when it is required. He added that there are wetlands there so he will have to file a Notice of Intent with the Conservation Commission. At the moment there isn't a plan

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for the drainage and elevations.

The Board decided that they would talk to Town Counsel and will meet again with Glovsky on October 30 at 7.30 p.m. Glovsky said he felt he is doing more than is necessary for a Form A. Ginn said that in regard to the bond it should be stated that there will be enough money to cover the construction of the road other than what has already been done. Glovsky said there will be three quotes and the bond should be in a sufficient amount to bring the road to standard. Frye said she would call Tierney about the Bond. Holton said he felt there should be a letter agreement between both parties. Glovsky said he agreed with Town Counsel that traditionally approval not required were lots divided on an existing way, but here we have an existing way which is not deemed adequate.

Frank Hancock of Hancock Survey Associates and Attorney William Tyler met with the Board about the Nina Little property. Tyler told the Board that Mrs. Little wants to convey the property over to the Society for the Preservation of New England Antiquities but that she would like one piece of land approximately $3\frac{1}{2}$ acres to be kept for her son, Dr. John Little. Tyler continued that Mrs. Little must have this piece taken from the rest of the property and must have access to it. He added that this $3\frac{1}{2}$ acre piece can never have more than one house on it, so they do not want to build a big road for one house that may not even be built. The length of the proposed access road is 1500 feet. They are asking that the Board approve the plan in this way and enter a covenant with Mrs. Little that until the property has been transferred into general ownership and that until someone puts a house on it, nothing will have to be built and then an access road that would be suitable for one house, and one house is all that will be built. Tyler said he would like to present a formal plan if they have the approval of the Board, and would like to have the plan approved showing the way as it is on the plan.

Frye said the existing way is very narrow, only the width of a car. She then asked how much can we waive standards for a road going to one house. Ginn said he felt it should be approved based on the 44' easement. Hancock said it should be planned with the road built up to minimum standards so that the Board could accept the plan with the proposed road and the covenant. The transfer of land will lock up the land apart from the one parcel. Tyler said they would like to file a definitive plan as soon as possible. He said he will retain a deed right for a 44' strip and he will describe it in words.

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Holton motioned that we have accepted the preliminary plan and would encourage that a definitive plan be presented at our next meeting with the understanding that certain waivers be made in the requirements based on the circumstances surrounding the property. The motion was seconded by Wilson and the Board approved unanimously.

Madsen said he felt a turn around should be placed on the plan. Ginn then asked should we decide on the standards of the road this evening. Hancock suggested that the Board go through every detail required by law for a subdivision and as long as the waivers are listed and endorsed by the Board that should cover all considerations. Holton felt that the Board should not list their waivers at this meeting.

A Public Hearing will be scheduled upon receipt of the definitive plan.

Maria Motel - The Burnhams have given the Board a list of abutters who disapprove. The Board decided they will wait until the Board of Health has done the die testing.

Ed Story gave the Board a building application for Donald R. Libby, 42 Eastern Avenue. His proposal is a 10' x 14' deck with stairway from the second floor to the first floor. The same size deck on the first floor with stairway to the ground level.

Burnham made a motion that we accept the building application of Donald R. Libby, 42 Eastern Avenue finding it not substantially more detrimental to the neighborhood than the existing non-conforming use but subject to the approval of the Conservation Commission, and upon receipt by the Building Inspector of letters of approval from the abutters. The motion was seconded by Holton and the Board approved unanimously.

Philip Budross, Links Road, Gloucester - The Board received a building application with the proposal for a building on Eastern Avenue for storage, display and sale of classic and antique automobiles. The distance from the street line is 25+ feet, right side line 20+ feet, left side line 20+ feet and rear line 35+ feet. The building size is 120' length, 16' height, 60' width and the number of stories will be one. It will be a steel building. The lot is conforming. Holton questioned where the parking will be and Ginn said he felt the Board should have the elevations of the building. Madsen said he felt we should request a plot plan with setbacks and showing the parking.

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Madsen moved that the Board go into Executive Session, seconded by Burnham. The Board voted to approve the motion.

Ginn motioned that the Board go out of Executive Session and seconded by Holton. The Board approved the motion.

Ginn motioned that the Board order a filing cabinet; seconded by Holton. The Board voted to approve the motion.

Madsen motioned that the Board adjourn the meeting; seconded by Ginn. The Board voted to approve the motion.

Meeting adjourned 10.10 p.m.

Gillian B. Palumbo

Essex Planning Board

October 3, 1984

Present : Elisabeth Frye, Chairman; Michael Ginn;
Michael Cataldo; Everett Burnham; Rolf Madsen;
Daniel Greenbaum.

Meeting called to order 7.35 p.m.

Ginn motioned that the Board accept the Minutes of the meeting of September 18, 1984 as read. The motion was seconded by Greenbaum and the Board unanimously approved.

Frank Hancock, of Hancock Survey, appeared before the Board with a subdivision plan, stating that he was representing Attorney William Tyler. The subdivision plan is for the Little property at the end of Spring Street. Hancock told the Board that by the end of the year the property will be conveyed to the Society for the Preservation of New England Antiquities, but a 3-acre lot from the property will be conveyed to Dr. John Little, son of the owner, Nina Little, upon her death. He presented the Board with a preliminary plan, Plan of Land in Essex, Mass., of Nina F. Little, dated September 24, 1984. Hancock said that on the plan he is prepared to draw in a 44' wide easement in accordance with the Board's subdivision laws, but would prefer to use the existing dirt road that goes to three other houses in the area. Hancock was told that to get approval of the Planning Board they have to be satisfied that the road is adequate. Hancock said that it is their desire to go as far as is deemed necessary by the Planning Board to be assured of reasonable access, and will do a layout and a profile showing the easement, but with the hope that the road will never have to be built. He added that he felt the Board of Appeals was a risky route to take. Hancock was told that the Board would have to require a bond as certain things will have to be done. Hancock then asked if he could proceed with a definitive plan. Cataldo said he felt before the Board make a decision, they would like to go and check with Town Counsel as this is setting a precedent.

Marjorie Grinnell told the Board she is interested in purchasing the old school house on Western Avenue, property of Edward Salzberg, and is wondering what she will have to do to get a change of use, from a storage building to a single family home. Ed Story told the Board that the property is completely non-conforming, with less than 15,000 square feet of land and 100' frontage. It was felt that the change of use would probably not be more detrimental to the neighborhood, but Grinnell was told that first she must go to the Board of Health for a perc test for a septic system as the building has an old system which has not been used since 1953. Grinnell said she was told that the

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existing system, although old, is not failing. She was also told that she must have the Board of Health's approval of a plan of a new septic system or the necessary renovations to the existing one, together with statements from the neighborhood that they have no objections, before returning to the Planning Board. Grinnell was told that she should also have a plan of what she proposes to do to the building.

Edward Lane, Pickering Street, met with the Board stating that he feels he has been misrepresented in the purchase of a parcel of land on Belcher Street, formerly owned by Dennis Outwater. Lane said he bought the land because he was told it was a buildable lot according to the State law that you can build a septic system within 50 feet of wetlands, but has since discovered that under the local Wetlands and Board of Health regulations a septic system cannot be built within 100 feet of wetlands. A brook runs through his property and Lane said that to have the septic system 100' from that and to have a well 100' from any part of the system cannot be done. Lane was told to take this problem to the Board of Health and Conservation Commission as this is the area of most concern. Frank Hancock, who drew up the plans said he was recently made aware of this aspect of Title 5, the 100' requirement of the Conservation Commission, and was in the process of reviewing it.

Robert Marsolais - The cease and desist order has been lifted because he has torn down part of the building that did not adhere to the original plan.

Notification has been sent to the other Boards regarding the next two meetings at the school with Phil Herr on October 4 and October 26.

Ginn told the Board that at the Selectmen's meeting, the Selectmen said they wanted the Planning Board to be more co-operative regarding Low Land Farm, as this has been designated a site for dredging material, with 75% going to Low Land Farm and 25% to Essex Marina. The Selectmen will probably favor the sites to put the dredged material, but at the moment the Planning Board has the stipulation that Van Wyck cannot do any work. They said they did not care about the stipulation, that they just wanted the co-operation of the Board so they are able to define Van Wyck's land as the site for dredged material in order to tell the State. It was noted that any area that is to be filled with dredging material will not be a buildable lot. Van Wyck will have to file an amendment to the plan for this area, which he said he will. Frye told the Board that Town Counsel wants the Board to come up with a list of corrections they want to have done, so that they can get rid of the

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stipulation, that this should be resolved. Town Counsel noted that in all fairness to Van Wyck, if he does not have a list of things to be corrected, then how can he know what must be done. The Planning Board then discussed what they felt should be included on the 'laundry list' for Van Wyck.

Greenbaum motioned to take the action in the proposed letter concerning the disapproval of the plans and noting the concerns which need to be addressed in a definitive plan. The motion was seconded by Cataldo and approved by Ginn, Madsen and Burnham. Frye did not vote.

The Board then had an informal discussion on what Town Counsel should be asked about the Little property.

Cataldo motioned to adjourn the meeting, seconded by Greenbaum. The Board voted unanimously to approve.

Meeting adjourned 10 p.m.

Gillian B. Palumbo

Essex Planning Board

September 18, 1984

Present : Elisabeth Frye, Chairman; Everett Burnham;
Alden Wilson; Daniel Greenbaum; Michael Ginn;
Michael Cataldo; Rolf Madsen.

Meeting called to order 7.40 p.m.

The Minutes of the meeting of September 4, 1984 were accepted as read, the motion being made by Cataldo, seconded by Wilson and unanimously approved by the Board.

Cataldo suggested to the Board that in order to promote better communications between the Boards copies of the Planning Board Minutes should be given to the Board of Health and Conservation Commission.

Wesley Ward - Trustees of Reservations, together with Stephen Wedlock and Kim Peterson, and Alan Swan, an attorney representing Wedlock and Peterson, met with the Board to discuss a parcel of land that has been given to them, the Trustees, by Phillip Weld. The property, consisting of 6.95 acres, is located at the corner of Andrews Street (Old Manchester Road) and Conomo Drive. There is 162.57' of frontage on Conomo Drive. Ward said he is here because he wants to know how to get a building permit for this parcel. He has a permit from the Board of Health for a septic system. Cataldo told the Board that the septic system is not within 100 feet of the wetlands. Ward said he had also spoken with the D.P.W. who told him they had done some maintenance work on the road. They will have 620 feet of gravel road to their driveway, but 300 feet will need some paving. Ward said he had two concerns: (i) Where he has frontage and (ii) whether we have frontage in the opinion of the Planning Board. The total pavement shoulder and pavement width in one area is 15 feet, in another the total is 19 feet. Cataldo asked Ward if he would be willing to go back and configure this for a 44 foot easement, and if he could perhaps deed a 3' strip over to the Town of Essex. Ward said he could see no problem with that. Frye then asked if the Board should check this with the D.P.W. and Town Counsel before giving an answer, as on the street where it abuts Conomo Drive we must have the 44' easement.

Greenbaum motioned that subject to review with the D.P.W. and Town Counsel and subject to a provision of a 44' easement width adjoining section of the Old Manchester Road and Conomo Drive the Board will tentatively approve a building permit for a single family residence on the parcel presented to us by the Trustees of Reservations. The motion was seconded by Wilson, Frye, Ginn, Burnham and Madsen voted to approve and Cataldo voted present.

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ANR: James Prentiss and Craig Doyle came before the Board with a plan of land dated September 14, 1984, for a subdivision of land they own on John Wise Avenue. They were asked if they had obtained approval from the State to cut a driveway on to Route 133, and they said they had. Burnham made a motion that the Board accept the plan formulated by Craig L. Doyle and James Prentiss dated September 14, 1984, drawn by Matt Huatala, as being conforming to the lot requirements. The motion was seconded by Cataldo and the Board voted to approve.

Ann Haag met with the Board for a discussion of property she is contemplating buying at 57 Martin Street, formerly the Andrews property. The property consists of a house and barn on 6.75 acres. She would like to subdivide the property and the proposal was the two lots at the front and one lot at the rear on which she would like two 2-family houses. She was told that one lot had frontage and the other did not. One suggestion was to put in a subdivision road and create lots at the rear. The Board was told that they have seven percs but Cataldo told her that that did not necessarily mean that the septic system will fit in the lot size.

Attorney Michael Shea met with the Board representing Dana and Barbara Carter. He submitted to the Board a Form A and a plan of Land of Barbara and Dana Carter, dated July 27, 1984. Shea stated that Carter would like to sell lot 1 and hold on to Lot 2, but realizes that Lot 2 may not be a buildable lot because of the issue of the adequacy of the road. In this regard, Shea gave the Board the following letter :- (dated September 19, 1984)

".....I hereby submit for the record that Lot 2 shown on the plan submitted to you this evening shall not be built upon until Conomo Drive meets the specifications set by you as a Planning Board.

The reason for the submission of the plan this evening is to allow Lot 1 to be transferred and no action will be taken on Lot 2 without your approval."

The Board stated that Lot 2 being a non-buildable lot should also be stated on the linen as there is no protection for anyone buying the lot. Frye asked, "Are we creating a situation where there will not be a 44' easement unless Marino allows it."

Greenbaum motioned that subject to the condition that Lot 2 is not buildable until such time as Conomo Drive is deemed adequate frontage, and having found that Lot 1 has adequate

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frontage on Pond Street, the Planning Board finds that the Plan of Land submitted by Barbara and Dana Carter, dated 7/27/84 does not require approval under the subdivision control law. The motion was seconded by Ginn and approved unanimously by the Board.

Frye told the Board that they have two earth removal permits to consider.

(1) to George Stavros who is digging a pond on the Cape Ann Golf Course, but who had not obtained an earth removal permit. The Selectmen voted to grant the permit subject to the Board's approval and subject to the Order of Conditions of the Conservation Commission.

Cataldo motioned that the Board grant approval for 'George Stavros to remove fill in accordance with Section 4-8.1 of the by-laws and subject to the terms and conditions of his Order of Conditions filed with the Conservation Commission. The motion was seconded by Madsen and the Board voted unanimously to approve.

(2) to Peter Van Wyck, pond on Turtleback Road Extension.

Greenbaum moved that under Section 4-8.1 of the by-laws the Planning Board grant a permit for soil removal to Peter Van Wyck in accordance with the plans he presented at our meeting of September 5 and subject to his receiving of an approved Order of Conditions from the Conservation Commission, the lifting of the injunction of activity on the land, and the resolution of the outstanding case concerning his proposed Turtleback Road subdivision. The motion was seconded by Cataldo, and the Board voted unanimously to approve.

Dan Greenbaum told the Board that the Board of Selectmen have been told of his resignation, but they asked that he write his ^{resignation} recognition officially and then they will vote on it. Bill Holton will fill in for him until his term expires, that being the month of May.

Cataldo motioned that the Board fill the unexpired position of Daniel Greenbaum with William Holton. The motion was seconded by Wilson and the Board voted unanimously to approve.

Maria Motel, Southern Avenue - The Board of Health has discussed dye testing, but the water table is too low at present and therefore will wait until the water table goes up.

Cataldo motioned that the Board wait until the Board of

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Health does the dye test before taking any action on the Maria Motel, providing further information from the Board of Health. The motion was seconded by Madsen and the Board unanimously approved.

Peter Mugford - Gregory Island. It was brought to the Board's attention that Mugford has put in a bathroom, kitchen, dry well and septic system. The Board of Health said they would like to work with the Planning Board and the Conservation Commission on this matter. Ed Story told the Board that he had a meeting with Ken Capel, the Health Agent, and Mugford and was told that there was always a camp there. Frye asked if he had obtained an occupancy permit and then requested a permit for Mugford's garage.

Bill Allen - The Board of Health said that if the Planning Board took the initiative and had Nieberle clean up his trucks, they feel the Board should address Bill Allen who also has abandoned cars.

Frye told the Board she has the school and rooms for Phil Herr's growth workshop for September 26 at 7.30 p.m.

Marsolais property - He has gone ahead with work which is not in accordance with the plan approved by the Board and the Conomo Point Commissioners. Marsolais was issued a cease and desist order, which he complied with. Story sent a letter to him to have a new plan by a certain date, that being today, September 18, or else he has 30 days in which to tear down the addition (October 22).

Wendell Property - Ginn said he felt the Board ought to instruct the Health Agent to make an inspection as someone is living there. Frye told him that if someone has a cot there but does not have a hotplate or bathroom then it is an accessory building.

August 5 was the date that Peter Van Wyck went to Sally Soucy and signed one of the forms so the clock starts running from then. The Board was told that Van Wyck has agreed to raise the grade of the intersection and to the Board's standards. Frye feels that it is an extremely dangerous situation as it is now. Frye said we must make a list and tie it into the regulations and send it to Town Counsel. We do not have valid perc tests. In addition we see problems with (a) drainage in lots 1,2, 14, 15, and (b) discharge of water onto the intersection of Apple Street and the proposed subdivision road. 6.02 Section 12. In order to ascertain the traffic impact on Apple Street and proposed subdivision road, the Board will request a more detailed site drawing indicating visibility, grades and geometry at the proposed

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intersection.

The Board of Health brought up the proposed septic plan for the Bruce Dean property on Walnut Park.

Madsen motioned that the meeting be adjourned, seconded by Greenbaum and the Board approved.

Meeting adjourned 10 p.m.

Gillian B. Palumbo

Essex Planning Board

September 5, 1984

Present : Daniel Greenbaum (acting chairman); Michael Cataldo; Michael Ginn; Rolf Madsen; Everett Burnham; Alden Wilson.

Meeting called to order 7.40 p.m.

Cataldo motioned to accept the Minutes of August 15, 1984 as read, seconded by Wilson and the Board voted to accept the motion.

William Morrow, Conomo Point Commissioners, appeared before the Board asking for their approval of a building permit for Mr. and Mrs. Jerry Simpson, Conomo Point Road. The Simpsons own a cottage at Conomo Point and would like to add a porch and deck to it. The structure will be one foot above the existing roof, but will not be blocking anyone's view. There are no objections by the abutters and the Conomo Point Commissioners have also given their approval.

Burnham motioned that the Board approve the application of a building permit for a porch and deck for Mr. and Mrs. Jerry Simpson, Conomo Point Road, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use. Wilson seconded and the Board voted to unanimously approve.

Mr. Hodges met with the Board to discuss the potential purchase of Lot 5 on Belcher Street. This lot is at the Story Street end of Belcher Street and has a brook running through it, and Hodges was wondering whether he had enough room for a well and a septic system, as part of the area is wetlands. He was advised to meet with the Conservation Commission to discuss this.

Frederick Markham met with the Board for an informal discussion regarding his land on Pond Street. He had previously been turned down by the Planning Board (reference Minutes 2/15/84 and 3/7/84) for a third house lot and also by the Board of Appeals. He said he now has a plan in which he will transfer the land to his son and daughter, who would then come in for a subdivision and his son would then deed part of it back. He gave the Board a plan showing two parcels of land, Parcel A and Parcel B. Markham said one of his options would be to add the two parcels together so it would be under one ownership, and then subdivide it and create a new road or a subdivision of Parcel B and part of which would become Parcel A. Burnham asked if Markham's engineer (Matt Huatala) had checked the elevation of the road. Greenbaum said he felt it must be annotated on the map that part of Parcel B will be a non-buildable lot and that Parcel

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B will be sold off to join Parcel A. Markham was asked to return with a more specific plan.

Robert Fraga, 101 Martin Street, appeared before the Board with an application for a building permit for an addition to his home. Fraga had been issued with a cease and desist order from Ed Story because he had started this work without a permit being issued. The lot is non-conforming, and the addition will be 14' in length, 8' high and 24' wide. Fraga also wants to dig an area for a cellar under the 14' x 24' addition, making room for two bedrooms and a bathroom. He will also be installing a new septic system. Fraga presented the Board with a signed statement from all his abutters saying they had no objection to the addition.

Burnham motioned that the Board approve the application of a building permit for Robert Fraga, 101 Martin Street, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Cataldo, and the Board voted unanimously to approve.

Greenbaum told the Board that Phil Herr has revised the two contracts and that at his last meeting Herr discussed the growth workshop that is planned for ~~October~~ ^{September} 26.

The Board received the application for a building permit of Elroy E. Halfrey, Jr., 56 Lakeshore Drive, for a one-story, 2-car garage, the size being 14' high and 24' wide.

Burnham motioned to approve the application of a building permit of Elroy E. Halfrey, Jr., 56 Lakeshore Drive, providing the Building Inspector finds all the dimensions of the building concur with the actual lot size. The motion was seconded by Wilson and the Board voted unanimously to approve.

Peter Van Wyck met with the Board to ask for permission to excavate and remove top soil and sub soil on his property. Permission for this activity must be given by the Board of Selectmen and the Planning Board. The question arose as to whether this is affected by the injunction. Van Wyck said that digging a pond is not a furtherance of a subdivision. Cataldo asked him how many suits he has against the Planning Board, to which Van Wyck replied, "Only the Turtle Back Road traffic appeal. Low Land Farm has been lifted". Van Wyck was asked if he had been before the Selectmen yet on this and he replied no. It was felt that this should probably be subject to a review by the Selectmen and Town Counsel. Cataldo said he feels that this is still part of the suit and that the Board should not vote in favor of work in that

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area. Van Wyck was asked where the existing and proposed road are in relation to the work. Van Wyck said the road goes through the area, but the actual digging of the pond is not part of the road. Greenbaum then said "We have previously talked about drainage being one of the factors, that the drainage is not part of the court suit, and that we would settle the drainage issue ourselves."

Wilson made a motion to table this under advisement until the Board consults with the Selectmen and Town Counsel about it at their next scheduled meeting. Cataldo seconded the motion and the voted to approve.

Van Wyck then presented the Board with a plan his engineer drew up (Plan 1) of what the cluster concept would be like, keeping all the houses on one side and to have open farm land on the other, Van Wyck said he gave this to the Board purely for information.

Mark Glovsky met with the Board concerning Conomo Drive. He restated "that the Board had voted to approve a resolution of three lots on an approval not required, contingent with the approval of the D.P.W. on the road. Upon talking with Richardson, it was determined that a 16' wide gravel road would be economically feasible. We would be willing to do a 16' wide paved road on a 30 or 40 foot layout. To assure all this gets done we would be willing to give the Board the same guarantees as a subdivision." Glovsky continued that he was here to ask the Board to reconsider the proposal to approve the plans contingent upon the plans to improve the road to the ^{subdivision} specifications. Greenbaum said, "If we say yes to this tonight, you will come back with the appropriate documentation for the guarantee." Glovsky then asked if the Board's preference would be gravel to 24' or paved to 24'. Greenbaum said that a 16' width should be paved and then gravel shoulders to 24'. Glovsky said they could have an oil and gravel surface but Madsen said he thought this would be going backwards. Glovsky then said that he feels the bituminous makes sense and that it would probably benefit them later on. Greenbaum said "We should not be signing a Form A until the road is up to specification or a written guarantee that it will be." Glovsky then said he would give the Board a bond for a guarantee that the road will be adequate. Greenbaum told Glovsky that they also should be addressing the issue of drainage or culverts, to which Glovsky replied that they plan to.

Glovsky then stated again, "We are going to a 24' width in gravel with 16' bituminous, provide for the slope horizontal and vertical alignment for good visibility, and addressing the drainage. The Board is not prejudicing themselves on the public and private road issue." Glovsky was told that on the Form A there would have to be a bond on it that he would make the road adequate. Glovsky said he wants the Board to have the approval of Town Counsel first.

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Cataldo asked Glovsky, "Will you grade the section near Marino's property, maximum 8%. Glovsky didn't feel it was that steep. He was also asked if the potential property owners were being told that they may be subject to the wetlands protection act. "Yes", he replied.

Burnham moved that the Planning Board having reviewed the proposal of Mr. Frederick Richardson for a division of land along Conomo Drive, and provided that the applicant will upgrade existing Conomo Drive, from Pond Street through to a point to serve the three proposed lots, to the standards outlined in Section 3.05 of the Board's Subdivision Regulations; also provided that the applicant will pave the upgraded section to a width of 16 feet; provided that the applicant will provide a performance guarantee comparable to that provided for a subdivision; finds that the proposed existing road is adequate to serve only the three proposed lots, and therefore does not require approval under the subdivision control law. Such finding, however, in no way constitutes a determination whether Conomo Drive is a public or private way. The motion was seconded by Wilson, Greenbaum and Ginn approved, Cataldo and Madsen voted present.

Burnham motioned to adjourn the meeting, seconded by Madsen. The Board ~~to~~ approved the motion unanimously.

Meeting adjourned 10.45 p.m.

Gillian B. Palumbo

Essex Planning Board

August 15, 1984

Present : Elisabeth Frye, Chairman; Alden Wilson;
Michael Ginn; Rolf Madsen; Daniel Greenbaum.

Meeting called to order 7.35 p.m.

Ginn motioned to accept the Minutes of August 1, 1984 as read, seconded by Wilson and the Board voted to approve.

Bradford Storey, 28 LeBaron Road, appeared before the Board with an application to build an addition to his house. The addition will be one room, one story to the west side of the house, to be used as a family room. It will be 20' long, 16' wide, and 12' high, with no plumbing, no heat, no cellar and no attic. The addition will be 120' from the marsh on one side and 150' on the other side. Ginn motioned that the proposed extension by Elizabeth Storey, 28 LeBaron Road, is not substantially more detrimental to the neighborhood than the existing conforming use and is approved by the Planning Board. The motion was seconded by Madsen, and the Board voted unanimously to approve.

Low Land Farm - Frye told the Board that the application that accompanied the plans sent by Van Wyck was not signed, and she feels the Board should have him sign it. It was decided that the Town Clerk should mail it back to Van Wyck to have it signed and to then start the time from when she receives it. Frye told the Board that they should draw up a "laundry list" of what the Town feels Van Wyck should do. The deposition will be lifted if the Board gets together to see what things should be done. Some of the things on the list will be (1) to rectify the drainage on Donald Browning's property, (2) the culvert on the foot of the loop of the Turtle Back extension, and (3) put back some fill. Frye said she feels the Board should have the plan, Van Wyck and Browning together to discuss the problems of drainage. Browning spoke to the Board about the problems he has been having with the drainage of his property. The surface water used to run down and flow into a gully about 5' deep, and then flow back into a drain. Heavy trucks broke the pipe and Van Wyck built up the road making it higher than Browning's and Hildonen's yards. Now water comes down the hill and into Browning's driveway, as his driveway is now a little lower than Apple Street. He feels a catch basin would help. Frye said the only thing before us is a subdivision plan and the only leverage we have. The injunction will be lifted if Van Wyck agrees to correct some of the things he has failed to do. At one point he has filled Town land and it would be fine if we could put in that Van Wyck should fix the drainage, but that really should be the concern of the D.P.W. Browning

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said he felt the easiest thing would be to put in a catch basin and pipe under Hildonen's driveway and let the water run off further along the street. Frye said the drainage problem must be corrected to the satisfaction of the D.P.W. and abutters, or have an engineer look at it to say what is needed. Greenbaum said he feels drainage must be extremely explicit in the preliminary plan.

In response to a letter sent to the Board from the Board of Selectmen regarding a complaint of unregistered vehicles on the corner of Eastern Avenue and Harlow Street, Ginn made a motion that the Board send a letter to the Board of Selectmen stating that we cannot act on the violation at the corner of Eastern Avenue and Harlow Street due to the fact that we do not have an alternate Building Inspector, who is our enforcing officer, and therefore we request that you appoint an alternate inspector as soon as possible. The motion was seconded by Wilson and the Board unanimously approved.

Maria Motel - Richard Perreault and Anne Morando, together with their attorney Daniel Ahern, met with the Board. Ahern told them that the owners are seeking authorisation for the rental of one additional unit at the rear of the motel, an area that used to be an office. He continued that the property is a non-conforming lot, and is asking the Board to rule that the fifth unit is not substantially more detrimental to the neighborhood than the present use. As the primary use is a motel with four units, there would be little change of character and use with the extra unit. There will be no physical or structural changes to the building, inside or outside, that the area is equipped with a bathroom and the dimensions of the room are more than adequate to handle the use. Ahern said there is plenty of parking and he doesn't see that one more unit would increase the impact of the traffic or the density of the neighborhood. There is a need for the motel to rent this extra unit in order to make running the motel more viable. Ahern then presented the Board with signed statements from five neighbors saying they had no objection to the extra unit. Greenbaum questioned if the five letters were all abutters as there were no addresses. Wilson asked Ahern, "This will be a motel room and not something that will be rented like an apartment." Ahern said, "This will not be an apartment." Greenbaum then asked if Ahern had a plot plan showing the parking configuration, as the by-laws state there must be one parking spot per unit. He added that he didn't feel that the financial issue should be brought up to the Board because that should have been contingent at the time of purchase of the property. Ahern told the Board that the motel can accommodate four parking spots and an abutter has offered two or three spaces on their property. They could, if necessary, use part of the

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grass area in front of the motel. Charles and Maria Burnham, abutters to the property, disagreed that the primary use of the property is a motel. Burnham feels it is a single-family residence with a motel. He added that there is a room upstairs made available for one person and they have a car and that there are now three additional vehicles that are there in addition to the motel unit, making a total of seven. Greenbaum said there should be designated spaces for the motel which should not be used by any other cars. Burnham asked the Board, "Are you going to make it more non-conforming." Greenbaum said he felt that if they are not changing the building and providing that there is a fifth parking space following the guide lines, then it is not more non-conforming. Burnham said he felt that the single family home is almost not there any more. Wilson said he felt there is no problem changing the office. Burnham then said, "With a motel comes air conditioners and I hear them." A question arose at this point whether the Board of Health also has to give a permit for this. Frye felt that a site visit was in order because of the issue of parking. Greenbaum said he felt the Board should either have that or a very detailed plan showing the parking places, but felt that a site visit would be better. Burnham said he felt substantially more detrimental should be a long range view as well as a short range view. He added that the previous owner, John Singer, built the motel for a hobby and received a lot of pleasure from it, but trying to run it for profit is more detrimental to the area. Madsen said that whether the business is for fun or business doesn't change the use, that it is still a business. Burnham told the Board that there is another room upstairs that is being rented. Ahern said that the room is used by a boarder. Frye said that will require another parking space. Ginn said he felt that the discussion should be tabled until the Board has made a site visit and has a plan showing the position of the building on the lot with the setbacks, etc. Greenbaum asked if there were cooking facilities for the boarder; Ahern said no. A site visit was then planned for Saturday, August 25 at 10 a.m. Morando then asked, "Since our property is commercial in a residential area, there are other businesses in the area, how can this be called a residential neighborhood." Madsen told her that the Board was not questioning that the business is there, but that she was changing it by adding another unit

John Drometer, 5 Parsonage Lane, Topsfield, 01983, met with the Board to discuss with them the purchase of property at 19 Winthrop Street, former property of Mrs. Spittle. He would like to convert the existing dwelling from a 2-family into a 3-family. At present the 1st floor and 2nd floor have one bedroom,

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and there are two rooms on the third floor that he would like to make into a 1-bedroom apartment. The house is situated on 14,525 square feet of land with only 83.6' frontage. There is a fire escape system at the back of the house with two entrances on all floors. By-law 6-14a was read to him pertaining to changing a dwelling to a 3-family. Greenbaum told Drometer that the law states that the lot has to be conforming before a special permit can be issued. He was also told that the only way to get this is to get a variance from the Board of Appeals, who may only act on it after the Board has turned down the special permit. Greenbaum motioned that the Board finds that the proposal of Mr. John Drometer to convert a two-family residence at 19 Winthrop Street from a 2-family to a 3-family dwelling requires a special permit under Section 6-6.9j of the Zoning By-laws and clearly could not satisfy the lot area requirements for that permit under 6-6.9j(i), therefore the Planning Board finds it could not issue a special permit and that the proposed conversion requires a variance before the Planning Board could issue a special permit. The motion was seconded by Madsen and the Board approved unanimously.

Barry Allen came before the Board with a building permit for construction of a house on his property on Belcher Street. This is lot No. 4 at the Choate Street end. Allen told the Board that he has a dwelling permit, his septic design has been approved. Madsen motioned to approve the site permit of Mr. Barry Allen for Lot No. 4 on Belcher Street. Greenbaum seconded and the Board approved unanimously.

Greenbaum told the Board that he will be resigning as he is moving out of the area.

Ginn motioned to adjourn meeting, seconded by Madsen, the Board approved.

Meeting adjourned 9.40 p.m.

Gillian B. Palumbo

Essex Planning Board

August 1, 1984

Present : Elisabeth Frye, Chairman; Michael Cataldo;
Michael Ginn; Everett Burnham; Alden Wilson;
~~Rolf Madsen.~~

Meeting called to order 7.30 p.m.

Cataldo voted to accept the Minutes of June 18, 1984 and July 18, 1984 as read; seconded by Burnham. The Board voted to approve the motion.

John Coughlin, owner of the Post Office building on Martin Street, appeared before the Board. He told them five people would like to put in a barber shop in the centre area of the second floor. They would like to have a toilet and sink installed, this area having had two toilets and sinks previously. Coughlin was asked about the state of the septic system as it was felt this may generate more usage. He told the Board that when he purchased the building four years ago the septic system overflowed two months later. He then put in a new system about 1½ years ago. Coughlin felt there would be no more usage than with the previous tenant, that this was just a case of replacing one tenant with another. He said parking would not be a problem as the parking area in front of the building is his. The Planning Board said they had no objection to this.

Attorney Michael Shea, representing Laurel Realty and John Kane appeared before the Board asking them to approve the subdivision of shops at Olde Essex Village from the restaurant area in order to allow the sale of the shop area. The shop area is owned by Laurel Realty, while the Old Essex House restaurant is held by John Kane. Shea said that when it was subdivided it was never officially recorded and would now like to correct the record by filing a Form A. Frye told him "You are asking for it to be subdivided again with the restaurant on a non-conforming lot". Ed Story, Building Inspector, told the Board that at the time the restaurant was built it was a legal business lot, because the only requirement was a 10' set back and no side line measurements. The Minutes of July 1981 and February 1982 were read pertaining to this. William Holton, former Chairman of the Planning Board, told the Board that when the application was given to the Board to convert the house into a business property, it was indicated that the business would be like an ice cream stand and therefore the Board found it not more detrimental than the original use, but at the time no mention was made of a restaurant. The plans changed after the original presentation. Shea told the Board that the traffic flow will not change under the new ownership, that the new owner has agreed to an easement in the deed to allow customers to the restaurant to use the same entrance and parking as now.

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Also included in the easement will be the false front connecting the restaurant to the shops and the walk way from the shopping area to the restaurant. Cataldo asked "Why is it being called a subdivision if it's owned by different parties". Shea told him "We are just trying to correct an error and that the owner should not be penalized for something that someone omitted to do in 1967." Burnham felt the plan should be accepted but only when a deed is given to the Board showing the easements. Cataldo then made a motion that the Board will sign the plan upon receipt of a deed showing the proposed traffic easements as discussed at the Board's meeting of July 18, 1984. Seconded by Ginn; the Board voted unanimously to approve the motion.

Phil Herr contract - Frye told the Board that the Selectmen do not want to sign Herr's contract mainly because they felt the Board had outside counsel, namely Alexander Dawson, an authority on ways. The question was asked whether the Selectmen have to, by law, sign the contract; the answer is yes. Ginn suggested that the Board wait until they meet with the Selectmen to discuss this. Frye said there was no mention of Dawson in the contract, that Herr had hired her because of her knowledge on public and private ways. She asked the Board members to re-read the contract.

It was brought to the Board's attention that *William* Blackwood is putting in two 2 bedroom apartments, but that the land is not percing too well. Story said he cannot give a building permit until he gets a permit from the Board of Health for a septic system.

Van Wyck met with the Board and submitted a preliminary plan for Low Land Farm. Frye reviewed the situation with him. Van Wyck said nothing can be done until next spring because of percing, but he submitted it for another reason, that being that he was concerned with the land being taken by eminent domain. He added that he felt this would be a good place to practice cluster development. He also said he has taken the board step by step on this. Informal discussions followed concerning the preliminary plan and Van Wyck was told that it was not up to the Board to come up with an imaginative or creative plan. Cataldo told him, "If you want to go with this plan, leave it and we will review it. If you don't, then take it and come back with something else." Van Wyck told the Board that they must work on the plan presented, that is why he submitted it. He will not withdraw it. The Board then proceeded to review the plan. Frye said the Board would look into it in more depth and suggested that the members take copies of the plans home to peruse them. Also they go and view the land in question to get a feel for it.

Cataldo motioned to adjourn the meeting. Ginn seconded; the Board voted to approve the motion. Meeting adjourned 10 p.m.

Gillian B. Palumbo

Essex Planning Board'

July 18, 1984

Present : Elisabeth Frye, Chairman; Michael Cataldo;
Everett Burnham; Alden Wilson; Michael Ginn;
Rolf Madsen.

Meeting called to order 7.35 p.m.

Jerome French appeared before the Board with a proposal to subdivide his 11 acre parcel of land on Southern Avenue as shown on the map of Jerome French dated 7/3/84. French told the Board that his land is all one lot at the moment, that he would like to divide it into two lots, keeping a right of way to reach the rear of his property. He was told that the right of way must have 44 feet, and that one of the lots he was creating does not have the necessary frontage.

Cataldo motioned to deny the subdivision plan presented by Jerome French because it lacked 150 feet of frontage and the access road has less than 44 feet on Southern Avenue. Seconded by Wilson; Burnham and Frye voted in favor of the motion; Madsen and Ginn abstained.

Paul Herrick, Essex Realty, appeared before the Board representing Bruce Dean who owns a house lot on Walnut Park, 6960 square feet in size with 58½ feet of frontage. Herrick said he had found the original subdivision plan was drawn in 1905 and that his client's father had taken ownership in 1915. Herrick asked the Board if this would have to meet all the building codes. He was told that even though this is a legal lot under the grandfather clause, it will have to meet the current building codes, including septic system. Herrick was told if all of the building requirements could be met on this lot, to bring in all his configurations of house, leaching field, etc., for the Board to see.

Conomo Drive - Mark Glovsky met with the Board. Frye reviewed with him the discussions that have occurred during the past months. Frye said that after the meeting with Phil Herr Tuesday evening (July 17) the feeling was that if the Board allowed the three Richardson lots then Marino would want to tie into it and the access road is in no way adequate for the proposed 44 foot road. Cataldo said he was under the impression from Kirk Elwell that a 44 foot road would be necessary. Cataldo then asked if Glovsky had had any further discussion with the D.P.W. Glovsky said no he had not because he thought the Planning Board was going to discuss this situation with them. Glovsky said he would just like to remind the Board regarding the status of the road, that the D.P.W. has been receiving state funds under Chapter 90 for Conomo Drive. He added though, that he would be willing to give a 44 foot easement. Ginn said that the part that fronts Richardson's property can be brought up to specifications without too much problem, but he felt the problem

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really starts at Wood Drive. Glovsky said he felt that the quality of the access road depends upon the amount of traffic involved. Glovsky then mentioned what he felt was a conflict of interest between this situation and some members of the Planning Board. Cataldo told him that he had asked Town Counsel about this and was told that if you do not have a direct financial interest then there is no conflict of interest.

Glovsky then said he felt the Board ought to have adequate information on this now to be able to make a decision and to put it to the vote. Burnham said that both sections must be considered, that he would be willing to accept Richardson's plan with the condition that the road is adequate all the way through. Wilson said he felt we could not penalize anyone because of the condition of a town road, i.e. Pond Street. At this point Peter Van Wyck asked to speak. He told the Board, "The road standards should be the same, and if they are not required to meet the same standards that I am then I will come in and ask for a sub-standard road on Emerson Drive. I don't like to see two standards in Town. I have to bring my roads up to specifications and others should have to do the same." Glovsky said, "This is not a new road but an existing road which is different." Cataldo asked him if he was agreeing to incur the whole cost of fixing up the road from the Marino property to Richardson's property. Glovsky told him that he had said they would fix up the road in Conomo Drive which abuts their lots, that Richardson was willing to put in proper drainage, remove trees and tree stumps within a 16 foot way and pave with bituminous or gravel with an oil base, and also to pave 500 feet on the hill.

Van Wyck spoke and said the standards are here and that the Board should follow them, that if they allow a sub-standard road, which is the issue here, then it will create problems down the line. Glovsky reiterated that Pond Street was not his problem. Burnham said he felt the standards should be the same as in the Town subdivision regulations. Ginn said he is not sure whether the Richardson lots should be approved before the access road is fixed. Frye said she feels it would be a lot safer if the Board doesn't go piecemeal. At this time Glovsky asked if he could leave the meeting to telephone Kirk Elwell of the D.P.W. and then, if possible, to return later to the meeting. Approval of this was given.

* Glovsky returned to the meeting and told the Board he had spoken to Elwell who told him that the D.P.W. will be meeting next Wednesday. He also said he had spoken to Marino whose lots on the first portion of the land on Conomo Drive had been approved by the Planning Board. There was a question of the validity of the Marino plan as there was just one signature on the plan. Minutes of the

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meeting of November 2, 1972 were read to the Board at this time. Glovsky told the Board that he and Marino would be willing to provide a 44 foot layout from Pond Street to the three lots of Richardsons. He said they would be willing to do that without prejudice of the status of Conomo Drive. Burnham said he felt the Board had a right not to issue any building permits until the road is adequate. Glovsky said he would want to go to the D.P.W., that he would want to have them satisfied. He added that he felt he must have an answer tonight from the Board. Frye asked the Board, "Do you feel that you would want to vote on it based on the D.P.W. standards?" Burnham said he feels it should be accepted on the condition that the road is brought up to our by-law specification. Ginn said he concurred with Burnham. Glovsky said "He is asking the Board to approve the three lots without agreeing it is a public way, providing that we give the Planning Board its 44 foot requirements and it meets the D.P.W. standards and no area of Richardsons will be built on until the standards are fulfilled. Ginn said, "Glovsky would like to have some type of commitment regarding his plan and I don't see how we cannot do that". Madsen said his only problem is the corner near the Wolfe property which is extremely dangerous. Glovsky then said he would like to have a motion that the Planning Board agreeing that Conomo Drive from Pond Street to the Richardson land be laid out 44 feet wide and upgraded so that it would satisfy the D.P.W. standards on an approval not required basis without agreeing on the status of Conomo Drive, vote on this.

Wilson made a motion that the plan of Frederick Richardson as regards Conomo Drive from the end of Pond Street to the end of Lot 3 of the Richardson property, providing 44' road boundary easement and upgrading to the D.P.W. standards, expenses not to be borne by the Town of Essex be approved. Seconded by Ginn; approved by Cataldo and Burnham; Frye voted against the motion and Madsen voted present.

Peter Van Wyck appeared before the Board and gave them a preliminary subdivision plan for the Low Land Farm property. Frye told him that the Board had received a letter from his lawyer, Evans, telling them the suit has been dropped. Van Wyck then asked the Board for their signatures on a plan, but not pertaining to the above. He told them that the plan was signed by the Board but the Land Court did not like some of the scratched out details, so he had a new linen made, and wanted them to sign it. The Board had signed the plan on May 5, 1982, plan of Land of Essex of Peter Van Wyck. Minutes of the meeting of May 5, 1982 were read to the Board that pertained to this.

Burnham made a motion to accept the revised plan of July 17, 1984 prepared by Hancock Associates and to sign it. Seconded by Madsen; The Board voted to approve the motion.

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Van Wyck then said he wanted to let the Board know about where he's going on Turtle Back Road. The question is whether the road should go from Turtle Back Road to Essex Park Road or perhaps to Pond Street. He said as a long term plan he has no interest in going to the Conomo Drive area unless something viable occurs, but feels the Board ought to think about this situation.

Ed Story presented the Board with the following building permits :-

Michael Davis, 24 Belcher Street, wants to build a two car garage with a four room in-law type apartment over it, plan of land of Roy P. Hatch dated May 15, 1975.(approved)

Frank and Arlene Pizzo, 27 Story Street, remove part of and rebuild existing addition in the rear of the house. The present edition has only a lower level and the new part to be added will have a second floor. The existing home will be completely renovated, but will still be a single family house.

Ginn motioned that the Board accept the plans of Frank and Arlene Pizzo to remove part of the existing house and to rebuild and add on a second story providing it remains a single family dwelling. Seconded by Cataldo; Board voted in favor.

Robert and Susan McPhail, 7 Eastern Avenue - remove a 4' x 8' entry and to incorporate this space into an addition measuring 11' x 12' of a greenhouse and sunroom. There will be no plumbing or heating involved. The lot is non-conforming. The abutter, Sylvia Martin, gave a note to the Board stating that she approved the addition.

Burnham motioned that the Board approve the application of Robert and Susan Mcphail, providing the proper side and rear set backs are adequate. Seconded by Wilson; the Board approved unanimously. (6-4.2)

Robert Plegge, 225 Western Avenue, - an addition to the present body shop of 20' x 24' to give additional work space. The addition will be one story.

Burnham motioned that the Board approve the addition to the front of the shop at 225 Western Avenue as per the dimensions on the application. Seconded by Cataldo; The Board approved unanimously.

Scott and Susan Dunsmore, 38 Eastern Avenue - an addition of a screened-in porch 8'x 18' and deck 8' x 12'. The application was denied by the Planning Board because the porch was too close to the property sideline.

Storytold the Board that someone at Gregory Island has a

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trailer, placed there in 1962 on a conforming lot, and wants to know if he can either replace it with another new one or put an addition on the present one. Cataldo asked if he had a license for the trailer and was told its there under the grandfather clause. Story asked if there would be a problem if he replaces it. Madsen said he didn't feel there should be a problem if its been in use all this time. The suggestion made was that if he replaces if to come before the Planning Board.

Story also mentioned that this person owns two lots and wants to know if he can put on a garage or an accessory building on the lots. Story added that he has refused him a building permit as its a non conforming lot. Burnham said he would like him to bring in a plan of what he would like to do, to the Board.

Charles and Maria Burnham - complained to the Board about the Maria Motel. The Motel is owned by Michael Perreault and Anne Morando. Their property on Southern Avenue is next door to the Motel. They told the Board that the motel is using a former office space in the main building as a bedroom. The garage has been partitioned, shower was brought in and someone is living there. A former dog kennel is being used as a bedroom. A bathroom was installed last year without proper permits. Perreault said he had permits for this but after checking it was found he did not. Story said he checked on the motel about two weeks ago and questioned Perreault about the additional sleeping areas, who told him they were for family members who visit occasionally. Story said he went to the Board of Health to check their permits and although the actual permit does not specify the number of units, the Town records show it to be a four unit motel. Mrs. Burnham gave the Board a list of what she felt to be violations. Story said the Board of Health would like to meet with the Planning Board to decide what to do. Ginn said he felt it would make more sense to send a letter telling them to cease and desist on the actions they are doing, instead of waiting about a month for a decision from the Board of Health and Planning Board. It was felt that a special meeting should be called at the next Selectman's meeting with the Board of Health, and that Perreault should be there.

* (At this point of the meeting, Glovsky returned from calling Elwell and the discussion continued as reported earlier in the Minutes).

Ginn motioned that the meeting be adjourned. Seconded by Madsen. The Board approved the motion.

Meeting adjourned at 11 p.m.

Gillian B. Palumbo

Essex Planning Board

June 18, 1984

Present : Elisabeth Frye, Chairman; Michael Cataldo;
Everett Burnham; Alden Wilson; Dan Greenbaum.

Meeting called to order 7.30 p.m.

Minutes of the meeting of June 6, 1984 were read and Burnham voted to accept the Minutes with the following addition "that Van Wyck said he had decided to drop the law suit on Low Land Farm.....". Seconded by Cataldo; the Board approved the motion.

Richard Tomaiolo, Essex Realty, came before the Board to request a change of use of property located at 144 Main Street. He told the Board that potential buyers would like to leave the apartment but change the house into an office building. The house is situated on a lot size of approximately 17000-square feet. Cataldo asked Tomaiolo what he proposed to do for parking. Tomaiolo said that adjacent to the property is a recorded 10 foot right-of-way which could be used for diagonal parking. Cataldo then asked how many businesses there would be, to which Tomaiolo replied, "We don't know. There are four main bedrooms upstairs, and each could be an office. There is a potential for 4-5 businesses." Ed Story then told the Board that this in no way meets the business lot requirement, the regulations calling for 30,000 square feet with a 150 foot frontage, and as it is a non-conforming lot it will have to go to the Board of Appeals. He added that the Planning Board does not have the authority to waive the change of use of a non-conforming lot. Frye said she thought the parking was inadequate and that she was not sure until she had checked with Town Counsel whether the Planning Board could change the use on a non-conforming lot. Tomaiolo then told the Board that the purchaser of this property also owns the adjacent property, also non-conforming. Story said because both are non-conforming lots they could become one lot if owned by the same person. It was then suggested that perhaps the garage be torn down to make sufficient space for parking. Cataldo said that tearing down the garage is not the issue, but that of inadequate parking. Greenbaum said "Can provisions be made for the safety of egress to the road, this is the issue. If the owner of the other property buys it and combines it, do we then have the right to change the use; it still maybe non-conforming but it might be able to be used." It was felt that this was out of the Planning Board's jurisdiction and it was recommended that it go to the Board of Appeals.

Paul Herrick, Essex Realty, appeared before the Board to discuss a proposal for Bruce Dean, owner of a lot of land on Walnut Park, 6960 square feet in size, who would like to

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build a house on this lot. Herrick told the Board that this lot has been in the family for very many years and at the time it was bought it was a conforming lot. It has been perced this year, he said. Burnham said he would like to know who owned, and when they were bought, the lots around this property. It was also suggested that Herrick come back with a plan of the house on the lot and perc tests from the Board of Health.

Mark Glovsky and Richard Minturn - Frye told them that the Planning Board withdrew the article (of abandonment of Conomo Drive) at the Town Meeting and also that they had received grant money for a planning consultant. Glovsky told the Board that Richardson had prepared a Form A for development of three lots because he felt Conomo Drive was a Public Way, but after a lengthy discussion with the Planning Board had decided not to file it at that time. He was also told to come back with more information which was sent to the Board and Town Counsel, on the status of the road. Glovsky continued that he had also spoken to Kenneth Elwell, who had been DPW Superintendent for a number of years, told him that the D.P.W. used to do work on Conomo Drive until he retired, but since then the road has not been maintained. Although the estimate they received from the contractors was somewhat controversial Glovsky said Richardson would be willing to share the cost of repairing part of the road. Frye told him that the Board has not put him off intentionally, but this is such a sensitive area, not just for Conomo Drive but also for other areas of Town. She added that Alexandra Dawson will be working on Ways and roads in the Town and realizes that Conomo Drive is the first priority. Glovsky said "Can we do this piecemeal without either of us waiving our rights. We will be willing to upgrade that particular part of Conomo Drive up to those lots," to which Frye replied "and have a dead end." Glovsky then reviewed the original proposal for the road of upgrading 600 feet plus 500 feet on the hill, paved with bituminous to make it 16 feet in width. Cataldo then asked "Who assumes the maintenance of the road after it is paved." Glovsky said if the road is called private then the property owners will have to share the costs between them.

At this point, Glovsky said "I have been reluctant to suggest this, but I feel some of the members should check with Town Counsel to see that no bias exists". Greenbaum then said "How does the Town have the reassurance that when you make the road up to an adequate standard that the D.P.W. does not have to go back and redo it, if it becomes a public way, up to their standards. Glovsky said he would have no difficulty with a 30 foot right-of-way, maximum grade of 8% and the minimum road base, etc. Cataldo asked "When you have

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finished, how many lots do you propose on the whole thing?" Minturn told him ten lots maximum. Cataldo asked, "At the access end of Pond Street is there 30 feet for a driveway? Can you get 30-40 feet before it drops off?" Glovsky replied, "What is in front of us towards Pond Street is of no bearing to us." Cataldo said "Maybe not to you, but there will probably be other houses there and then there will be a problem." Greenbaum said he felt there were two courses of action to be taken (i) meet with the D.P.W. to see what they think (ii) meet with Town Counsel to see if it doesn't prejudice us.

**Glovsky then said that at the moment Mr. Richardson is a little bit frustrated as the Board has failed to vote on the status of Conomo Drive. He added that he feels this maybe an appropriate time for the Board to decide whether Conomo Drive is a public or private way, and that if they still cannot make a decision on the status of the road then perhaps the decision ought to be made by a court judge.

Frye said she felt they should ask the D.P.W. for the specifications for building an adequate road and then show this to Alexandra Dawson. Greenbaum asked "How do we distinguish this from a subdivision plan; this is a way that was in existence which is different." Mr. Marino spoke to the Board saying that where the school buses turn he would be glad to give some land to make it wider. Greenbaum then suggested that it would be helpful to have someone from the D.P.W. at the next meeting. The Planning Board told Glovsky that he would be scheduled for their next meeting on July 18 at 8 p.m. and by then they will have spoken to the D.P.W., Alexandra Dawson and Town Counsel about this situation.

Clay Morin, representing Lowell and Lorraine Peabody, with a proposal for a driveway on Apple Street appeared before the Board seeking a wetlands by-law permit, as the driveway will be going through wetlands. Morin presented the Board with a map showing the position of the driveway.

Cataldo motioned that the Planning Board grant a special permit for the Wetlands Protection Act under 6-10.5 to Lowell and Lorraine Peabody to construct a driveway located on Apple Street as illustrated on the Plan dated 5/18/84. Construction will be subject to the Essex Conservation Commission Order of Conditions dated June 18, 1984 and formulated as a result of a Public Hearing on June 4, 1984. Seconded by Wilson; the Board approved the motion unanimously.

Ed Story presented the Board with a building permit and plans for a duplex for Mr. Blackwood who owns a lot on the corner of Addison Street and Southern Avenue. Story said he feels it meets all the requirements. Blackwood said he has copies

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of the perc tests taken.

Burnham motioned that the Board accept the building permit. Seconded by Wilson; the Board approved the motion unanimously.

Ed Story presented the Board with a plan for the addition of a deck on to the side of the house belonging to Kenneth P. Monroe of 48 Main Street. The Board was told that the abutters have already given their approval of the deck and their signatures were presented to the Board.

Greenbaum motioned that we find the addition of a deck to the home of Kenneth P. Monroe at 48 Main Street as described in his application for a building permit is not substantially more detrimental to the neighborhood than the existing conforming use and is approved by the Planning Board. Seconded by Burnham; the Board voted to unanimously approve the motion.

Peter Van Wyck - notified the Board he intends to drop the suit on Low Land Farm. Frye told him that "as the Board has not received any proof as yet that the suit has been withdrawn and Town Counsel has received no indication that the suit has been dropped he advised that we do not get started on the preliminary plan until we receive such notification that the suit has been dropped." Van Wyck said he would still like to informally discuss the plan with the Board and said that proof of the dismissal of the suit will be sent in the mail. Frye told him "We must have the filing of the dismissal with the preliminary plan." Van Wyck said he had a call from Frye and his lawyer is working on it. therefore he would not be submitting a preliminary plan this evening. Van Wyck told the Board that he has a problem. He had agreed to lengthen the road to 1300 feet but he needs 1350 feet. He wants to try and make the lot lines perpendicular to the road but finds he cannot make them all at 90°. The Board informally discussed the plan he showed them. Greenbaum said the issue here is a dead-end street and he doesn't feel an extra 50 feet should make a difference. Van Wyck said he was asking the Board for an extra 50 feet because on the map that he has the engineer has only put in 14 lots. Van Wyck was asked "With the extra footage do you have enough to move the lines over to get rid of the jog on Lot 13. Greenbaum told him that he must have someone drawing the plans who has read the by-laws. Van Wyck said he is trying to make the lot lines as conforming as possible and the only way to do this is to lengthen the road. He said he is trying to get the feeling of the Board so that we do not go in circles. Greenbaum said that in the Minutes we had told him that the Planning Board has no authority to waive the zoning by-laws and that it is up to Van Wyck's engineer

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to draw the lots that conform. It was stressed that the by-laws state that the lots must have 150 feet width minimum. Van Wyck was also told that he cannot include marsh land in the lot size. Greenbaum then told Van Wyck the Planning Board cannot waive lot lines but it can waive the length of the road. Burnham told Van Wyck that there are three lots on his plan that the Board cannot approve. Greenbaum told Van Wyck that the Board will not be as concerned with the length of the road as they will with the size of the lots.

Frye read a letter to the Board from the Board of Selectmen concerning complaints from Mrs. Francis Poole of Harlow Street regarding dump trucks, etc. registered and unregistered parked in the Nieberle property at the corner of Harlow Street and Eastern Avenue. Upon discussion of this, it was decided that Ed Story should check out the situation. A memo was sent to the Selectmen advising them of this.

Ed Story told the Board he went to Hill Road (reference Minutes of June 6, 1984) and found two unregistered vehicles and one shell of a racing car. He found the garage doors closed. He said he checked with Town Counsel and the regulations apply whether the road is public or private. Story said he will write a letter to Lane telling him to screen the cars or remove them, with copies sent to Kanter and to the Board.

Conomo Drive - Frye asked if she should call Alexandra Dawson about it, so that the Board will be ready for Glovsky. Greenbaum said he will call Dawson. Cataldo said he will talk with the D.P.W.

Next meeting of the Planning Board will be scheduled for July 18, 1984.

Greenbaum motioned to adjourn meeting; seconded by Burnham. The Board approved the motion.

Meeting adjourned 10.40 p.m.

Gillian B. Palumbo

Essex Planning Board

June 6, 1984

Present : Elisabeth Frye, Chairman; Everett Burnham;
Alden Wilson; Michael Cataldo; Michael Ginn;
Daniel Greenbaum; Rolf Madsen.

Meeting called to order 7.30 p.m.

Minutes of meeting of May 16, 1984 read and approved
as read.

Ed Story gave the Board a newspaper clipping of January 3, 1980, in which was stated that the Planning Board had approved a lot on the corner of Southern Avenue belonging to Gardner Patch, as a buildable lot. Story stated that now someone would like to buy it and wants to know if it is still a buildable lot.

Ed Story presented the Board with the building permit of Thomas Foley for Lot 2 on Pond Street, formerly belonging to Paul and Barrie Levine (ref. Minutes of 2/1/84). Burnham made a motion to approve the building permit of Thomas J. Foley on Pond Street, Lot No. 2. Seconded by Cataldo. The Board approved the motion unanimously.

Michael Perreault - met with the Board to find out if they will honor the subdivision at 114 Western Avenue. It was subdivided in 1965 and both lots are conforming. He said they had the option to buy either or both lots and decided to buy both. One lot has a duplex on it and they would like to build a house on the other lot. The address of that lot is listed as Essex Park Road and so will be approached from there. Perreault said he called the registry and it is filed there. He was told to appear before the Board again after they receive a building permit.

Philip Herr - met with the Board to discuss the preliminary work for the planning program he will establish for the Town. He said he will have Alexandra Dawson help him in the study, especially in the area of private ways. Burnham asked "Who is responsible for Herr's pay? Does he have a contract." Herr says he does not have a contract, and when asked if he is working for the Town of Essex, Selectmen or the Planning Board, he replied "Basically, I am working for the Planning Board". Article 34 from the Town's Annual report was then read. A question asked of Herr was should the Town of Essex be contracting with the state or will he. Herr replied that the state's preference would probably be him. He added he will probably be working with two contracts, one with the State and one from the Town of Essex, because the Department of Environmental Management will want to be sure the work is being done. He said it might make more sense for

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the Town to contract with Dawson, but he will have to talk with her first.

Some of the issues that Herr mentioned are commercial areas and business uses, are there things the Town should be doing so that it does not create problems, and then the character of the Town, what it looks and feels like. The way streets and commercial areas are used will have a bearing on that. Herr said he would like to see committees of people from all areas of the Town become involved in the study. He suggested what he called "quick fixes", some things that are fairly obvious, that could be done to zoning by-laws for example. He noted that the next time the Board meets with him, they should know what things can be acted on. Frye asked him "What do you suggest we do?" Herr suggested the Board be thinking of quick fixes, early short-term plans, and to think generally of (i) the difficulty of working with the community to adopt the change and (ii) actually putting it together. Herr doesn't feel that the Board has to form the groups right now, but says it is important to have groups of people drawn from the biggest diversity, to divide Essex up into different categories, creating special interest groups and giving them the opportunity to voice their concerns and opinions. Herr asked that topographical maps be found to show buildable and unbuildable areas in order to see what areas can be developed. Herr said one year is a short time for this program and so felt the Board should meet again with him in a month. The next meeting with him is scheduled for July 17 at 7.30 p.m. in which he will explain contracts with the state and Dawson, and then talk about the categories of people to work with him and the Planning Board.

Ginn then asked Herr about Conomo Drive, whether the issue is the provision of adequate access or a public or private way. Herr said he felt it was the former, it sounding more like a policy issue than a technical one.

Ed Story presented the Board with a building permit for Leland Tudor which he says comes under the new by-laws. He wants to build another house on his property which already has one house on it. He has 216 feet frontage on Eastern Avenue.

Greenbaum motioned to approve the building permit for Mr. Leland Tudor on property at 136 Eastern Avenue for the creation of a second principal residence on a lot having adequate frontage and area. Ginn seconded the motion and the Board unanimously approved.

Peter Van Wyck * said he was going to present a preliminary plan to the Board, but as he didn't have the paper work ready, he would just show the Board what he had done, and to also reiterate what has been agreed to. He said there will be

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15 lots, and the road will be lengthened to 1500 feet to make the lots more conforming. He would agree to forward \$100 per lot. He said he also came informally to review the situation to the new Board. Frye said the Board had not agreed to anything except expanding the road. The Board then reviewed the minutes concerning Van Wyck and their discussions with him. The Board voiced their concerns about the grade of the road at the intersection of Apple Street. Burnham asked where the regulations were that say what the width of grade of a subdivision road is and was told the specification is 3% with 50 feet of intersection. Van Wyck said he could meet that and also 75 feet of visibility from the centre line, because if one comes to a full stop there is 500 feet up the hill and 600-700 feet the other way. The Board said they would feel better if they looked at the preliminary plan, and that also they would want to go and look at the site as there are guide lines they have to follow to determine its adequacy. Van Wyck was asked if the preliminary plan includes the road layout, details of drainage, etc. He said he would work on a road profile to give the Board. Greenbaum said he felt that maybe they should have more details given particularly at the intersection.

Haukula
Van Wyck said Lot 16 has already been approved, but the rest is designated as business as it has not been officially registered. Greenbaum mentioned as a generality that water flows on the property, so Van Wyck said he is going to use ~~Hartlett~~ on this one and will make sure he conforms with proper engineering studies. Van Wyck said one of the reasons he kept the two lawsuits together is to make use of the traffic consultant. Frye said that these are two separate lawsuits. Van Wyck then said that in this subdivision it should not be an issue of excess traffic. Greenbaum said the issue is the adequacy of the road, particularly at the intersection and the second issue is the traffic. Van Wyck then stated he had accomplished what he had come for, that he and the Board had come to some agreement, and so will file a ~~definitive~~ plan. He then said he would like to speak about the Appeals as there are two new members on the Board, that this may be the time to decide or see if there are some areas where we might get to talk about Turtle Back Road. At no point, he continued, "did the Planning Board ever elect to talk to him about these issues, that they just decided to go to the Appeals. You might find we are not so far apart as you think we are." Van Wyck then asked the members of the Board to re-evaluate their own feelings on the Appeals, and said this is a good time to decide with two new members, if you want to continue with the appeal and to take a vote on it. Frye said that they would think about it. Greenbaum said he feels we have come along way in trying to work things out and that the Board will try to make sure the quality of the submissions are as they should be. Frye said she felt this issue should not be voted on tonight as it is a new idea. Wilson said he knows nothing about this case and would like to know more

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about it. ** Van Wyck said he had decided to drop the lawsuit in Lowland Farm.* *OK, ECF.*

Richard Kanter, Hill Road appeared before the Board to voice his concerns about his neighbor, Howard Lane. He told the Board he is into the second addition on his house and has spent time and money to block out the situation as much as possible, but would like some decisions from the Board, as to whether any actions can be taken by them, the Selectman or the Police. His child has been woken up by the activity going on. Greenbaum asked if the child had been woken up during the quiet hours and Kanter said no. Kanter continued that the street is horseshoe-shaped, and his neighbor parks a truck so that people have to drive on his land to get by. Lane has a stock car which Kanter feels does not belong there. Kanter said that after his wife came to the Board about the problem (ref. Minutes 2/15/84) things became quieter for about a month, but now he feels the situation has got out of hand. Kanter said Lane has compressors, air gun ratchets, arc welders, metal cutting tools, and although he calls the race car a hobby he has fund raisings for it and has people working on it. Kanter said he is just questioning the nature of the business. Lane has repair plates, brown outs occur from the use of the welder and business trucks are run for hours. No effort is made to keep quiet, to shut the doors or insulate. Kanter then read a letter to the Board written by his wife. He said he wants the Board to decide on this situation and would like to schedule at the next Planning Board meeting a meeting with Lane so as not to go behind his back. Burnham asked "Whose job is it to prosecute", and was told depending on the interpretation of the law either the Building Inspector or Chief Platt. Greenbaum mentioned nuisance laws that come under the Board of Health. Frye then asked "Are there any specific laws that we can enforce. If there aren't, then he may have to go to the Police." It was suggested that Kanter take up this situation with the Board of Health and also that Ed Story go to the site to check out screening and storage.

Frye read a letter to the Board that she had written to John Tierney concerning Conomo Drive. She asked either for the approval of the Board or to hear amendments to it. Ginn motioned to send this letter to Town Counsel, which is attached to the Minutes of the Meeting of June 6, 1984. Cataldo seconded, and the Board approved the motion.

Ginn motioned to adjourn the meeting; seconded by Cataldo. The Board approved the motion. Meeting adjourned 11.10 p.m.

Gillian B. Palumbo

Essex Planning Board

May 16, 1984

Present : Elizabeth Frye; Michael Cataldo; Dan Greenbaum; Rolf Madsen; Everett Burnham; Alden Wilson.

Meeting called to order 7.35 p.m.

It was felt that the first order of business should be to nominate the new officials of the Board. They are as follows :-

- Chairman - Cataldo nominated E. Frye; seconded by Greenbaum. The Board all voted in favor.
- Vice-Chairman - Cataldo nominated Greenbaum; seconded by Frye. The Board all voted in favor.
- Clerk - Cataldo nominated Burnham; seconded by Madsen. The Board all voted in favor.
- Ways study rep. - Rolf Madsen was appointed.
- Sewer Study rep. - Greenbaum was asked if he would stay on this committee and he said he would for the present.
- By-law study comm. - Alden Wilson will be the Planning Board representative.

The Minutes of the Meeting of May 4, 1984 were read and approved with the following amendments :-

It was the informal consensus of the Board that a 1300 foot road would be acceptable provided that the 15 lot limit was guaranteed. The discussion of Peter Van Wyck's Low Land Farm was of an advisory nature and no formal opinion of the Board was being so rendered at this time.

Mrs. Neeley met with the Board to discuss the Perrotti property which she would like to purchase. She wants to have an antiques business on the first floor, and use the second floor as an apartment. She presented the Board with a map of both the property she wants to buy and the property next to her belonging to Stephen Score. Mrs. Neeley said she checked the tax property listing and found no description there of the property; the assessors said they would have it listed on the next tax bill. She said she did not know if she needed a variance, but there would be no changes made to the property except for the normal cosmetic improvements. Mrs. Neeley was asked if she

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checked when the second floor was last occupied. She said she did not, but at present it's being used for storage. There are six rooms and the fittings for kitchen and bathroom are still there. The septic system was put in around 1971. The major concern of the Board is parking, as there is no clear access for parking spaces for that property. It was Frye's understanding, she said, that Mrs. Perrotti used to be able to use the driveway and have access to the back of the house before the fence was erected. Mrs. Neeley was then asked if a car could be driven on the other side of the building and she replied yes, a car has been parked there on a regular basis. She added that Mrs. Perrotti will allow new tenants to park in the driveway of her house. Greenbaum said that as the bathroom and kitchen were still fitted out he felt there had been no intent to abandon the use of the building. Greenbaum made a motion that upon reviewing the situation of the property at 157 Main Street the Board finds the existing single apartment has not been abandoned and is a continuation of the previously existing non-conforming use. Burnham seconded, and the Board approved the motion.

Frances Lowe property, Western Avenue - Mark Sanders, attorney representing Ms. Low and Ms. Garcia Kimball, met with the Board. Sanders gave the Board a Form A and a linen, Plan of Land of Essex of Frances S. Lowe, Story Street dated 5/8/84, and requested a division of Lot 2, shown in the plan as Lot 2 and 2a. He showed the Board a plan they had approved and which had been recorded in the Registry in December 1982. Sanders said they would like to widen the access from 30 feet to 50 feet on Story Street. Cataldo asked Ms. Kimball when this was first proposed to the Board was this the lot that was originally going to be sold to the abutter. Ms. Kimball replied that that was Parcel 1. Sanders said that a long range plan would be to come back to subdivide, but at present he was just asking to add one piece of Ms. Lowe's land to another piece of her land. He feels Parcel 3 is suitable for a single home, but is not suitable at present as a subdivision. Cataldo asked "If you have no intention of subdividing Parcel 3 what is the intent of making a 50 foot right of way?" Sanders told him that Ms. Lowe would like to sell Parcel 2, but would like to retain access to Parcel 3. They may want to subdivide and are just being prudent by reserving sufficient land for the future. Greenbaum made a motion that the Board, having reviewed the Plan of Land of Essex dated May 8, 1984, presented by Frances Lowe, finds that the plan does not require approval under the subdivision approval not required law. Cataldo second, and the Board approved the motion.

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Carl and Pamela Friberg, 158 Eastern Avenue, presented the Board with a Plot Plan of Carl W. and Mary F. Friberg dated May 4, 1978. Mrs. Friberg told the Board that on the back of her house she has a deck that was granted to them by the Board of Appeal and would now like to add on to the back making the addition 16 feet from the lot line. She said the addition will not be any closer to the side lot lines, but will be closer just at the back. The Board told her that it is already non-conforming and that with the addition will become more non-conforming. Cataldo made a motion to reject the proposal. Madsen seconded, and the Board voted to approve the motion. Mrs. Friberg was then referred to the Board of Appeals and also to the Conservation Commission as the addition will be within 100 feet of wetlands.

The Board scheduled Mr. Phil Herr for the next meeting at 8 p.m. The Board was asked if this was to be a service. The Board decided they must have a contract and to find out the legal requirements.

Ed Story presented the Board with a Building Permit for Daniel S. Granz for a single family house on Lot 1 on Pond Street.

Greenbaum moved to approve the Building Permit as presented by the Building Inspector. Cataldo seconded, and the Board approved the motion.

It was noted that the appeal of Frederick Markham will be on May 22, 1984 at 7.30 p.m.

Madsen moved to adjourn the meeting; seconded by Cataldo. The Board approved the motion.

Meeting adjourned 9.10 p.m.

Gillian B. Palumbo

Essex Planning Board

May 2, 1984

Present : William Holton, Chairman; Michael Cataldo;
Michael Ginn; Brad Story; Rolf Madsen; Dan
Greenbaum; Elizabeth Frye.

Meeting called to order 7.30 p.m.

Mrs. Realy came before the Board as she is thinking of buying the Perrotti house on Main Street with the intent to sell antiques on the first floor and to use the upstairs as an apartment. The Board was not sure whether the abandonment by-law applied to the apartment and Cataldo said he would check to find out how long ago someone last lived there. The question to answer is whether it would be more detrimental to the neighborhood with the apartment upstairs and an antiques shop downstairs. *Mrs. Realy* is scheduled to appear before the Board at their next meeting on May 16, at 7.45 p.m. and was advised to bring with her proof of occupancy and a plot plan so the Board can check for parking. Holton suggested that the Board get some background on this situation for the next meeting as it appears to be a non-conforming use.

John Matheson - Norma Pimentel requested to meet the Board as they have a Real Estate business and want to work with the Town officials and be in accord with them. They said they would like to be able to tell the Board what they would like to do and in turn have the Board tell them that certain properties should not be put on the market for sale. They do not want to be in conflict with the Board and would like to be told if they are seen in Town looking at property that concerns the Board.

George Enos - came before the Board representing himself and 129 registered voters. He wanted to make it clear that he was not representing the Board of Health or the Sewer Study Committee. He gave to the Board a petition that he had circulated around the Town asking that the Planning Board, Conservation Commission and the Board of Selectmen show at the Town Meeting why they are going on with the appeal of Peter Van Wyck. Enos said he would like to have an explanation why it's been going on. Story said it has been in the newspaper for the past five years. Enos said he felt people were not satisfied with the way things were going. Greenbaum said there had been misleading information; that the Planning Board had voted against Town Counsel's advice, but that that was not true. He added that he doubts if Enos would have got all the signatures had the people been told that the Planning

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Board had consulted with Town Counsel and had been told not to ignore it. Greenbaum also stated that he thinks the Board has every right in a legal battle to take some steps in confidence about their strategy, but as the Planning Board and the Selectmen are elected by the Town, the people could express their concern to them. Enos suggested that the Board were planning to supplant Town Counsel, but the Board said this was not true, that Town Counsel said he was ready, willing and able to take the case. Enos then asked the Board why they felt they were going in the right direction, and spending this kind of money. He added that the Board cannot drag this case on and on, that they must come to a decision. Holton said that's what the Board is trying to do. He added "that we have open meetings for everyone to come to". Greenbaum said they felt it was important for them to defend their powers, that the Selectmen, Conservation Commission and Planning Board all agreed, and the Board voted to do something when legal action was initiated against the Town. Holton said he would be happy to stand up and tell everyone at the Town Meeting what the Planning Board is doing, but he will not defend anything that says the Board ignored Town Counsel. At this point Peter Van Wyck spoke saying it might be advantageous for the Planning Board to see how well they would come out of this situation. Greenbaum said it would be rather unusual to discuss legal strategy before a Town Meeting, but feels there would be plenty of support if Van Wyck and the Planning Board could agree. He added why doesn't this group of people come here and have the Board discuss the situation with them.

Mark and Tom Shea - met with the Board to discuss the property they have leased on John Wise Avenue, from which they will be running an upholstery business. The building in question is located next to Lewis' Restaurant on the Essex/Ipswich Line. They want to put up a sign on an existing post. The sign would be 4' x 8' in size, wooden, painted white, with black hand-carved letters. Shea also mentioned to the Board some future plans he would like to implement. (1) would be to remove the existing fence and put up a 4 foot wooden fence 50 feet from the marsh flaring out to 70 feet from the marsh, to cover the foundation. (2) Behind the building is an old foundation which at present can barely be seen as it's covered in growth, and Shea would like to purchase a 20' x 40' container to sit permanently on the existing foundation for storage. Shea said the container would not be seen as the building itself is 40 feet and it would sit right up to the back of the property. They would also like to install one single flood light to shine on the property. They have spoken to Mass. Electric so that it would be installed professionally. Shea said they have been at

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the property for 2½ weeks and would like to improve the appearance of the building. They have a two year lease with the option to buy. Ed Story told the Board it is a conforming lot with enough frontage, and that it has been a business for quite a few years. Holton asked Shea if they decided to stay would the container become a permanent part of the building. Shea said yes, because they need the room for storage to make more working room. Ginn said he has a problem with the trailer type of storage and was told that the trailer will not have wheels, but will sit directly on the foundation. Shea asked the Board for a decision on the sign and was told that the general consensus of the Board was that the sign meets the by-law requirements, but that Shea must appear before the Conservation Commission to discuss the other problems and return to the Board when he is ready to take the next step.

Peter Van Wyck - Holton told the Board that Tierney had been requested to appear in Court, together with William Evans, Van Wyck's attorney, as Van Wyck had asked for a hearing in court for a determination to be made on whether he could conduct perc tests on his land. Judge Edith Fine lifted the stipulation so that Van Wyck can perc his land. Holton asked Van Wyck when the Town would be allowed to go on the land to make their tests. Van Wyck pointed out to the Board that it had been expensive, but it was something he chose to do. Holton told him the Selectmen and the Planning Board had been agreeable to lifting the stipulation for perc tests. Van Wyck said he would like to find out, if he would be willing to drop the court case on Low Land Farm and his Counsel says he can do this as the court case is mainly Turtle Back Road and Low Land Farm was included inadvertently, whether the Planning Board wants this plan submitted under the new regulations. Holton said at the last meeting they came to an agreement that Van Wyck would discuss with his attorney William Evans, whether to drop the case on Low Land Farm. Greenbaum said he feels Van Wyck wants to get the consensus of the Board before he drops the case on Low Land Farm and feels we should have a discussion and hear the issues from Van Wyck. Holton said that the only thing that Van Wyck has brought to the Board is that there is a possibility of dropping the lawsuit on Low Land Farm. Van Wyck then said it would be dropped with the filing of a new plan for Low Land Farm, and that he wants enough information to know if he should file under the new regulations. Greenbaum stated that with the assumption that if Van Wyck files a new plan under new regulations he would drop the court case of Low Land Farm, he is asking that the Board gives him fair consideration and what the issues will be. Van Wyck said his bottom line is fifteen lots. Ginn then said he

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doesn't understand why the Planning Board should be the one to make decisions on the lots if they do not meet the by-laws. Van Wyck was told that the Planning Board does not have the authority to create non-conforming lots; they can vary the length of the road etc. but the Board has to say that the lots conform. Van Wyck said the Board has asked him to give up his lawsuit, but he cannot come back under the old regulations. He was then asked if there was a way for him to assure the Board that he will have a fifteen lot limit and that his road will be 1300 feet instead of 1200 feet. Van Wyck said that his choice would be to come before the new Board with a new linen, but he feels he does not want to spend the money, if he is going to be shot down. Van Wyck asked about paying when he registers the plan, that this is a plan under old regulations which he is doing for the Planning Board under the new regulations. Holton said he would not have trouble postponing payment, but he can't agree with Van Wyck paying when he registers the plan. Ginn said he will have to give it more thought. Frye said she is against the fee being given when the definitive plan is ~~presented~~ ^{registered}. The issue of the intersection at Apple Street was raised. Ginn said that if this is the stumblingblock then we should have discussed this as the issue. Holton said that this point was just one of the bones of contention. He continued that Van Wyck will have to address the intersection with Hancock and return with a new plan.

Public Hearing - Apple Street driveway - Holton stated that the law is that a public hearing be held whenever a scenic road is changed. The application filed by Mr. and Mrs. Lowell Peabody was to remove a portion of the stone wall and for the construction of a driveway which will give access to Apple Street. Holton noted that there is not much of the stone wall left and he feels that it will not be detrimental to the area if it is removed. The owner stated that he wants to re-build the stone wall on either side of the driveway, which would improve it. Story motioned that the Board give Mr. and Mrs. Lowell Peabody permission to cut into the stonewall to make a driveway. Madsen seconded; the Board voted unanimously to approve the motion.

Mark Glovsky - Conomo Drive - told the Board that since the last time he was here he had sent a letter to Town Counsel dated April 10 and had received a reply dated April 25. As there was an article in the Town Meeting on this case he felt it was important to come before the Board. He will then advise his client as to what his options are. In his letter he outlined his conversation with Kenneth Elwell who was Superintendent of Streets for ten years and who recalled that the Town on an annual

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basis did put down stone, and cut brush on Conomo Drive. The annual maintenance was discontinued except to patch and repair a 500 foot part of the Drive from Andrews Street towards Pond Street. Glovsky also mentioned his conversation with the Fire Chief who told of his use of Conomo Drive for access. Frederick Markham told the Board and Glovsky that he believes Conomo Drive is a public way. He added that if the Town votes to abandon the road, and there are public rights and it is a public way it may provide Richardson with the right to claim for damages. Cataldo asked Glovsky "are you contributing a percentage or a dollar figure to up-grade the road" Glovsky replied "either way". Glovsky stated that a Mr. Marino had a plan approved by the Board of a six-lot subdivision approval not required. Greenbaum said he has not seen the Marino plan that the Board signed off, but all the plan says is that the portion of the road where his land is is adequate. The approval of the plan itself does not say that the road is a public way, but only that it's adequate. Markham asked the Board what the difference was between a way and a public way. The report by Alexander Dawson was read into the meeting. Greenbaum said that it's clearly got to be a public way or an adequate way. Glovsky said they would only pay for the length of the road which Richardson's land covers and would upgrade according to Planning Board standards. Holton then asked based on what we have heard would the Board entertain re-wording what is on the Town Meeting. Mr. Marino spoke to the Board and said he feels if we are all reasonable and fair-minded he doesn't see why this cannot be resolved. If this road is abandoned there could be several court cases. He couldn't give anything constructive but would like to see it resolved. Greenbaum stated that there are ways for the Town to maintain private ways and that the vote of the Town Meeting does not turn down specifically the idea of a joint venture. He questioned a boundary line on Minturn's map and said he finds it hard-pressed to go in and pour gravel on a piece of private land. Holton asked if the Board should pull this article from the Town Meeting and start this arrangement with Richardson thereby committing the Town to upgrade the road. The other option would be to go ahead with the article and to see the vote at the Town Meeting and see how the people feel about the use of Conomo Drive. Holton asked "should we have this article on the Town Warrant". Markham said he feels that if the Town brings the article on the warrant they will have a lawsuit on their hands. Cataldo made an observation that when the area was developing that area was wood lots. At that time the roads were adequate for wood lots but now we are determining a subdivision and how to accomplish that development over a period of time. He wonders about the safety and basic access of that road, and what will happen 5-10 years from

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now. Greenbaum said he feels the only way to resolve this is to have a court declare it one way or the other. Holton said he feels the Board needs time and his suggestion would be to withdraw the article to give the Board time to talk with Town Counsel and then have a judgement made, that we need a breathing period.

Cataldo motioned the Planning Board indefinitely postpone the article on the abandonment of the article on the Conomo Drive and the Old Manchester Road from the Town Warrant. Story seconded; the Board approved the motion.

Ginn feels we should have a court determination on this. Holton asked Glovsky and Minturn if they would like a quick decision by asking the courts. Glovsky said he would have to talk with Richardson and other people on Conomo Drive. Minturn wanted to know how long the Board would take to make a determination on this. The Board felt about a month and Holton added that he feels the Board has an obligation to keep the ball rolling on this.

Meeting adjourned 10.10 p.m.

Gillian B. Palumbo

Essex Planning Board

April 4, 1984

Present : William Holton; Elizabeth Frye; Michael Cataldo; Daniel Greenbaum; Brad Story; Michael Ginn; Rolf Madsen

Meeting called to order 7.40 p.m.

Minutes of meeting of March 21, 1984 approved and accepted as read.

Cataldo brought to the Boards attention about the storage of flammable materials in a residential area. As the Planning Board approved the home occupation of Old Yankee Fuel Company (Minutes of March 21, 1984) he felt that the other Board's should be notified regarding this. Notification of this situation was sent to the Board of Selectmen, Board of Health and Fire Chief Ivan Muise.

Holton asked Cataldo for an up-date on the grant situation and was told that as yet there is no information.

Holton asked the Board if they had an questions regarding the up-dating of the by-laws - there were none.

Peter Van Wyck - met with the Board to discuss the plan of Low Land Farm. He said he would like to avoid the confusion of last time and to discuss what he would like to do and have suggestions from the Board. He would like to correct the plan, to remove the street going to Mrs. Frye's property and resubmit the plan for Planning Board approval. Van Wyck also said that if the Board feels they have had problems with his engineer then he will get another one to draw up the plans. He said he wants to point out that he is submitting the plan under 81U. Holton told Van Wyck that everything off of Apple Street will be dealt with through his attorney and Town Counsel. Holton also stated that he does not see what the Board will gain by Van Wyck submitting the amended plan and that he feels the Board cannot do anything because of the litigation.

Frederick Fawcett stated that a plan had been submitted for Low Land Farm and had been turned down. Van Wyck sought to appeal this to the Courts and therefore that precludes any resubmission of a new plan or amendments to the plan. Van Wyck claimed that the suit was only for Turtle Back Road and not for Low Land Farm. Holton said that the Board has two suits going, one for Turtle Back Road and one for Low Land Farm. Van Wyck asked the Board if it was their wish to change the engineer. Story said

that this is not for the Board to decide, that the Board does not decide on his engineer, even though they had not been satisfied with the plans.

Holton said that he is not shutting the door on this, but he prefers to have Town Counsel present. Van Wyck then suggested that the best thing would be for him to come to the next meeting and have Town Counsel attend. Greenbaum said if Van Wyck wants to submit new plans then the Board must talk to Counsel, and that any new plans coming in before the Board will be looked at under the new regulations. Cataldo said he felt this might be an opportunity to work things out, but that the Board must have Counsel here. Frye suggested that Van Wyck drop the lawsuit and come in with a new plan. Van Wyck then read the Board Regulation 81U. He said he plans to come in on the old regulations, but Holton suggested he be prepared to come in on the new regs. Holton also stated that he feels this is for the Board's Counsel and Van Wyck's attorney to hash out together.

Van Wyck is scheduled for the Board's meeting on April 18 at 8 p.m.

Sumner Raymond - representing Virginia Cummings of Pond Street met with the Board to ask them to stamp a plan under subdivision approval not required. Raymond told the Board that the Registry requires the stamp of the Planning Board and that they will not record the plan without it - Plan of Land, property of Christine Dyer - March 29, 1969. Greenbaum questioned why the plan states Christine Dyer and not Virginia Cummings and was told Dyer was the mother of Cummings, who died in 1982.

Greenbaum motioned that having reviewed the plan of land of Virginia Cummings on Pond Street and shown as one lot containing 84,000 more or less square feet and no division of that lot and having adequate frontage on Pond Street, the Board finds the approval under subdivision control law not required. Ginn seconded, the Board voted to approve the motion. The Board signed the above plan.

Story moved to adjourn meeting, seconded by Cataldo. The Board approved the motion.

Meeting adjourned 9.15 p.m.

Essex Planning Board

March 21, 1984

Present : William Holton, Chairman; Michael Cataldo;
Rolf Madsen; Elizabeth Frye; Michael Ginn;
Daniel Greenbaum; Brad Story.

Minutes of previous meeting approved as read.

Meeting called to order 7.40 p.m.

Holton told the Board he had called John Tierney to attend the Planning Board meeting about Conomo Drive. Holton received and read to the Board a letter dated March 13, 1984, from Tierney who could not attend the meeting, regarding Conomo Drive. Holton said he feels the Board must have Tierney in here and not to entertain any deals on Conomo Drive.

Tony Palumbo met with the Board representing the Ways Committee, to inform them of the roads which have been laid out by the County Engineers. Copies of the roads with County Engineers record numbers were distributed to the Board. Cataldo asked if there is a need to go through a formal procedure to recognise certain streets. Holton suggested that next time the Board meets with Alexandra Dawson that they include the Ways Committee in the discussion.

Haskell Court - Sarge Collier and Charles Foss, residents of Haskell Court, met with the Board to discuss changing Haskell Court from a private to a public road. Collier said he owns quite a bit of frontage on Haskell Court and is very much in favor of it becoming a Town road. He also said that it was his understanding that the Town, at one time, took some steps to making it a public road, but at the moment nobody is looking after the maintenance or ploughing of the road. Foss told the Board that Haskell Court was maintained until the 1978 storm, and then one of the residents complained and said it should be a private way. (EKG Holtop)

A plan of Haskell Court was then given to the Board, who were told the Town maintained 600 feet from Eastern Avenue to the body shop, but that there is another 1700 feet of road remaining. Collier told the Board that he personally has had to do some work on the road just to make it passable. Foss and Collier were told that when a road becomes a public way it must meet the standards of the Planning Board. They said that with the exception of a few pot holes there is a very good bituminous base and did not feel that the whole road really needed to be done over.

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Holton said that when he called Robert Marquis, an abutter, about this meeting, Marquis, who owns Puna Farms, was very concerned about boundary lines. He asked if Haskell Court was made a public road would his parking lot be taken away. He also mentioned that he thought his septic system would then be much closer to the road. The Board was told that the Town has asked abutters to sign a release and that they are all going to sign it, that this issue has been placed on the Town Meeting warrant and Sam Hoar is helping them with this. The Planning Board showed concern about the fact that if Haskell Court becomes a public way, anybody who has sufficient land and enough frontage could subdivide without approval of the Planning Board. Collier told the Board that as a practical matter the soil there is very bad as it is either ledge or marsh.

Ginn motioned that the Planning Board recommend the vote to accept the lay-out, alteration or relocation of Haskell Court as described in the plan #865, Sec. 011, Haskell Court, Essex 1983, 049.2, on file with the Town Clerk based on the public opinion that was gathered at our regularly scheduled meeting on March 21, 1984. Greenbaum seconded; the Board voted unanimously to approve.

Dave Davis - Old Yankee Fuel Company. Davis told the Board that he is looking at a piece of property located at the corner of Western Avenue and Lakeview Road, from where he would like to operate his business, and would like to know the necessary requirements for this. The frontage is 380 feet with approximately two acres of land. There is a plumbing business operating there at the moment. Davis said he wants to store a truck and service vehicle there and that the property does have an existing garage. Davis was asked if he will be running a business or a home occupation. He said he is going to live there, will be doing his paperwork in the basement and will store his vehicles there. Davis was also told that if he plans to have a sign there are limits to the size. Davis was given a copy of the by-laws pertaining to home occupation and business use.

Greenbaum motioned that upon discussion with Dave Davis concerning his proposed use of his property on Lakeview Road for his fuel oil business, the Planning Board finds, as described, that it met the criteria of a home occupation and is therefore in accordance with the by-laws. The motion was seconded by Story; the Board voted unanimously to approve.

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Callahan's Restaurant - Thomas Makris, together with Nick Filias and Paul , met with the Board to discuss the addition to Callahan's Restaurant, (reference Minutes of 2/1/84). The plan presented to the Board would be to cut off the roof completely and to go up another floor and to finish it off with cedar shakes. Along the front, which is sagging, a whole new footing would have to be put in, and to carry the second floor they would have to build around the existing footings. The second floor would consist of a lounge area, with stairs going to it from the first floor, plus an office and storage. Makris said he needed space for people to wait, but there will be no bar on the second floor, and no toilets. He also said he did not think he would be putting in any more tables where the waiting room was originally because the stairs would take up more room than was anticipated. Holton said he was very concerned about people crossing the causeway, but Greenbaum said according to what they had heard Makris will not be increasing the amount of people. Makris said he will be taking down the old building across from the restaurant to make room for more parking. Filias said there will be no increase in the width or depth of the building and also that the building will look better than it does now upon completion. Cataldo cautioned Makris that because of work done to the footings he will have to appear before the Conservation Commission. Mention was also made about having a public hearing for the abutters.

Greenbaum made a motion that upon review of the plans for Callahan's Restaurant renovation presented to the Board by Mr. Thomas Makris, the Board finds that the proposed addition of a second floor, solely for the purposes of storage and a waiting area, in which meals are not served, is not substantially more detrimental to the neighborhood on a non-conforming lot, provided that there is no increase on the second floor in seated dining capacity of the restaurant and provided that the parking capacity across the street is increased by the removal of the existing building. The motion was seconded by Story; the Board voted unanimously to approve.

Robert Coviello - met with the Board to discuss the expansion of the White Elephant Antiques Shop. Coviello said he would like to expand the antiques space to include the second floor, and that it would be just one business called the White Elephant Antiques Co-op. Frye said that that is an extremely bad area for parking. When asked how many parking places there are, Coviello told the Board there were two places directly on the right hand side and some behind the barn. He said that the second and third floors

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were one apartment, but now the third floor will remain as a small apartment, while the second floor would be as antiques space. The Board felt that the issue on this is traffic and will more be generated and where will people be parking. There will be two people working on the first floor. one on the second floor, an apartment on the third plus people who will be looking at the antiques, with 4-5 parking places. Holton asked "Does an improvement like this generate more traffic". Greenbaum said he felt it is an extension of an existing use. Because of residences in the area, Coviello was told to get letters of approval from the abutters.

Ginn motioned that the Planning Board approve the plans before us by Robert Coviello to increase the antique floor space to the second story and is not substantially more detrimental to the neighborhood than the existing use, provided that the Board receives letters from abutters stating their approval of said plan, and providing that the first and second floor remains as one business and no additional businesses are created. Story seconded the motion; the Board voted unanimously to approve.

The Board was told that the book of by-laws is going to be up-dated by Sally Soucy.

A Letter was read to the Board from Mr. and Mrs. Kanter asking that the Board keep on top of the situation on Hill Road.

A motion to adjourn the meeting was made by Story and seconded by Ginn. The Board approved unanimously.

Meeting adjourned 10.10 p.m.

Next meeting April 4, 1984

Gillian B. Palumbo.

Essex Planning Board

March 7, 1984

Present : W. Holton, Chairman; M. Cataldo; M. Ginn;
E. Frye; R. Madsen; D. Greenbaum;
B. Story;

Meeting called to order 7.55 p.m.

Minutes of meeting of February 15, 1984 approved as read.

Ed Story gave the Board a list of the following building permits issued for the month of February 1984 :-

- (i) Dennis Wilk - New House
Belcher Street
- (ii) David Mering - Addition
27 Martin Street
- (iii) John Szaryc - Remodel kitchen
Conomo Lane
- (iv) George Stavros - Remodel apartment
John Wise Avenue
- (v) David Carlson - Add second floor
7 DeSoto Road

Howard Lane, Hill Road, Gregory Island met with the Board to discuss the complaint raised by an abutter with the Planning Board at their meeting of February 15, 1984. Lane told the Board that he does not run a business and also that he does not leave trucks running for an hour. Ginn told Lane that some of the problems mentioned by the abutter seemed to have come to a head while he was away in Florida. Lane said that he felt that was unlikely, and that when Kanter rented the house for two years there were no complaints; the complaints only started after they bought the house. Lane said he has moved the truck away from the Kanter's house. He was asked to also move the dump truck to another part of the property and he said he would move it as far away as possible to help ease the situation, but added that nobody complains when he ploughs the road. Frye told Lane "You must try to do the best you can in this situation".

John Schimoler, together with his attorney Michael Tyler, presented the Board with plans for an addition to the Silver Acres Antiques Shop on Eastern Avenue (reference Minutes of February 15, 1984). The addition is 450 square feet which will be added to the back of the property and ~~will be used~~ and will be used for storage inventory (plan of property at 75 Eastern Avenue). Attorney Tyler gave the Board letters from all abutters who said they had no
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on Conomo Drive for the Marino property. There was evidence that the Town maintained the road by spot paving from time to time. There was also ~~pre~~prescriptive use by people hunting, etc. Also that the Town has been receiving Chapter 90 funds for mileage purposes.

Glovsky then stated that with regard to these facts it can be said that Conomo Drive is a public way and therefore based on this the Board could be asked to sign a subdivision approval not required. He feels that it could be in the Town's best interest to have the subdivision.

Glovsky also said that he spoke to a contractor (Kelleher Construction) who after examining the road gave an approximate cost of \$70,000 to upgrade it to a 16 foot width. He further stated that Mr. Richardson would be willing to talk with the Town and to share part of the cost of upgrading the road. Minturn said he would commit a density of not more than twelve house lots on the Richardson property. Cataldo said he felt that the estimate of upgrading the road was a bit timid and when the Board comes back with a more realistic figure would Richardson still assume the cost. ^{Mich}Glovsky said he spoke to Tierney to see whether or not ~~he~~felt it would be in the power of the Town to enter into an agreement with a landowner. Glovsky stated that he is looking for a signal from the Planning Board if the Board would consider this kind of approach and he could then come back with a specimen agreement and a more detailed cost estimate of the road. Greenbaum said that for the most part it does increase the tax base, but it also increases the cost for the Town. There is also a serious concern about the number of lots the subdivision abuts. Glovsky said he was suggesting upgrading Conomo Drive for the entire length.

Minturn was asked about the overall plan use for the 70 acres, and he stated that one cannot be drawn up because of the cost at this time, but that the density would not exceed twelve house lots. There is a plateau with steep sides on the land so it was felt best not to chop up the land into twelve equal lots, but to deed some of the land as Conservation land. All lots will be for single family homes. Minturn added that this plan is part of the overall concept and is not just "to test the water". Cataldo asked ^{people}the at the meeting who were shown this land if they were addressed with the issue of public safety. Greenbaum felt this could not be answered in depth at this time until the Planning Board has spoken to Town Counsel on this matter. Also Glovsky's memo on Conomo Drive being a public way should be discussed with Tierney. Greenbaum then proposed a meeting with Tierney. Glovsky said he did not want to present the

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objection to the addition. A stipulation was added to the Building Permit that the addition be used for warehouse storage. Schimoler reiterated that he does not wish to enlarge the retail side of the business, but to use it for warehouse storage.

Ginn motioned that the property located on 75 Eastern Avenue and the proposed addition to the property is not substantially more detrimental to the neighborhood than the existing non-conforming use, provided that the proposed addition is used for warehousing, in conjunction with the adjoining retail business. Story seconded; the Board voted to unanimously approve the motion.

David Lane met with the Board to discuss plans to open up a garden retail center at 235 John Wise Avenue, using the whole property of main building and barn. Lane told the Board that the main building will be used as a retail sales area. In order to protect his plants he needs to put up a fence on three sides of the property, leaving the marsh side open. He would also like to cover an area of loam with linpack, which will be an extension of an area presently covered with linpack. Lane was told that both buildings are under deed restrictions, and he said he was aware of that. Cataldo cautioned him about the linpack and suggested that he come before the Conservation Commission to discuss it with them. Lane said the barn will be used for storage, so Story said he just wanted to remind him that there can be no apartment on the second floor. When asked about what type of fence Lane planned to put up, he said it would look good because his business is landscaping. Lane was told that although the retail business will operate from the main building, he could conduct business from the accessory building as long as it was part of the main business. Story made a motion that the Planning Board has heard Mr. Lane's proposal to make the property at 235 John Wise Avenue a garden center and finds that they have no objection, subject to approval of the Conservation Commission, Ginn seconded; the Board voted to approve the motion.

Richardson property - Mark Glovsky told the Board he had originally intended to come before the Board with a memorandum supporting the contention of a subdivision approval not required plan, but after making a site visit he has changed his mind somewhat due to the condition of Conomo Drive, but has still not changed his mind that Conomo Drive is a public way.

Glovsky told the Board that after some research he had found that in 1905 an agreement had been entered into by an abutter on Conomo Drive who wanted a road built to connect the road from Manchester to Conomo Drive. In 1910 an atlas clearly shows a Conomo Drive was constructed. In 1946 a Town Meeting voted to accept the road known as Conomo Drive. A previous Planning Board signed a plan for frontage

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Board with a Form A at the moment. When asked how the contractor came up with the figure for upgrading Conomo Drive Glovsky said he looked at the roads that connected Conomo Drive and took a cost estimate from that. Madsen would like Glovsky to come back with a firmer opinion and in writing of why this is a Public way. Ginn feels Tierney should have a copy so he can review it. Copies will be sent to the Planning Board of Glovsky's findings of Conomo Drive as a public way.

Haskell Court - Members of the Planning Board met with the Board of Selectmen about Conomo Drive and Haskell Court. When all of the property owners on Haskell Court have submitted the necessary forms the Planning Board has 45 days to send back its recommendations on acceptance of Haskell Court as a public way. The Board will be asking abutters of Haskell Court to the next meeting, to come and discuss the proposals before making Haskell Court a public way.

Frederick Markham - Story checked the Board of Appeals's records. A copy of a letter from the Board of Appeals dated June 21, 1977 was sent to Markham. Story said it does not seem like Markham can use the 40' right of way as frontage, and that if he wants to build a home he will have to get a variance.

Conomo Drive - how to proceed? Ginn felt that the Board went about it in the proper way, asking advice from Tierney and getting Glovsky's material to him.

The next Board meeting will be March 21. Board members felt by this time Tierney will have read Glovsky's material, so he should be asked to attend that meeting.

At 10.15 p.m. Cataldo made a motion to go into Executive Session to discuss the pending litigation with Peter Van Wyck. Story seconded; the Board voted to approve the motion.

Story moved to adjourn meeting. Ginn seconded; Board approved the motion.

Meeting adjourned at 10.25 p.m.

Next meeting March 21, 1984.

Gillian B. Palumbo

Essex Planning Board

February 15, 1984

Present : W. Holton, Chairman; M. Ginn; M. Cataldo;
E. Frye; D. Greenbaum; B. Story.

Meeting called to order 7.40 p.m.

Minutes of meeting of February 1, 1984 read and approved.

Jim Karvelas of the Ship Ahoy restaurant met with the Board. He told them that he would like to place a sign on the roof of the restaurant, the reason being that the present sign was not noticable from certain areas of the causeway, and that the best accessible place would be the roof. He presented the Board with a plan of the sign, which was 64 square feet in size, illuminated by flood lights, and to be placed on one of the gables of the building so that the sign can be seen from both sides of the causeway. He asked the Board for the Town's specifications for signs, and was told that the by-laws state that the sign size may only be 32 square feet. Karvelas said he would design another plan in accordance with the by-laws and present it to the Board.

David Carlson, 7 DeSoto Road - Ed Story presented the Board with a plan, stating that Carlson wants to add a second floor to his house. Ginn motioned that the Board accept the plans before them finding that the proposed addition of David Carlson would not be substantially more detrimental to the neighborhood, citing article 6.4-2 of the by-laws. Cataldo seconded; the Board voted unanimously to approve.

Russell Hodgkins, Story Street - Story presented the Board with a plan to build a single family home. The lot is 30,000 square feet, with an existing driveway into the lot. A septic permit has been issued by Capel. Greenbaum motioned to approve the site plan and to ask the Building Inspector to furnish the applicant with a copy of Section 6.6-3 of the Town Zoning laws. Story seconded; the Board voted unanimously to approve.

Architect Richard Minturn and lawyer Mark Glovsky met with the Board representing Frederick Richardson, who owns 70 acres of land off Conomo Drive. Minturn presented the Board with a plan of land of Frederick L.W. Richardson dated February 8, 1984, showing about seven acres of the land divided into three house lots. Cataldo said he felt the issue facing the Board was whether Conomo Drive is a public or private way. Glovsky stated that the research

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he has done shows that the road is a public way, and therefore that it meets the requirements of a road for subdivision approval not required. He said the State Department of Public Works records showed the road was a public way, 1.27 miles in length, and that the Town has been receiving state highway money for maintenance of the road, although the road has not been maintained since the 1960s. Glovsky said he felt there was sufficient evidence to support that Conomo Drive is a public way, but if it was decided that this was not so, then a substantial development would have to be put in, in order to recoup the cost of upgrading the road. Frye said that in 1905 Conomo Drive was a private road and that there has never been, as far as is known, a court acceptance of it as a public way. Holton said that the Board does not feel the road is a public way and has proposed abandoning Conomo Drive because of the cost to the Town of making it passable. Although a Form A was not filed at this meeting, the Board was told by Glovsky that when he comes back to the Planning Board meeting on March 7, and is still faced with the same problem, he will file a Form A with the Board. A site visit to Conomo Drive is planned for Saturday, February 25, 1984 at 11.30 a.m. and notification of this was sent to Minturn and Glovsky, who felt they should be included in any site viewing by the Board.

Frederick Markham - came before the Board with a plan of land he owns on Pond Street. According to Markham, there is a difference of opinion of the location of the boundary line between his property and that next to him. His survey shows he owns two acres of land, but a survey made by the adjacent property owner shows Markham has less than an acre, and consequently does not have the necessary frontage on Pond Street. There is a 40' right of way that the Board of Appeals, he feels approved for him to build two other houses. Story told Markham that before any further decision can be made, the Board must check to see if there is a plan of an existing right of way.

Barry Richards, 31 Martin Street - met with the Board and told them he would like to move his stained glass business to the barn located behind the house. Richards said that most of his work is from private commissions and does not do very much selling from his business. On occasions, he does teach a small class, but has no desire to develop this aspect of his business. He told the Board he plans to divide the upstairs portion of the barn, put glass on the south side, bring in electricity and put in a forced hot air heating system. There is no need for running water. Story motioned that the Planning Board, having heard the presentation of Barry Richards, agrees that the proposal falls under the Home Occupation Section 6-6.3d. The motion was seconded by Ginn; the Board approved the motion.

February 15, 1984

John Schimoler, together with his attorney Michael Tyler, met with the Board to discuss a change of use of property, namely Silver Acres Antiques shop on Eastern Avenue. Schimoler is interested in purchasing the property for the business of selling marine electronic equipment. The building is approximately 1200 square feet and he would like to add another 1200 feet on to the back of the building. The major use of the building would be warehouse space. Tyler wanted to know what procedures would be necessary for the change of use, enlarging the building, etc. He was told that approval for the addition would have to come from the Planning Board, and that he should apply for a building permit and meet with the Board again with a plot plan of the structure drawn to scale and letters from abutters stating that they have reviewed the plans and they do not find them detrimental.

John Schimoler was scheduled to meet with the Board again at their next meeting on March 7, 1984 at 8 p.m.

Robin Kanter, Hill Road, Gregory Island - met with the Board to discuss whether an abutter, Howard Lane, may be in violation of the by-laws. She said she was also representing another abutter who was on vacation. Kanter said that Lane runs a trucking business and parks large trucks, works on them and runs them, sometimes for more than an hour, less than 15 feet from her living room. Trucks start up at 6.30 a.m. even on weekends. There is no screening of the business from the abutters. Due to the location of a dumptruck, their property is being encroached on by cars unable to turn the corner. The Board said they will determine whether Ms is in violation of the by-laws and will notify the Board of Health and Police Department for violation of their codes also. A letter was sent to Howard Lane requesting he meet with the Board at their next meeting of March 7, 1984 at 8 p.m. to discuss this matter with them.

Ginn made a motion to go into Executive Session to discuss the pending litigation of Peter Van Wyck, and to resume the Board's normal meeting after. Greenbaum seconded; the Board voted to approve.

Callahans - The Board felt they should pay very close attention to the plans presented to the Board and to have an informal public hearing, with letters from all abutters.

Ginn presented the Board with a rough draft of a plan for a ramp at Conomo Drive. He said that in order that the ramp can be used all year round, there may have to be a change of the by-laws.

Cataldo moved to adjourn meeting. Frye seconded; Board approved the motion.
Meeting adjourned at 11.15 p.m.

Essex Planning Board

February 1, 1984

Present : W. Holton, Chairman; R. Madsen; E. Frye;
M. Cataldo; B. Story; M. Ginn; D. Greenbaum.

Meeting called to order 7.40 p.m.

Cataldo voted to accept the Minutes of Meeting of January 4, 1984 as read; Story seconded.

The Board met with Conomo Point Commissioners Richard Osborne and William Morrow to discuss a long-range plan for Conomo Point. Ginn said he felt the Point should be opened up to the people of the Town, possibly with a picnic and swimming area. Osborn said there is a problem with parking, it being limited at Clammers Beach and Front Beach parking closed from June 1 to September 1. As there are no ramp facilities open to the general residents of Town during Summer, it was suggested that another ramp be made that can be used year round. Cataldo suggested that the Board and Commissioners should begin to look at areas of Town-owned undeveloped land that could be used for parking. It was felt that the Board should meet with the Commissioners at Conomo Point for this purpose. At this time, the Commissioners said they will draw up a plan showing areas that could be made available for all residents of the Town, and also areas of parking.

Paul Levine and Essex Realty met with the Board with a plan to divide land on Pond Street, owned by Paul and Barrie Levine. The parcel of land will be divided into three house lots, one existing lot and two new lots approximately four acres each.

Story made the motion that the Planning Board, upon reviewing the plan of land of Paul and Barrie Levine dated January 9, 1984, finds that the proposed lots meet all dimensional requirements of the zoning by-laws, that the road serving the proposed lots has sufficient width, suitable grades and adequate construction to provide for the needs of vehicle traffic related to the proposed use of the lots, and that therefore approval is not required under the subdivision control law.

Madsen seconded the motion, the Board voted unanimously to approve.

Cataldo told the Board that Sally Soucy, Town Clerk, has stated that from now on she will not accept any subdivision plan prior to submission to the Planning Board at a regularly scheduled Planning Board meeting.

February 1, 1984

Mrs. Perrotti (reference Minutes of 11/16/83) - had requested an answer from one of the Boards as to whether the fence between her property and the Scores property was legal. The Selectmen had viewed the site and felt that they had no jurisdiction over it. Greenbaum made a motion that having reviewed the request of Mrs. Perrotti to consider the legal status of a fence placed on property abutting both Mrs. Perrotti and Stephen and Eleanor Score, the Planning Board finds that the building permits appear to be in order and any further contesting of the fence has to take place in legal proceedings between the two parties. Story seconded. Ginn and Frye opposed. R. Madsen, Cataldo voted present. ~~Holton~~ voted. The motion failed. Story moved to reconsider the motion. Greenbaum seconded; the motion carried.

Dennis Wilk came before the Board with his plan and building permit for their signature (reference Minutes of 1/4/84).

Holton said he submitted two articles to the Board of Selectmen for the May Town Meeting warrant. One will be to approve abandonment of Conomo Drive and the Old Manchester Road as public ways. The second article will be to ask \$7,500 to hire a consultant on land planning. The Board approved submission of these articles.

Dennis Outwater - Holton told the Board that they did not act in time after Outwater filed a Form A with the Town Clerk and therefore the Board had to issue him his certificate.

With reference to the grant sought through the State Executive office of Communities and Development, Cataldo said he hoped to know the results by the end of the week.

Building permits issued in the month of January 1984 are :-

- (i) Ralph Pino, John Wise Avenue
New Chimney for Sauna 1/9/84
- (ii) Jean Lewis, Lewis' Restaurant,
John Wise Avenue
Construct waiting room and bar in
basement - \$15,000 1/9/84
- (iii) David Tuomivirta, 18 Milk Street
Chimney for wood stove 1/23/84
- (iv) Paul Levine, Pond Street
Remodel kitchen - \$6,000 1/27/84

February 1, 1984

Thomas Macris, owner of Callahan's Restaurant, and his attorney George Brown met with the Board to discuss a proposed second floor waiting room and storage area for the restaurant. Included in the proposal would be the destruction of a building Macris owns across the street, which would result in additional parking for the restaurant. The proposed waiting room would allow the restaurant to add possibly four more tables in the dining room, making a total of 24 tables. Madsen said he would like to see in writing what the intended purpose of the second floor would be. The Board felt that the proposal appeared favorable, but would like to see a definite plan before making any judgements. Greenbaum said he would also like to know what the building will look like cosmetically, i.e. exterior finish etc.

The Board went into Executive Session.

Ginn made a motion to adjourn, seconded by Story. The Board approved unanimously.

Meeting adjourned 10.25 p.m.

Gillian B, Palumbo

Essex Planning Board

January 4, 1984

Present : W. Holton; R. Madsen; E. Frye; M. Cataldo;
B. Story; D. Greenbaum; M. Ginn.

Meeting called to order 7.45 p.m.

Cataldo moved to approve the minutes of the meeting as read of December 21, 1983; Story seconded.

The Board told Ed Story that they would like to be given a list of building permits ~~issued~~ for non-conforming lots each month.

Sally Soucy, Town Clerk, told the Board that Dennis Outwater had filed a form~~a~~ with her and that she would like to know when the fourteen day period would begin. The Board decided that it should start from this meeting of January 4, 1984, consequently Soucy said this would be recorded as the first day of presentation of the plan. It was decided that the Board should give the Town Clerk a form stating that John Doe has appeared before the Board and submitted a plan. Holton told the Board to think about the Outwater plan for the next meeting. Form A

Ed Story appeared before the Board with a plan and building permit for Dennis Wilk, Map of November 1, 1983, Lot 3, Belcher Street. Wilk was asked how urgent this was and whether he could hold off for two weeks until the Board had spoken to the D.P.W. about Belcher Street. The Board felt that they would have an answer by the next meeting on what work will be done to the road. Wilk said that he had wanted to pour the foundation, but would hold off for two weeks.

Greenbaum gave the Board a copy of "Standards for ways serving fewer than ten houses (County Lanes)" dated January 3, 1984. The Board felt that it should be read thoroughly with thought given as to whether these should be their standards or not, and discussed at the next meeting.

Holton and Cataldo left the meeting at 8.30p.m. for an informal discussion with the D.P.W. Story, as vice-chairman presided.

Mrs. Patricia Bjorklund appeared before the Board representing the M.A.P.C. She said the M.A.P.C. would like to meet with one member of the Planning Board to find out what the Board's development goals are. She said that she could act as liaison between the Board and the M.A.P.C. She said that two weeks of free consultation was offered by them by statute. It was suggested that Cataldo might meet with the representative from the M.A.P.C.'

January 4, 1984

It was decided that E. Frye will be the Capitol Budget Committee representative until May, and from then Rolf Madsen will take over as representative.

Story made a motion to adjourn the meeting at 8.55 p.m. The motion was seconded by Madsen; the Board voted to approve.

STANDARDS FOR WAYS SERVING FEWER THAN 10 HOUSES (COUNTRY LANES)

Section 3.05 of the "Rules and Regulations Relative to Subdivision Control, Essex, Massachusetts" sets forth minimum standards by which the Planning Board may determine whether a way serving a proposed division of land has, in the Board's opinion:

"sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon."

The Planning Board, recognizing that such standards may not be necessary to serve proposed divisions of land on an existing way and consisting of fewer than ten house lots, hereby establishes the following standards for ways serving fewer than ten house lots, provided that such way does not already serve ten or more house lots:

1. Width of Right of Way : Not Less Than 30 Feet
2. Width of Road Surface : Not Less Than 16 Feet
3. Maximum Grade : 8%
4. Maximum Grade at Intersections : 3% Within 50 Feet of Intersections
5. Minimum Road Base : 12 Inches of Compacted Gravel to Design Width of Surface
6. Road Crown, minimum : one-half per foot
7. Drainage : All ways shall be provided with adequate drainage to provide for the removal of storm water to prevent flooding of the road surface and erosion or flooding of adjacent surfaces. The exact placement of culverts, swales, etc. shall be determined through on-site consultation with the Department of Public Works.
8. Disturbance to Natural Features : All work so as to bring any way up to these standards shall be performed so as to minimize disturbance to existing trees, shrubs, or other natural features.