

Essex Planning Board

December 30, 1985

Present : Michael Cataldo, Chairman; Westley Burnham; Everett Burnham;
Michael Ginn; Elisabeth Frye; Alden Wilson; Rolf Madsen.

Meeting called to order at 7.15 p.m.

Michael Cataldo read from the by-laws 81-U, and subdivision regulations Chapter 41. Frye said that the Board cannot approve a Form A on a road that has been dropping off. Cataldo said he talked to two lawyers who said there is a mechanism where Van Wyck can file a Form A plan, but suggested the Board wait until the original plan has been recorded with the covenant. Madsen said, "One of Evans' (Van Wyck's attorney) arguments is what do we have to worry about as we have the covenant that goes along with the plan, but we don't have a covenant, not yet, because it hasn't been recorded."

Cataldo - "Tierney said we have a road plan, but the road has to be built according to the plan."

Van Wyck - "We are going to land court with the plan already signed and also the signed Form A plan, with the covenant."

Cataldo - "The only problem I have is that no plans have been registered at the moment."

Van Wyck - "If the Board takes the linen and files that as the original plan, then you will erase all the problems."

Madsen moved that the plan dated November 30, 1985, submitted to the Board by Peter Van Wyck on December 18, 1985, for a subdivision approval not required be denied, based upon Mass. General Law Chapter 41, Section 81U, approval, modification or disapproval of a plan. "Before endorsement of its approval of a plan, a planning board shall require that the construction of ways and the installation of municipal services be secured by one, or in part by one and in part by another, of the methods described in the following clauses (1), (2), (3) and (4) which method or combination of methods may be selected and from time to time varied by the applicant.

- (1) By a proper bond,shall be completed.
- (2) By a deposit of money or negotiable securities,shall be completed.
- (3) By a covenant,date of such deed.
- (4) By delivery to the planning board of an agreement executed after the recording of a first mortgage covering.....available for completion."

the Board finding that the covenant and approved subdivision plan have not been recorded and therefore the subdivision approval not required be denied.

The motion was seconded by Ginn.

Burnham said "Any waivers of a subdivision shall be recorded on the plan or a note with it stating what waivers there will be. It's still unclear when the covenant is recorded. It seems that it should be filed with the plan." Madsen said, "The covenant has to be recorded, but the plan does not necessarily. If we do not get the covenant recorded, we have no legal foundation to stand on."

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Van Wyck - "You have in your possession a signed covenant."

Madsen - "But it hasn't been recorded."

Van Wyck - "I am not trying to get around procedures. I take offence to you saying I'm trying to get around things. I came here to say that if you want to make things simple, you present this plan at land court.

The Board voted on the motion as follows :-

E. Burnham opposed - I'm still confused whether you can file a covenant without the plan. There is no reason why the Board cannot file the covenant, if we put a note on the plan that says this plan is filed with the covenant.

Elisabeth Frye In favor.

Michael Ginn In favor.

Rolf Madsen In favor.


Alden Wilson Present.

W. Burnham Opposed. He's not changing the plan, he's not changing the road, he's just changing the lot lines.

Michael Cataldo.... In favor.

Note : Peter Van Wyck took the original copy of the covenant of his approved subdivision plan on Turtleback Road.

The meeting was adjourned at 7.40 p.m.



Gillian B. Palumbo

Essex Planning Board

December 18, 1985

Present : Michael Cataldo, Chairman; Westley Burnham; Michael Ginn;
Alden Wilson; Elisabeth Frye; Everett Burnham; Rolf Madsen.

Meeting called to order at 7.30 p.m.

The Minutes of the meeting of December 4, 1985, were read. Wilson voted to accept the Minutes as corrected; seconded by Frye; the Board voted unanimously in favor.

Attorney John Glovsky met with the Board in order for them to sign the plan of Andrew Corbett, Eastern Avenue. Glovsky said the plan had originally been denied by the Planning Board, but the Board of Appeals had granted them a variance with a restriction. He gave the Board a Form A with the restriction which states that Corbett will only be allowed to construct one dwelling on his property, unless he returns to the appropriate Boards. It was felt the restriction should be on the linen. Glovsky said the variance will be recorded.

E. Burnham moved that we sign the plan of Christopher Phillips dated April 6, 1985, of a variance granted by the Board of Appeals. The motion was seconded by Ginn, with the Board voting as follows :-
Ginn, W. Burnham, E. Burnham, E. Frye, Wilson in favor, Cataldo and Madsen voting present.

Peter Van Wyck met with the Board. Cataldo told him that he had had discussions with Town Counsel last week and had asked him to be here this evening, but he had a prior commitment. Van Wyck gave the Board a plan and said, "We are changing the lot lines. Each lot will have the required frontage."

Cataldo - "According to Town Counsel I was instructed to ask you if the land is land-courted land."

Van Wyck - "Yes, it is. That's why we didn't submit it before because we wanted to make sure the lines were correct."

Cataldo - "Town Counsel could not even be sure why you were here because of Section 81-0 - Amendments change."

Evans (Van Wyck's attorney) - "There are other reasons why you get the approval of the Planning Board."

Cataldo - "This is the same subdivision plan with modification of the lots. You are not changing the road at all, you are just changing the configuration of the lots."

Evans - "Yes."

Cataldo - "Does the wording that relates to 51 house lots appear on the plan and does the wording of the covenant appear on the plan."

Evans - "This plan does not supercede the other plan. Both have to be recorded. I don't see the reason for the wording on the plan as it has to be recorded."

Cataldo - "In the order of pages, where would this appear?"

Evans - "This would be Page 1."

Cataldo - "On page 1 you have reference to 51 house lots. The land court is not interested in any other land but that."

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Evans - "The plan approved is as a proposed subdivision dating back to 1978, and anything that goes that far back cannot be land-courted."

E. Burnham - "The land court is designed to say this is your property. I don't see some of the things we have been putting on the plans. I have been doing so under duress."

Cataldo - "I am trying to make sure our covenant is recorded. I am trying to make what we have been doing into something that is binding and not something that will get lost when some one goes to research the title. Are you or are you not going to record the original subdivision?"

Evans - "Yes."

Huatala - "You can't record the plan. It was a proposed plan. It was signed and not even dated."

Cataldo - "First you record the plan, then you modify the plan."

Evans - "This plan you signed is outdated. You have to have a recent plan, so we updated this plan. It has to be a relatively new plan."

Wilson - "Did you have a title problem with this plan?"

Van Wyck - "I have a title that's not clear."

Cataldo - "Why should we sign this plan if that other plan has not been registered."

Huatala - "It's outdated."

Cataldo - "It's not even dated."

Evans then read the statute that defines a subdivision. Cataldo read 81-U to the Board.

Evans - "We are asking you to sign the plan that conforms with the statutes."

Cataldo - "And we are asking that you register the original plan before signing this plan."

Huatala then said the land court will not accept the plan.

Evans - "This land is registered in land court."

W. Burnham - "If we came in for modifications of the plan and you signed it, it does not take effect until it's been registered. Is there one registered with land court now."

Evans - "Yes."

W. Burnham - "Which one? Prior to the subdivision?"

Evans - "There has been no subdivision as far as land court is concerned."

W. Burnham - "Then how is land court going to know about the earlier plan?"

Evans - "We are asking for an approval not required."

Cataldo - "According to Town Counsel, the road has to be built according to the plan we approved."

Evans - "Peter has a covenant with you so it will be."

Cataldo - "How can it, if it hasn't been registered and recorded."

Huatala has said that if he takes the plan that we signed, land court won't accept it. What is to say that the first sheet will ever be recorded."

Evans - "If you will sign it if we put on the covenant, then we will put it on."

Cataldo - "The subdivision is there, but how am I going to know it will reach land court in its original state?"

Evans - "It will."

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Cataldo - "If that sheet was in land court, and if I had evidence that it had been registered, I wouldn't hesitate to sign it. What is to say that sheet becomes lost and the new sheet becomes page 1. The old sheet is not the same as the new sheet."

Bruce Fortier - "If there is something wrong with that plan that is not acceptable at the land court then it is up to Peter Van Wyck to come back with an acceptable plan. The Planning Board is not working for Peter Van Wyck."

Cataldo - "I'm not going to disapprove it. I just want to make sure the original plan is recorded."

Evans - "If Peter does not do it correctly, then he cannot do anything."

Note : The Form A was ^{received} ~~accepted~~ tonight, December 18, 1985, at 8.45 p.m. Eight lots were on the plan.

Ron Gauthier, Coral Hill Road, showed the Board his deeds to his property to review, as Town Counsel had wanted to know how the right-of-way was written on the deed. It was found there was no wording concerning the right-of-way or who owns to the middle of the road. E. Burnham said, "Either the right-of-way is on your property, or perhaps where it is questionable, you could go to the Appeals Board. You can't tie this into your lot apparently. Cataldo told him, "Unless the boundaries include the right-of-way you cannot tie the two lots." It was suggested that this could be granted under 81-R. Madsen said, "We are not talking about a subdivision. We can grant an approval not required, but we cannot grant a building permit." Gauthier said, "It will never be a non-conforming lot." Madsen told him, "A non-conforming lot is created not by a subdivision but by a by-law change. On the plan it is suppose to say it is not suitable for building purposes. This is a non-buildable lot. If you can find out for sure that you own the road then your lot will merge in two years."

Everett Burnham moved that we approve the plan of land of Ronald and Donna Gauthier, Coral Hill Drive, Essex, dated November 11, 1985, presented to this Board on December 4, 1985, on a Form A, subdivision approval not required. The motion was seconded by W. Burnham and the Board voted unanimously in favor.

The Board received a building application from Glenn Warren, Belcher Street, to build a single family dwelling. Warren stated he has approval for three septic systems from the Board of Health. Cataldo told the Board that earlier in the year they received a letter from Warren stating that we failed to act on the plan in 14 days. I sent a letter to Sally Soucy on August 29, 1985, which was read. Warren said, "I feel there was a gross inaccuracy in the way Mr. Cataldo presented the letter. At the meeting of June 5, I asked for the plan, I never asked for any Form A. You gave them to me with the plan." Cataldo said, "Why did you wait until the end of August to do anything?" Warren - "That's irrelevant. As far as the registry is concerned, this is a legal plan." Cataldo - "According to Town Counsel we have a good case. How many houses do you plan on?"

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Warren - "What I would like to do is to build four houses and hold two lots for my children. The issue at hand is whether the lot of land I plan is a legal lot." Warren said he has a certificate from the Town Clerk approving the subdivision. He said he would like to amend the building application to read Lot 5.

E. Burnham moved that we approve the building permit of Glenn A. Warren for a single family residential structure located on Lot 5 as shown on the plan of Glenn A. and Linda P. Warren dated November 15, 1985, as it meets all requirements set forth by the Town of Essex by-laws. The motion was seconded by Wilson and the voting of the Board is as follows :- E. Frye, E. Burnham, A. Wilson, W. Burnham, Michael Ginn approved; M. Cataldo, R. Madsen opposed.

Cataldo read a letter to the Board from Mrs. Betsy Fawcett stating that a gas line and water line is going to Chaval Rink and she felt 6-10 - Wetland By-law may have been violated. An existing water line was being replaced. The Wetlands maps were checked to if the work was being done within the wetlands but was found not to be.

Cataldo told the Board that based on a petition to the Board of Appeals by Dale Temple, Grove Street, an addition which was denied by the Planning Board was approved by the Board of Appeals.

A special meeting will be held on December 30, 1985 at 7 p.m. for Peter Van Wyck.

W. Burnham moved to adjourn the meeting; seconded by Madsen and the Board voted unanimously in favor.

Meeting adjourned at 10 p.m.



Gillian B. Palumbo

Essex Planning Board

December 4, 1985

Present : Michael Cataldo, Chairman; Rolf Madsen; Elisabeth Frye; Alden Wilson; Everett Burnham; Westley Burnham.

The meeting was called to order at 7.40 p.m.

The Minutes of the meeting of November 20, 1985 were read. Wilson moved that the Minutes be accepted as corrected; seconded by Frye, with the Board unanimously voting in favor.

There was a discussion regarding the Richard Carter property, with Carter proposing to build two houses on one lot.

Clay Morin met with the Board for a discussion on the subdivision plans for Dennis Gannett. He told the Board they had had a botanist come and look at the site, who said that the tree layer is not a wetland layer, but there is an herbaceous area. The botanist flagged that area. From the corner of the proposed garage to the wetland is 118'. There is a drainage watershed area. A pipe was put in to relieve a ponding effect. On the border of the Watson and Gannett land is a break in the watershed area. Clay said a new addition to the plan is a wet area that is marked, but which was not shown on the previous plan. Morin added that when he checked the area it was never wet. Culvert and tree symbols have also been changed.

Wilson moved that we hold a public hearing on January 8, 1986 at 8.30 p.m. for a subdivision of land on Pond Street, the owner being Mary Carolyn Gannett; seconded by Frye, with the Board voting unanimously in favor.

William French told the Board he is contemplating renting a small garage at Karl Amalia's building on Western Avenue. He does light and small repairs on foreign cars. He will be the only one working there. The Board did not feel there would be any problems as a machine shop had been there previously. He was advised to speak with the Fire Department.

Brookside Apartments - Madsen moved that we deny the special permit application of Scott DeWitt, Brookside Apartments, Essex, Ma., based upon the following Essex by-laws 6-5.8(b) - off street parking requirements: one and one-half parking spaces for each bedroom, finding that the building lacks adequate spaces per apartment, the proposed parking being 85 spaces and Essex by-laws require 120; Section 6-6.9(k) Section 1 - Dimensional requirements (g) minimum land area per bedroom 5,000 square feet, finding that the number of bedrooms in the proposed plan is 80 bedrooms requiring 400,000 square feet, and the plot of land the project sits on does not meet this; (h) maximum number of bedrooms per building, 8, and some of the buildings on the project have in excess of 8 bedrooms; (k) minimum distance between buildings, 20 feet, with some of the existing distances between buildings not meeting minimum requirements.

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The motion was seconded by Wilson and the Board members voted on the motion as follows :-

Everett Burnham in favor of the motion for the reasons given above.
Elisabeth Frye in favor of the motion for the reasons given above.
Alden Wilson in favor of the motion for the reasons given above.
Michael Cataldo in favor of the motion for the reasons given above.

The permit is denied. The members who voted on this were those who attended the public hearing on October 16, 1985.

Ron Gauthier filed a Form A with the Board. It is to be noted on the plan that Lot 4 is an unbuildable lot.

Jerome French - The Board has a written extension that is not dated. It was felt a definitive plan should soon be given to the Board.

The Board were given a section of the subdivision regulations with points underlined by Town Counsel. To note - once the plan is acted upon, signed by the Clerk, then the plan is complete.

Peter Van Wyck presented an Approval Not Required plan to the Board. He said, "This goes back four years ago when I tried to continue this road and I wanted to have ten or eleven lots. The chairman at the time said no, I will give you six. I didn't want six, I wanted more and that was the basis of the court case. I went with fourteen lots then, but I feel now that fewer lots would make a better subdivision. For that reason I am submitting this plan so you will know I am enlarging the lots."

Cataldo - "How do you feel this qualifies as an ANR plan?"

Evans (Van Wyck's attorney) - "Peter said he made an application in compliance with the regulations."

Cataldo - "With frontage on what?"

Evans - "Frontage on a road approved by the Planning Board."

Madsen then read from the subdivision control law.

Frye - "He doesn't have a road."

Madsen - "It's a paper road."

Frye - "You can't Form A on a paper road. He went to Court for 14. That is the plan signed by the Board. The plan has not been approved by the Conservation Commission."

Evans - "This is not a subdivision."

Frye - "Where did you get the road?"

Evans - "As long as these lots have frontage requirements, then we don't have a subdivision."

Cataldo - "Is this registered land?"

Evans - "Some is, some isn't."

Frye - "Has the plan approved by the Board been registered?"

Van Wyck - "I don't think so."

Evans - "Section 81 L and D of Chapter 41 defines what a subdivision is and is not."

Cataldo - "Our concern is with the procedure of this linen. We feel we can't act on this until the original plan has been registered. My feel is that this Board has 14 days to act on an ANR. We will accept it tonight but will not act on it until we have Town Counsel here."

Van Wyck - "You said write the letter. The idea was that we write the letter so you would know what the problems were and you could act on it."

Cataldo - "I discussed it with Town Counsel. He was unable to be here, but we have 14 days to act on it. I will make sure Town Counsel is here when we do act on it."

Evans - "This is just a portion of the plan that you already have."

Cataldo - "We have the covenant that is recorded with the linen and will not be released. If you change the dimensions of the road it will require another new filing."

Evans - "I understand that. Peter and I are informing you of what our plans are in the future. We have to comply with all the regulations. We know we cannot submit this tonight with a 20' road. It would not be a new subdivision plan, but an amended plan."

Cataldo - "We will have Town Counsel here at our next meeting."

Van Wyck - "I had full intention of putting in this road through to Essex Park Road, but I seem to be comming up with problems from the Conservation Commission, so I don't know how far I'll get. My intention is to build the road as far as I can and put it up to finished grade and sell house lots on it. It's going to take me longer to clear with the Conservation Commission and State. With this in mind, I intend to build the road as far as I can and sell lots with you permission."

Wilson - "We approved a through road."

Madsen - "If this Board approved the road and the Conservation Commission does not approve it, then we have violated our regulations."

Cataldo then read the motion that was made at the Board's meeting of November 6, 1985, and said, "If you have problems with the other Boards, that is not our problem, but the message is there, that we want a through road. We will not release the covenant until the road is complete."

Evans - "Peter would like to stay with the covenant and work on that. He does have other options. Also once you have an agreement with the Bank for a construction loan, then you have to comply with the rules and regulations."

Cataldo - "If Peter builds that section of the road to regulations, that's fine, but there are more portions of the road to be built. We approved a plan in good faith. We have said, here is your plan, build it. Here are the regulations on how to build the road. Now you come back saying I can't complete my project as soon as I thought."

Madsen - "If you don't see it as a long range problem then we don't have a problem. You can build a through road."

Evans - "I don't think he has to complete the whole road". Evans felt there was a question about the pond, which Madsen said was not a Planning Board issue.

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It was brought to the Board's attention that the Maria Motel has been converted to efficiency apartments. Do we have a ruling on this. Shall we notify them of the regulations? Shall we check into this?

Madsen moved that we adjourn the meeting; seconded by E. Burnham, with the Board voting unanimously in favor.

Meeting adjourned 9.55 p.m.



Gillian B. Palumbo

Essex Planning Board

November 20, 1985

Present : Michael Cataldo, Chairman; Michael Ginn; Alden Wilson;
Elisabeth Frye.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of November 6 were read. Cataldo entertained a motion to accept the Minutes as read; Wilson so moved; Ginn seconded; the Board voted unanimously in favor.

Indian Rock Road - Cataldo said he spoke to the D.P.W. about the water line easement wording. There seems to be a problem regarding this, so he felt he should ask the people who have bought property there to meet with the Board to clear up this matter. Wilson said he went to Indian Rock Road and spoke to the contractor. He found the water pipe had been put in according to D.P.W. instructions, but the road had been torn up again after work had been done on it. The question Cataldo said he had was at some time there would have to be a finished grading, but when? A letter was then given to Cataldo from Robert Hanlon, the contractor, dated November 19, 1985, which was read to the Board. Cataldo felt it summed up what had to be done to the road. Wayne Gabaree, property owner, said he would take the responsibility for the removal of piles of dirt. Rogati/Quinn, property owners, said they would take the responsibility for any damage to the road during construction on their property. Cataldo said the water line is in but there is a problem with the wording of the easement. It seems Hanlon is deeding the easement to the property owners when it should be deeded to the Town. He said he would not hold up the occupancy permits because of the wording of this easement. Ginn said he had no problems with the occupancy permits. Wilson asked if the D.P.W. turn on the water before the problem is corrected. Joan Bowker said the D.P.W. had told her they would.

Richard Carter met with the Board with a plan of land dated November 18, 1985. He wants to build a house on Parcel 3, marked in red on the plan. The land marked in yellow will remain with his father. Carter said he wants to put two houses on one lot. After reviewing the plans the Board felt it met all the Essex Zoning requirements, and that the Minutes should reflect that Mr. Richard Carter was before the Planning Board with his plot plan* for his proposal to put more than one principal dwelling on a lot, which meets all the Essex Zoning by-laws and that Mr. Story, Building Inspector, issue a building permit. *Plan of land, Martin St., and Apple St, Colleton M. Carter and Richard C. Carter.

Ronald Gauthier, Coral Hill Road, met with the Board to discuss a change of boundary line. He told the Board he purchased a lot from Harold Schmidt. The lot size is in excess of 50,000 square feet and he would like to divide the lot, making Lot 3 37,819 square feet and Lot A 12,128 square feet. Lot E, 57,000 square feet in size, contains his residence. Gauthier said he would like

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to build a garage on Lot A and sell Lot 3. There is frontage on Coral Hill Road and Wood Drive for Lot 3. Gauthier was told that the lot for the garage must become part of the existing lot, Lot E. Gauthier said there is a right of way which runs between the lot with his residence and the lot for the garage. Story said the lot for the garage is not a grandfathered lot and therefore to allow this would be to create an unbuildable lot. Cataldo felt he should check with Town Counsel on combining the two lots. Gauthier was told that Lot 3 is a buildable lot and there would be no problem with that. Gauthier was given a Form A to file.

Peter Van Wyck, who was on the agenda to meet with the Board, said he would not be at the meeting as Planning Board members Everett and Westley Burnham would not be present.

The Board reviewed the definitive subdivision plans for Dennis Gannett. It was noted that a check had been given to the Town Clerk. The Board had concerns with the proposed drainage system, where the outflow of the drainage is going, that the engineering plans seemed to be inadequate and that the culvert and tree symbols should not be the same. A letter was sent to Clay Morin, engineer for the project, asking that he meet with the Board for a discussion of these problems.


Wilson moved that we take the plans of Mary Carolyn Gannett under advisement until the next meeting of December 4, 1985. The motion was seconded by Ginn and the Board voted unanimously in favor.

The definitive plans for George Fallon, Chebacco Estates, was reviewed by the Board. Frye said the Planning Board administers the Wetlands By-laws, but feels it is not being administered adequately. She felt that perhaps the Wetlands By-law should be heard together with the Conservation Commission hearing. Cataldo said the only issue appears to be wetlands and Fallon has said he will address that to the Conservation Commission.

Ginn moved that we approve the plan before us dated September 18, 1985, of Chebacco Estates, applicant George Fallon, 11 Fairfield Street, Salem, Ma., based on the fact that it meets the requirements of the Subdivision Control Law and the rules and regulations governing the subdivision of land of the Town of Essex. The motion was seconded by Wilson and the Board voted unanimously to approve.

Ginn moved that we adjourn the meeting; seconded by Frye and the Board voted unanimously in favor.

Meeting adjourned 10 p.m.


Gillian B. Palumbo

Essex Planning Board

November 6, 1985

Present : Michael Cataldo, Chairman; Michael Ginn; Alden Wilson;
Everett Burnham; Westley Burnham; Rolf Madsen.

The meeting was called to order at 7.30 p.m.

The Minutes of the meeting of October 16, 1985 were read. Ginn moved to accept the Minutes as read; seconded by Wilson. The Board voted unanimously to approve the motion.

Mrs. Mary Duncan met with the Board in order for them to sign a subdivision plan. Lot 1 is 30,000 square feet and Lot 2 is approximately 59 acres. Lot 2 was not numbered on the plan and Madsen felt it should be marked in.

E. Burnham moved that we approve the division of land of Mary Duncan, Western Avenue, dated September 30, 1985, creating two lots, as filed under a Form A, subdivision approval not required. The motion was seconded by Madsen and the Board voted unanimously in favor.

Mark Glovsky and John Dick, representing Frederick Richardson, met with the Board regarding the Conomo Drive extension. Glovsky felt that the Board should have determined what Thomas LaFoe, the Clerk of the Works which the Board appointed for this project, was supposed to do. A list of things should have been made by the Board for him to check so that various stages of construction would not go too far before he checked them, and also to prevent La Foe having to go to the site everyday to see the status of it. Glovsky had suggested the above because of the bill for \$1700 that LaFoe had sent. Earlier Glovsky had requested an itemised bill from LaFoe. Upon receipt of this, Glovsky noted that LaFoe had visited the site 27 different days during a 7-week period. LaFoe had also been there seven different days for a total of 21 hours before blasting had begun. Dick said he had concerns with October 3, 7 hours listed when nothing was accomplished for the benefit of their client, when the paving was destroyed. The following day the paving was done over again. Cataldo said, "You were to reach an agreement as to how to monitor the project. We shouldn't be chasing him to see what he is doing." Dick agreed with this. Cataldo asked how we should go about it. E. Burnham felt that LaFoe should be notified when something has been done, e.g. when the bench marks are in place, you call him, or when the gravel is in place, you call. Cataldo added, "I feel we have to be more stringent in the future."

At this point Cataldo turned over the meeting to Rolf Madsen. The Board were given the layout of the extension showing two lots, Lot 4 and the remaining 49 acres. The Form A was also filed with the Board at this time. Cataldo asked, "What is to prevent anyone coming in on Lot 4 for example, and subdividing it into thirds and still meeting the 10 houses or less requirements." Glovsky said, "There are three reasons, (1) percing, (2) wetlands, and (3) our plan with a restrictive deed."

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It was felt that the remaining area of 49 acres should have a number. Dick said they were reluctant to call it Lot 5, as they would have to number the remaining lots 5a, 5b, 5c, etc. Madsen felt it should be numbered 5, and when and if they subdivide that parcel, they could bring in Lot 5 on a line and make the others 6, 7, etc.

Ginn moved that we approve the Form A application of Frederick L.W. Richardson, Jr., located at Conomo Drive, as we believe the accompanying plan does not constitute a subdivision within the meaning of the Subdivision Control Law, and who herewith submits said plan for a determination and endorsement that Planning Board approval under the Subdivision Control Law is not required, and in addition to representation by Mark Glovsky for Frederick Richardson that a covenant be placed on the deed of Lot 4, which would protect further division of that lot. The motion was seconded by W. Burnham and the Board voted as follows: W. Burnham, Wilson, E. Burnham and Ginn voted in favor; Madsen and Cataldo voted present.

A building application was received by the Board for Andrew J. Corbett, Jr., 74 Eastern Avenue, to build a single family residence. Size of building, length 54', height 39', width 49'8", No. of stories - 2. Cataldo noted that the plan we denied for Christopher Phillips, 74 Eastern Avenue, was overruled by the Board of Appeals.

Wilson moved that we grant the building permit to build a single family dwelling to Andrew J. Corbett, Jr., 74 Eastern Avenue, with the exception that the height of the building be reduced from 39' to 35', subject to 6-6.3, paragraph 10 - building height - principal structure be no higher than 35'. The motion was seconded by Ginn and the Board voted unanimously to approve.

William Blackwood met with the Board concerning a proposal to build a garage with a studio apartment above it. The lot size is 19,000 square feet and the size of the building would 21' x 26'. The lot is a grandfathered lot with a duplex on it already. The apartment would tie into the existing septic system. Cataldo said, "I don't think we can say this will not be any more detrimental to the neighborhood. I think it will be." Ginn said he didn't think it would be allowed under Title 5. Also if the garage is attached to the house it becomes a multi-family dwelling and would have to conform to the by-laws. This does not conform under the grandfather clause because the use will be changed.

Peter Van Wyck - Cataldo told the Board "an appeal was made, filed with the Town Clerk in the required time frame, to the Planning Board's decision. Town Counsel said it should be filed with the Superior Court. The appeal stated that the Town's wetlands by-laws were never addressed. There is nothing that I can see which prevents this Board from signing Peter's plan." There was a discussion on performance bonds. Cataldo said, "It's up to the applicant to choose which way he wants to go to secure the building of the road. Peter has said he wants to go the way of a covenant."

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The Town, also, does not have the mechanism to order Peter to pay for a Clerk of the Works. What do we do, as a Planning Board, to supervise the construction of the road. The D.P.W. said they had no intention of supervising the road. We can't mandate Peter to pay." Van Wyck asked, "What kind of things are you talking about?" Cataldo said, "I would like to have borings done, have bench marks put in place, the drainage and culverts put in place according to the plan, etc. If this is the way it's going to be, if we have to provide an adversarial role, I would just as soon pay for a Clerk of the Works." Van Wyck said, "Give me the names of two or three people and I will choose which one I want, but if you want to test the subgrade then that is on your nickel." Cataldo said he would like to sit down with the D.P.W. and ask them what they want to see done and what they are going to monitor. He felt that John Doyle, Superintendent of the D.P.W. should be called in to the next meeting to ask what the D.P.W. requires.

Van Wyck then said, "To build the total road through at one time is a mistake. It should be done on a stage basis. I would like to put the road in in three parts. I would like to extend Turtleback Road to a certain point and put in a hammerhead for perhaps a year, then build a road from Essex Park Road to a point and put in a hammerhead, then fill in between at the third stage." Madsen and Cataldo said they were both uncomfortable with this. Madsen said, "You presented us with a plan. Why not do it by the book? All the considerations and arguments of the subdivision road were triggered towards one complete road. You are asking us to consider three separate roads. I think it would be in the best interests of the Town for it to be done they way you presented it. We should use that and not change it." Van Wyck said, I'm not changing it. It's to your benefit not to have the road as you want it. There is no earthly reason why this road should be completed at this time." Cataldo said, "There is no question of whether it is public or private, there is no question it is a subdivision road. We gave you the option to change the plan. No where does it say you wanted to do it in three stages."

Ginn moved that we vote to get a sense of this discussion as to whether or not the Board believes the road should be constructed in full or in part. The motion was seconded by Madsen. Everett Burnham voted to go with the road in full, minus final hot topping; Westley Burnham voted for the through road; Madsen voted for a through road, plus water pipes roughed in; Ginn voted for a through road; Cataldo voted for a through road; Wilson voted for a through road, with water pipes.

Cataldo said, "I don't think we are here to negotiate. It will be a through road. The final paving should be put in as lots are sold." Van Wyck then asked, "At what stage does the Board feel the Town should take over the road?" W. Burnham told him it had to be voted on at a Town meeting. As Van Wyck's plans were with the Town Clerk, the Board arranged to sign the plans the following day.

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Town Meeting - Cataldo asked where do we go from here? E. Burnham said, "My suggestion is that we take the first section and learn a lesson from it. The whole thing has got to tie in together. Let him come in with the second phase. (Phil Herr). We should make a laundry list and say what should be corrected. Herr has a lot of good ideas." W. Burnham said the one thing that disturbed him was the scenic road issue. E. Burnham felt we should discuss the scenic ways issue with the whole Town. Cataldo said he felt that the next time we have proposed by-law changes, that we send copies to everyone in Town. He wanted to know if we will have everyones unilateral support and have help in sending them to all residents.

W. Burnham moved to adjourn the meeting; seconded by Madsen. The Board voted unanimously in favor.

The Meeting adjourned at 10.30 p.m.



Gillian B. Palumbo

Essex Planning Board

October 16, 1985

Present : Michael Cataldo, Chairman; Everett Burnham; Elisabeth Frye; Alden Wilson;

Meeting called to order at 7.30 p.m.

A Public hearing was held at 7.30 p.m. relative to the proposed subdivision of George Fallon, Salem, Mass., located on Western Avenue and Red Gate Road. John DeCoulas, who did the engineering and surveying for the proposed subdivision, made the presentation. He told the Board the project is located on Western Avenue, near Red Gate Road. The property will be divided into six building lots. All the lots shown have the necessary frontage and footage. The wetlands were flagged. Except for one flag on Lot 6 the Conservation Commission have agreed with the delineation of the wetlands. All the lots, except Lot 6 have passed perc tests. DeCoulas said he did not do the perc tests, but talked with Essex Survey who did the tests. The tests are on file with the Board of Health. For the drainage they are proposing two catch basins at each end of the street going into a catch basin on the southerly side of the road. Cataldo said, "The Conservation Commission took up the plan last night and would like to see the percs noted on the plan to see if they are within 100' of wetlands. Also we would like the location of the houses for the same reason."

DeCoulas - "I think some of the houses will be within 100' of wetlands, so we will have to go to the Conservation Commission."

Frye - "If there is no perc on Lot 6, then it has to be deemed as unbuildable."

DeCoulas - "We agree."

Frye - "There will be two-family houses on this site, is the Board of Health aware of this."

Fallon - "Yes, but we still reserve the right to build single family homes."

Cataldo asked if a copy of the plan had been sent to the Police Department. DeCoulas told him that plans went to the Selectmen, Police Department, Fire Department, Board of Health and the Conservation Commission.

Wilson - "Lot 6 goes to the boundary line of Western Avenue. What happened to the old Town line?"

DeCoulas - "When the road was laid out, they moved the road over, but they could not landlock Mrs. Munnelly, therefore even though the Town owns that 10' section, Mrs. Munnelly has access to it."

Joseph Brown, 211 Western Avenue told the Board, "I am not opposed to the plan, but I do enjoy seeing woods across from me. Regarding Lot 6, will you keep trying for a perc test?"

DeCoulas - "I feel it will perc. If a house will go on Lot 6, it would behoove the person to put it as far away as possible from Western Avenue."

Vince Tullick to Cataldo - "Did you ask them to come back with perc test sitings."

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Cataldo - "This information is more to satisfy the Conservation Commission. They wanted to see it. We can act on this plan, though."

Tullick - "Maybe a lot would support one house rather than two. Is that a consideration here?"

Cataldo - "That is a Board of Health problem. The system would have to be larger for two."

Matheson - Talking to Ken Capel (health agent), those percs are large enough to take care of a duplex."

Tullick - "Is the small berm area to do with the D.P.W.?"

DeCoulas - "Assume that Western Avenue is a regular street, we would still have to come on Western Avenue whether it be 10' or not."

Frye - "A right to pass is not necessarily a right to build a subdivision."

Cataldo then read the letter given to the Board by George Fallon concerning the research that had been done on the 10' Town-owned strip of land.

Tullick - "Will the road be a Town maintained road?"

Cataldo - "Only if the Town voted on it to do it."

George Benoit said he had concerns that the wetlands were not adequately defined or addressed on the plan. There are abutters of Chebacco Lake who are concerned about the drains emptying into the lake."

Cataldo - "The Conservation Commission agrees with the markings on the plan. The wetland issue is one that is addressed by the Conservation Commission in greater detail."

Matheson - "For the record, are there any parts of the plan that do not meet the requirements of the subdivision regulations?"

Cataldo - "None that I can see. Most of the problems are Conservation Commission issues."

The public hearing was adjourned at 8.10 p.m.

A Public Hearing was held at 8.30 p.m. for a request by Scott DeWitt and Edwin Strout for a special permit for fifteen additional apartment units at Brookside Apartments, off Story Street. Scott DeWitt gave the Board a plan of the existing units on the site and told them that their aim is to upgrade the apartments into first class rental units. To bring them up to the standards will take a considerable amount of money and so would like to add the fifteen additional units to the existing 30. They are here tonight to seek a special permit. David Jacquith, the architect for the project, said they propose to add 12 units to one building and three units' to another. They have provided for fire exists to the rear of the building. They have proposed a parking area for fifteen more cars. There are seventy existing parking spaces, making a total of 85.' Cataldo said he wanted to address briefly what happened at their meeting of September 18. How many bedrooms are in the existing units?

Dewitt - 25 2-bedroom units and 5 1-bedroom units. The new will have 10 2-bedroom units and 5 1-bedroom units. We have gone by the apartments late at night to see if the parking area has been jam-packed. It was not. There is plenty of parking."

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Frye - "The rules are 1½ spaces per bedroom."

The issues to be addressed are Parking - 6-5.8(b); Dimensional requirements - (g)(h) and Minimum Distance between Buildings (k). DeWitt said there is no hydrant at present.

Bruce Fortier felt the Board of Appeals could not grant a special permit. If the requirements are not met then that person is just out of luck. Jacquith said that was why they were here, to get input from the Townspeople.

Fortier - "The Appeals Board does not have the ability to grant a permit. You cannot meet the three requirements of the Appeals Board."

Cataldo - "We have 60 days to address this issue. We will certainly research this."

Terry Nicolosi, an abutter, stated, "My concerns are that it is a school zone and what is the Town's responsibility for children that have to walk. There is a potential for thirty extra cars and I am afraid someone is going to get hurt. Also the valuation of my home will come down. The Town will have a responsibility if the extra units are added."

Peter Nicolosi - "I am concerned with the traffic that is generated by the apartments. Some of the cars speed out of there. They may be visitors, but more traffic is generated. Our concerns are with those who speed."

Fortier - "Under By-law 6-6.9(k), Multi-family dwellings, the Board does not have the authority to grant a special permit if they do not meet the requirements, You may impose additional requirements."

Diane Oliver asked where the septic systems are located and where the new ones are going to be. DeWitt said, "The existing ones are located at the rear, the new ones will be at the front, because of access. The material there is also good." Mary Duncan said she was concerned with the drainage of the swimming pool and septic system. Clay Morin said they dug at high water time and had no water table. The material was very good there. For Essex that was probably one of the best areas. Mrs. Duncan asked if he felt it would not add to the bogginess. Morin said, "At this point, no."

The Public Hearing closed at 9.10 p.m.

The Board received a building application for Wayne Gabaree, Parcel C, Indian Rock Lane, for a single family dwelling. Size of the building - Length 28', height 38-40', width 36', no. of stories - 1½.

E. Burnham moved that we approve the application for a building permit of Wayne Gabaree, for a single family residence on Parcel C on Indian Rock Lane. The motion was seconded by Wilson and the Board voted unanimously to approve.

The Board received a building application for August R. Meyer and Henrietta N. Meyer, Lufkin Street, for a single family dwelling.

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Size of the building - Length 50'6", height 25'6", width 21'6",
no. of stories - 2.

E. Burnham moved that we approve the building application of August Meyer and Henrietta Meyer, Lufkin Street, for a single family residence on plan of land dated August 21, 1985. The motion was seconded by Wilson and the Board voted unanimously to approve.

Daniel and Jody Harris met with the Board with an application for a single family house on Spring Street. Cataldo said he had discussed with Town Counsel, based on a discussion with Harris's attorney, regarding the land on Spring Street, which the Board felt had not come before them to be subdivided. The Harris's were told that they could sell the land, but when it came time to get a building permit, approval could not be obtained.

Wilson moved that we deny the plan for a single family dwelling of Daniel F. and Jody F. Harris, Spring Street, as it does not meet the requirements of 6-6.2(a.3) - Lot frontage. The motion was seconded by E. Burnham and the Board voted unanimously to approve.

Cataldo told the Board that Phil Herr said he would come to the Town Meeting if the Planning Board wanted him there.

E. Burnham moved to adjourn the meeting. The motion was seconded by Wilson and the Board voted unanimously in favor.

The meeting was adjourned at 9.55 p.m.



Gillian B. Palumbo

Essex Planning Board

October 2, 1985

Present : Michael Cataldo, Chairman; Michael Ginn; Alden Wilson;
Westley Burnham; Everett Burnham; Rolf Madsen;
Elisabeth Frye.

Meeting called to order 7.30 p.m.

The Minutes of the previous meeting were read. W. Burnham moved that the Board accept the Minutes of September 18, 1985. The motion was seconded by Wilson and the Board voted unanimously to approve.

Allen Guminsky met with the Board with a plan to subdivide one parcel of land off his property on John Wise Avenue. The parcel shown was 2 acres in size, but lacked the 150' frontage requirement. The Board asked him why he didn't give the 150' frontage as his total frontage was more than adequate to meet this requirement. Guminsky said he wanted to keep the integrity of the land and would prefer to go to the Board of Appeals if that was the way it had to be. The Board felt integrity was not an adequate reason for approval from the Board of Appeals, and suggested the best approach would be to give the 150'.

Peter Meyer met with the Board with a subdivision plan for property on Luikin Street. Lot C had 255.75' frontage and 3.463 acres. Lot D had approximately 172' frontage and 8.862 acres.

E. Burnham moved that we approve the Form A plan of August R. and Henrietta Meyer dated August 21, 1985, under a Form A subdivision approval not required. The motion was seconded by Frye and the Board voted unanimously to approve.

David and Jody Harris told the Board they have purchased property on Spring Street and are interested in building on Lot 10 on the map given to the Board. The property consists of Lot 3, the Arvin Craig lot and Lot 10. They said they had sold Lot 3 and the Arvin Craig lot to her parents. The Board felt that as the three lots were held in common ownership they must revert back to the one lot. Ginn wondered how, if Lot 3, the Arvin Craig lot and Lot 10 were in common ownership, could the property be divided into non-conforming lots. There is no frontage on Lot 10. The Harrises were told the Board could deny it and (i) they could go to the Appeals Board to see if they can get a variance, or (ii) they could have the whole parcel one name and have two houses on the one lot. There is a 20' easement to Lot 10. Frye said she wasn't sure how it got subdivided in the first place. Ginn felt the Harris' had no rights to sell the front parcels.

Richard Carter told the Board he wants to build a single family residence on his property, but where he wants to put the house is actually on his father's name. There was an informal discussion on how Carter should go about dividing the land.

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John Dick, representing Frederick Richardson, met with the Board regarding an additional parcel of land being attached to the property of David and Tracey Swett, Lot #1, Conomo Drive. The area of the additional parcel is 12,000 square feet and will be known as Lot 1A and added to Lot 1 to accommodate the relocation of a single family dwelling. A Form A was given to the Board.

Ginn moved that we approve the division of land as read from the Form A application of Frederick Richardson dated October 2, 1985, No. 2879, and the plan of land of David G. and Tracey Swett, dated September 24, 1985. The motion was seconded by Madsen and the Board voted to unanimously approve.

Dennis Gannett, 38 Pond Street, with Clay Morin, met with the Board with a plan showing the subdivision of his property. The total area of the property is 160,000 square feet. Gannett wants to divide a 40,000 square foot lot at the back. The existing grade is 15%. Morin asked if it would be possible to waive the existing 8% maximum grade to 10%. Wilson said he couldn't see anything wrong with the 10% grade. Gannett was asked if he would be willing to have a deed restriction for one lot, to which he replied that that was all he wanted. The Board could see no problem with the 10% grade, if it is written on the linen that the property is limited to one house lot. Ginn asked if there were any problems with drainage. Morin said there is a little hollow but they will be putting in a 12" PVC pipe there. The preliminary plan was presented to the Board.

W. Burnham moved that we approve the preliminary plan, with one stipulation to be written on the linen stating that the density be restricted to one lot and the grade of the entrance road be no more than 10%. Wilson seconded the motion and the Board voted unanimously to approve.

Cataldo asked the Building Inspector for a list of building permits, and said it would be helpful to have a list each month and also to have it printed in the newspaper. He said he has been getting some 'flack' on the building permit process and feels a new procedure is needed. It was suggested that a form be used in triplicate or even more copies so all Boards can be given a copy, with a block on the permit for all Boards to make a notation.

Peter VanWyck - Cataldo asked that this portion of the meeting be recorded. Cataldo then said that Town Counsel, in a letter dated September 17, suggested this wording be included, "This subdivision is approved upon the condition that it be limited to 51 buildable, single-family, residential lots, pursuant to the stipulation adopted by the Essex Superior Court in its decision in Civil Docket No. 81-1341." Upon reviewing the plans it was noted that on the hill the grade was 8% maximum. The Board were trying to relate the plans to what work had been done there so far, but Cataldo said that

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was all irrelevant as VanWyck has said he is not constructing a subdivision road, so what is there right now does not count. Huatala said VanWyck has filled in areas, but he didn't know whether they were to grade or not as he hadn't checked them. He was concerned only with the plans.

Cataldo - "I think that's what this Board is concerned with too. We had some issues we addressed; we have the original plan as submitted in front of us; we have the linen as prepared by yourself in front of us; what we are obligated to do at this point is review this plan based on what we had requested, based on the original submission, make sure they both concur and take whatever action is necessary. I think at one of our previous meetings we had addressed all the court concerns with Peter, and told him all the things we wanted corrected. The Minutes of that meeting are here if there are any questions. I assume at this point the corrections have been made and we should be able to go through this page by page and find the information we need to make a decision. We will start with a review of Page 1." Upon comparison of the plan Page 1 Cataldo said, "They look to be identical. Are there any revisions that you are aware of, Mr. Huatala, between the original submission."

Huatala - "To the best of any knowledge that plan reflects the original."

Cataldo - "Except for the wording which we already referred to."

Huatala - "Which I must write in with India Ink. I just became aware of the wording this evening."

Cataldo - "If you put the linen over our copy they seem to match, so I can see no problems with Page 1. The one question I can see, the shoulder width of the road, was that ever reviewed or addressed or does that waiver remain in place. The width was set up to 24'."

Huatala - "The width was set up to be 24' and I made it 24'. The original said 20'."

Page 2 - Cataldo - Mr. Huatala, to the best of your knowledge have there been any revisions to Page 2."

Huatala - "I haven't touched Page 2."

Page 3 - Huatala said to his knowledge there were no changes to Page 3.

Page 5 - Huatala - "The profile may not match because of the change of grade."

Cataldo - "You changed your scale, you changed your dimensions on your cross section but you didn't change your drawing. You went from 20' to 24' and 10' to 12', but the drawing lays right on the other."

Huatala - "Just put on there the scale as noted. You don't need a scale."

Cataldo - "You have a scale on here so the scale is inaccurate."

Huatala - "We can take the scale off. The dimensions still govern."

Frye - "Did you check with Tenneco, the gas line. This road looks very close to the gas pipes. Is it supposed to be 10' from the line."

VanWyck - "It's 15' from the 4" line."

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Cataldo - "You have removed the phrase 'the pipe is to be installed on the shoulder of the layout'. Is there a reason for this?"

Huatala - "The Public Works Department wants it out in the road, so it will be laid in the road. I would have liked it in the shoulder in case there is a break, then you don't have to tear up the road."

Page 6. Page 7 - Huatala - "The water pipe is in the limits of the road. I prefer it in the shoulder."

Page 8 - Frye - "The wetlands by-law. The last hill has been determined wetlands by the Conservation Commission. Are you going to approve a road without input from Conservation."

Cataldo - "Peter has made a filing to construct the road. Peter and I went over the Essex Wetland by-law maps and according to those maps there was no indication that this whole area is designated a wetland."

Frye - "Maps have an index which say they don't cover wooded swamps and things like that which don't show. It is clearly written on that index overlay that wood swamps would not show, because when those maps were made there were leaves on the trees, and so we voted erroneously on it the last time. We are starting afresh here now and I'm asking about down the last hill through Deer Pond and Hemlock Pond, which is clearly water, and water across the bottom of that hill on up where those people are going to get their run-off."

George Evans - "The issues concerning the plan have all been dealt with that can be dealt with in a Court."

Cataldo - "That's my opinion. We have been mandated by the Court to address certain issues. We have spent meetings figuring out exactly what issues we could address and we have addressed them. If there are now concerns, Peter obviously knows and hasn't really addressed it, that this is a wetland and he shouldn't be working in it until that bridge is crossed."

Evans - "There are certain rules concerning wetlands and we will comply with whatever rules have to be complied with."

Frye - "We didn't have the detail of the road plan when it went to Court before. Now we have them."

Evans - "All these plans were submitted to the court."

Frye - "The additional topographical material. If you had it before, why is it now being run by Conservation. It was run by Conservation because we haven't had all this information. You told Mr. Peterson and this Board you had given additional information."

Huatala - "Around the Liberty Research area."

Frye - "Which is the end part of the road. My question to the Board is do as you wish again, but you'd let a road be built when the regulations say you cannot and now you know the road is going down through wetlands, and you are just throwing your hands up and signing it. You have a responsibility for drainage."

Madsen - "The only thing I have to say is you said Sheet 8 is the same as the one that went before the court, Sheet 8 is not the same."

Huatala - "Sheet 8, because of the request for additional contours, is not the same."

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Cataldo - "Sheet 8 obviously displays additional contour lines in the area that's always been a concern. Is everyone clear on what we asked Peter for?" Burnham suggested that the Board go over it one more time. Cataldo then read the original motion and the amendment to the motion made at the Board's meeting of August 21, 1985. There was one area on the plan where the grade was 8.1%, which Huatala said could be changed to 8%. Frye said the judge says Peter can have 51 houses. If other people decide to tie in with his subdivision road, they are going to have to come in under his 51 houses.

Evans - "The statement made by Town Counsel indicated that this is pursuant to the court decree."

Frye - "What is your understanding of this."

Evans - "I really haven't thought about it. There is nothing I am aware of that is being proposed. I've talked to Peter Van Wyck a lot about this. We haven't talked about anything further than this particular road."

Cataldo - "It's also immaterial and conjecture."

Cataldo - "Are you aware of our Board's intent and the Town practice of hiring a Clerk of the Works to supervise your construction. You, on numerous occasions, I believe, have said that anything that's been done to date has been not as a subdivision road."

Van Wyck - "I was building a pond."

Cataldo - "As long as you are aware our intent is to secure a clerk of the works to be paid for by you. Are you aware of that?"

Evans - "Is this in the regulations?"

Frye - "How would you propose this subdivision be checked?"

Evans - "What he's got to comply with is State law and the regulations."

Burnham - "If we have a clerk of the works then it is not any of our personal opinions whether or not the road is where it is or isn't. It will alleviate all the problems that derived when Peter first put a road up there."

Evans - "I would suggest that if it is in the regulations then Peter comply with that. If it isn't, then I suggest we get an opinion from Town Counsel. That would be something over and above the plan issue."

Van Wyck - "Would anyone have any objection to Mr. Huatala being clerk of the works?"

Cataldo - "I prefer to advertise in the local newspaper for a certified engineer or go to the State D.P.W. I think you have been treated over a long period of time by the Planning Board in ways that raised eyebrows. I think to bring in an impartial observer at this time would be best for both parties. If you aren't agreeable to this, and if there is nothing in our statute, then we will take the appropriate action. But I think it will expedite things if you will agree to it. I think what I would propose doing is placing an ad in the Gloucester Times and going to the State D.P.W., getting some qualified candidates, having the Board review them and at that time making a selection. We will be more than willing to present you with that persons credentials, but I think it is up to this Board to make the selection."

Van Wyck - "Why not give me two or three names and I will select one of them. I would suggest three pass your scrutiny and let me choose which one I want."

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Cataldo - "I don't think that is possible. He will be working as our agent."

Evans - "I feel certain that if it isn't in the regulations, then that is something that Peter will have to voluntarily do."

Cataldo - "Do you volunteer to secure the services of a Clerk of the Works?"

Evans - "It depends on how much you want Peter to volunteer. If Peter wants to make some sort of contribution to this, then at the next Town meeting you can make an appropriation for any balance that may be due."

Cataldo - "If that's the route you would rather take, then I will check with Town Counsel to see where it is mandated, and I'm sure it's mandated in the new subdivision regulations."

Evans - "If the Town is going to spend the funds for a Clerk of the Works, and it's going to come to some account in the Town, then Peter will have to make a gift to the Town to do that. Peter has to build this road precisely as it's shown on the plan, and when it's completed it has to be shown on the plan. If it is found that he has done something that's not correct, then he has to dig up the road and repair it. A lot of Towns have their own engineers check it."

Madsen - "I think we should take Town Counsel's advice on this matter."

Frye - "And at the same time work out the wording of the performance bond."

Cataldo - "Peter, are you now doing work on the road?"

Evans - "There has been some filling and levelling off there. It may or may not comply with what the final road has to be, but when the engineers go out to look everything will have to comply."

Cataldo - "Is your intention to utilize the lot lines as shown on the plan, and to submit the rest of the lots as the road is built?"

Evans - "There will be no changes in the plan. We would have liked to have changed the first part. Eventually Peter will come back in with the lots spread out. As the road is constructed he will be able to see how these lots will fit in."

Van Wyck - "The plan that we went to court on showed 14 lots and I was intending only for some lesser figure than that of 14. This is why we came in with a revised plan for the first page. I will give the Planning Board another opportunity should they want to lessen the lots on the first page. It's purely a Planning Board decision if they want fewer houses up there."

Cataldo - "If you submit and alter the plan, it's a whole new ballgame. We are going with the plan dated 1981."

Westley Burnham moved that we approve Peter Van Wyck's subdivision plan for Turtleback Road, Essex, Ma. dated February 23, 1981, consisting of sheets 1a, 2, 3, 5, 6, 7, 8, finding it to be in accordance with the Superior Court's Civil Docket No. 81-1341. The motion was seconded by Ginn. The Board was asked to each vote, giving their reasons for the vote, as follows :-

Everett Burnham	....	in favor because I feel Van Wyck has complied with the orders of the judge.
Westley Burnham	....	In favor for the reasons stated above.
Elisabeth Frye	....	Opposed, because I feel that when the judge approved a subdivision for 51 houses, we should entertain a plan for 51 houses and so should have a plan for drainage. The rest of the subdivision will come in on a Form A, approval not required.

October 2, 1985

- Michael Ginn in favor of granting approval, based on the belief that it meets the rules and regulations of said time that the plan was submitted.
- Rolf Madsen in favor, basically for the same reasons as Michael Ginn.
- Alden Wilson in favor. I believe the plan covers the court order to approve. The court only is asking up to 51 houses, and I don't feel Peter will build that many.

Cataldo reserved his right not to vote, so the motion carried.

Van Wyck gave the Board a covenant. Cataldo said the covenant will be submitted to Town Counsel for his review.

Madsen moved that we adjourn the meeting, seconded by Ginn. The Board voted unanimously to approve.

Meeting adjourned at 10.38 p.m.



Gillian B. Palumbo

FOR THE RECORD

Apple Street
Essex, Massachusetts
13 August 85

Planning Board
Essex, Massachusetts

Gentlemen and Mrs. Frye,

We write to you regarding Mr. Peter Van Wyck's Turtleback Road Extension proposal and we ask your attention to several serious matters—serious in terms of this project and serious in terms of precedent.

The Stipulation/Injunction (Civil Action #18572Z) which you sought and received in August/September of 1980 is still in effect. It has the "same force and effect as a restraining order entered by this court."

It was voluntarily entered into by Mr. Van Wyck, and therefore he can not now complain of harshness. It forbids him to:

- *"engage in, permit or cause any further construction of a subdivision, including roads or structures "
- *"excavation or removal of top soil or loam without a permit "
- *"filling, excavation or alteration of banks of wetlands on any property owned or controlled by him located in the Town of Essex."

Mr. Van Wyck's on-going activities, including construction of a subdivision road, are in violation of that Stipulation. And they are, as well, in violation the old Land Use Regulations under which you have chosen to review his plan. A-4.1 of the old regs states:

"Required. No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of town services therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the planning board as hereinafter provided."

The unauthorized road construction has been undertaken for years in defiance of the court order and the regulations, but now it continues with increased zeal in defiance of the Commonwealth's Enforcement Order.

Further, he has commenced implementation of his Turtleback Road Extension pond project (File # 21-61) in violation of the Conservation Commission's requirement in its Order of Conditions (upheld by the DEQE's Superceding Order): "No work may commence under Order of Conditions until the stipulation voluntarily entered into by you and the Town, Superior Court Docket

No. 18572Z, has been lifted. " In the matter of the pond, as in the matter of the road, he has paid no heed to the orders of the court, the Town, or the Commonwealth.

Has the Planning Board, in its capacity as an administrator of the Wetland bylaw (6-10), taken cognizance of the wetlands in and around Mr. Van Wyck's proposed road? These areas are covered by the Massachusetts Wetlands Protection Act (131/40) and by the Essex Wetland bylaw. (See: 6-10.5, D. 6. & 7. "shrub swamp" and "wooded swamp",) (It should be noted that not all wetlands appear on the attendant Raytheon maps, as the aerial photography was carried out in a leafy season, and all wetlands could not be seen from that altitude. A legend to that point is on the maps.) The Conservation Commission, in its 8 November 84 Order of Conditions (upheld by the DEQE's Superceding Order) determined that the pond area is a wetland significant to three of the seven interests under the Act (131/40): ground water supply
 storm damage prevention
 prevention of pollution.

And on 9 March 81 Mr Cary Simmons, then Chairman of the Essex Conservation Commission, spoke of a "significant amount of water moving through there"(Turtleback Road Extension), and he warned Mr. Van Wyck, "Remember, if you build a road there, you'll be in a wetland". He went on to describe the area as "an extensive, solid wetland from Hemlock Pond to Alewife Brook."

Is the Planning Board satisfied that Mr. Van Wyck's designs for sewerage systems conform to the requirements of the Town of Essex and the Commonwealth of Massachusetts? The Board must bear in mind that the applicant cannot proceed with the implementation of his road until his subdivision plan has been approved. (see above) The Essex Land Use regulations state:

1. Design. Sewerage systems and related equipment shall be designed by a professional engineer in full compliance with the requirements of the State (sic) of Massachusetts and the accompanying table of standards, and shall be approved by the board of selectmen or the planning board and the board of health."

A-5.4 c. (old regs)

Is the Planning Board satisfied that Essex Park Drive, Mr. Van Wyck's choice of

access to Western Avenue) has the capacity to bear the weight of the increase in traffic that the proposed subdivision would create? It is commonly held that such a subdivision would, in fact, require the reconstruction of the bridge at Essex Park Drive. On whose nickel? We believe that the Board should establish now, not after the fact, that:

- * Essex Park Drive is adequate to bear the increase in traffic (any conclusion would have to be based on firm knowledge of the precise number of houses planned) or
- * Essex Park Drive is not adequate, and a new bridge will be required
- * If a new bridge is required, it will not involve the commitment of public funds for private gain.

Is the Planning Board sanguine as to the effects of runoff on downstream abutters? In July of 1981 the Conservation Commission was warned of the danger of flooding which could occur from an increase in runoff from the proposed subdivision. The Board is charged with the protection of the "safety, convenience and welfare" of the citizens of this town. Has it considered the "safety, convenience and welfare" of the down-stream abutters? In the event that they are not adequately protected, and damage to their persons or their property ensues, who will be liable?

In June of 1981 Mr. Van Wyck sued the Planning Board and the Town of Essex for four hundred thousand dollars, complaining that the Planning Board had not waived its rules and regulations for his subdivision plan, but, instead, had issued a denial. By that action in court (Civil action # 81-1351), he had exhausted his remedies, he had sought his ultimate relief; his subsequent amended plan should not have been allowed for submittal. Having allowed it, the Planning Board was also in error in reviewing it under the old regs. Amended plans are treated as new plans, and that plan should have been reviewed under the new regs. The Board turned him down. He sued again. That suit was heard in October of 1983. The Board lost and appealed. The appeal was lost. It need not have been. A serious problem arises in the October/November 83 judgement in 81-1351. Judge Tuttle based his decision on a stipulation "between the parties hereto". That stipulation defined the limits of the case and did, among other things, agree:

- "F. The Plaintiff intends to develop no more than 51 additional house lots on this new subdivision and on the contiguous Turtleback

Road, (which was a subdivision which has been approved by the Planning Board) ..."

There have been, of course, no plans for a fifty-one house subdivision, no public awareness, no public notice, no public hearing. What must be emphasized and reemphasized is that the Planning Board not only did not agree by stipulation, it had no knowledge of that stipulation. Presumably because he did not know of the Board's unawareness, the Judge based his findings of fact, rulings of law and decision and his judgment on that stipulation. "The parties (members of the Planning Board of the Town of Essex and Peter Van Wyck) submitted to the court a stipulation..." Finally, error upon error, the Court of Appeals issued its judgment on 20 June 85, stating at the outset:

"The plaintiff Van Wyck has sought approval by the defendant planning board of Essex of a subdivision development that calls for an extension of Turtleback Road, which lies off Apple Street, and the construction of 51 dwelling units on that extension. The board, after hearing, denied approval..."

Mr. Van Wyck never sought approval from the Planning Board of a fifty-one house plan.

The Appeals Court was in error when it stated "Apple is one of only three cross streets connecting these avenues." (Western and Southern) Judge Tuttle of the lower court had been told that Western and Southern Avenues were connected in three ways:

- * Main Street
- * Apple Street
- * Pond Street to Conomo Drive to Andrews Street

Conomo Drive was not then and is not now passable throughout. Mr. John Tierney, Town Counsel, did not correct this wrong impression.

The Planning Board must bear in mind that the applicant seeks a subdivision off of a road which is unaccepted and unapproved and is, indeed, the subject of litigation. In 1975 the Town of Essex filed suit against Peter Van Wyck (Civil Action # 10671) for failure to comply with road standards. In its complaint, the Town spoke of the engineering firm of Whitman and Howard having been retained by the Planning Board to test Turtleback Road:

"Said tests have disclosed that Turtleback Road has materially

"failed to comply with the specification set forth by the Defendant on his subdivision application and final plan..."

"The Town of Essex has obtained engineering advice that said road must be reconstructed to provide a safe and lasting way of access for vehicular traffic including fire and emergency vehicles..."

That case is still open. And Turtleback Road still suffers from periodic collapse around the area of the culvert, through which Mr. Van Wyck conducts water from his own house pond, under the road, across Mr. Fred Bragdon's property, and ultimately to the Essex River east of Apple Street. Through this same culvert will also pass an increase in water caused by directing the flow of water from the new pond to the old pond. A troublesome situation will be further exacerbated. If an accident were to occur on Turtleback Road or Turtleback Road Extension as a result of the deficiencies of road construction, who would be liable? The Planning Board should understand that the unsatisfactory performances of the past are not good recommendations for the future.

And the Planning Board should stop to reflect that Mr. Van Wyck, who now seeks the Board's support, sued it once again in April of 1984, claiming, among many other things, that the Selectmen, The Planning Board, the Conservation Commission, and the Board of Health have interfered with his constitutional rights. Mr. Van Wyck is not the victim in this long, troubling, and disallusioning affair. The victim is the citizen of Essex, who obeys the voice of Town Meeting and the statutes of this Commonwealth, who asks permission before he acts, who sees his own actions in the larger framework of the common good, who has a sense of responsibility to protect this inestimably lovely land for the health and joy of future generations.

The Planning Board should remember that Mr. Van Wyck is even now in insolence of the bylaws of the Town of Essex and in insolence of the statutes and orders of the Commonwealth of Massachusetts.

In the light of all of this, can the Planning Board continue to look away, as though blind? Surely the Planning Board must see that we are all equal before the law. And that it is the law which makes each of us free.

When Mr. Van Wyck's actions continue to be undertaken outside the law, he sets a wretched example. The Planning Board's blindness sets an even more wretched example.

RW.

WB

very truly yours,

Betsy C. Fawcett

Betsy C. Fawcett

F. J. Fawcett

Frederick J. Fawcett

cc: Conservation Commission, Essex
Meriel Hardin, Mass DEQE

Essex Planning Board

September 18, 1985

Present : Rolf Madsen, acting Chairman; Elisabeth Frye;
Westley Burnham; Everett Burnham; Alden Wilson;
Michael Ginn.

Meeting called to order 7.30 p.m.

Wilson moved to dispense with the reading of the Minutes. The motion was seconded by W. Burnham and the Board voted unanimously in favor.

John DeCoulas, engineer and surveyor for the former Munnelly property subdivision, met with the Board to give them the Definitive Plan for this subdivision. The lot sizes are Lot 1 - 40,000 sq. feet, Lot 2 - 87,283 square feet, Lot 3 - 66,065 square feet, Lot 4 - 62,065 square feet, Lot 5 - 41,040 square feet, Lot 6 - 40,000 square feet. Ginn asked if Decoulas had checked with the D.P.W. on the size of the waterpipe. He said he had and also that the D.P.W. preferred the PVC pipe they would be using. At this time no check was submitted with the Definitive Plan and DeCoulas was told the clock could not start until the Board received the check. A Public Hearing was scheduled for October 16, 1985, at 7.30 p.m.

Note - At approximately 8.30 p.m. a check #1531 for \$600.00 was received for the above submission of the Definitive Plan.

Peter Meyer, Lufkin Street, met with the Board with plans for subdividing his property into three lots, namely Lots C, D, and E. He stated he needs the Planning Board approval for Lots C and D. Lot C is approximately 3.463 acres, and Lot D is approximately 4.291 acres. Lot E was an existing lot, and has frontage on LeBaron Road, but was not completely shown on the map Meyer gave to the Board. Lots C and D have frontage on Lufkin Street. Madsen told Meyer that according to the plan in front of them Lot E is a new lot and if it is going to encompass more land it should be shown. Also if the land has been in common ownership for two years or more, then the lot has merged into one and the Board then must see what the whole lot encompasses. Meyer asked if the Board could approve Lots C and D that evening. He was told that the Board must see how the whole lot is being divided. Meyer was told to return to the Planning Board's next meeting on October 2 with the entire subdivision plan.

Jerome French, Forest Street, gave the Board a plan showing the contour lines. He said the road will go from 30 elevation to 70 elevation in a distance of about 600', which is less than an average 8% grade. It was the Board's opinion that French's preliminary plan was complete for its submission. For the record French made a formal submission of his preliminary plan on September 18, 1985 at 8.35 p.m.

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Scott DeWitt, Brookside Apartments, together with his architect, David Jacquith, met with the Board. An application for a special permit was given to the Board at this time, to add an additional 15 units to the existing 30 units. DeWitt said he has spoken to all abutters of the property and said their only concern was that speed bumps be placed in the driveway, to which he has no objection. At the present time the apartment buildings are not connected. Madsen asked if DeWitt had reviewed the by-laws, as the maximum is 8 bedrooms. Madsen felt DeWitt did not meet the requirements on all things, and wondered, as the by-laws cannot be waived, whether they should go through the Public Hearing to deny it. E. Burnham said the Board could say the plans are not in compliance and then have DeWitt go to the Board of Appeals. Ginn felt the Board should note the areas where he is not in compliance and send it to the Board of Appeals. The recommendations could be sent with the Board's denial. Madsen said, "I feel the Board couldn't send their recommendations without a public hearing. We could go through the special permit process with the possibility of him knowing we would turn down parts of it for non-compliance. You could still be turned down by the Board of Appeals. I don't think it would be correct for us to turn this down now and then go to the Board of Appeals. At the hearing we could get the input of the Towns people, and then we could say everything is acceptable except for those areas of non-compliance and then you in turn go to the Board of Appeals for those items." Jacquith said he would rather come to the Board and go through due process. He would like the Board to schedule a Public Hearing for October 16. Both the Board and Scott DeWitt agreed to hold a public hearing on October 16, 1985, at 8.30 p.m.

Arthur Austin, property off Eastern Avenue, met with the Board. He told them he had met with them on June 5, at which time they denied his building application and he was sent to the Board of Appeals. This application is in limbo at the present time and he is here asking if the Board would send another letter of rejection so he can reappeal and have the Board re-start the procedure. Ginn asked him if he was submitting a new building application. Austin said yes, the house has been moved to a new site.

W. Burnham moved that we deny the building application of Briar Pasture Farm Trust for a single family residence located off Eastern Avenue, the reason for the denial being due to lack of frontage under 6-6.2. The motion was seconded by Frye and the Board voted unanimously to approve.

Sandra Begg, 34 Southern Avenue, met with the Board, upon request by them in a letter, as they wished to ask her questions about the building application she submitted at the Board's meeting on August 21. Begg said she is taking the existing structure, replacing it and changing the angle slightly because the existing structure is unusual. It will be an extension of the living

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quarters. The lot is a non-conforming lot. A list of abutters was given to the Board stating their approval of the project. W. Burnham moved that we approve the building application of Sandra Begg, 34 Southern Avenue, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Frye and the Board voted unanimously to approve.

The Board received a building application for David and Ann Landry for a new residence on Lot #2, Story Street. Size of building, length - 38', height 27', width 26', no. of stories - 2. Distance from street line, 132', right side line - 72', left side line 60', rear line 100'. Area of land 40,496 square feet.

W. Burnham moved that we approve the building permit of David and Ann Landry, located at Lot #2, Story Street, as it conforms to all the dimensional requirements of the by-laws. The motion was seconded by Wilson and the Board voted unanimously to approve.

A building application was received for Dale Temple, 7 Grove Street, for an addition to the house. The lot is non-conforming, the land area being 19,010 square feet. The size of the addition is length- 20'6", length 19'10", width 12'5", no. of stories - 2. Distance from left side line is 17'.

W. Burnham moved that we deny the building permit of Dale Temple, 7 Grove Street, as it does not meet all the dimensional requirements under Essex By-laws 6-6.2(6). The motion was seconded by Wilson and the Board voted unanimously in favor.

Peter VanWyck met with the Board in order for them to sign the lines for the subdivision plan they approved at the Board's meeting of August 21, 1985. Mr. Peterson, representing the Board, stated that the culvert the Board requested be changed, had been changed.

Madsen said, "I have been told you are doing work on the road. VanWyck said, "I have been placing material on the road." Ginn said he had been up there a couple of weeks ago. Madsen asked, "Is there work going on up there." Ginn said he thought Peter admitted that at the last meeting. Madsen then said that the plan cannot be accepted conditionally. George Evans, VanWyck's attorney said, "I talked to Tierney on the phone and he said he could see no problem. Tierney had raised the question if there were going to be lots shown on the plan. He didn't reject the language that I sent to him in a letter." VanWyck said he bought land from Gloucester Engineering to give him a right-of-way to Essex Park Road. Gloucester Engineering did sell 17 acres to VanWyck's son, Nicholas, and so he put that line on the plan indicating this. The land that Nicholas VanWyck bought was never in VanWyck's name. Frye said that the Board was not dealing with the plan that went to Court. Ginn said if VanWyck doesn't own this land then these marks cannot be on the plan. They must be

September 18, 1985

The Board requested the lines be removed and were erased by Huatala. Madsen said that Tierney advised us not to sign a plan until we have approval from him on the wording. Frye said the plan submitted tonight was not the same plan that went to court because VanWyck has changed the lot lines. Huatala said the road is exactly the same. Evans said if you approve the road the lot lines can be changed the next day. Madsen - "We went to Court. It's been a long drawn out process. We said we would like this and this change. Peter said he would change it. Then we have a new plan come in. It would be easier if Peter worked with us. This is not a case of Peter working with us. We didn't ask you to make further changes that would affect the plan. That is wrong. Then you come in and ask us to sign the plan. We are supposed to address 1a, 2, 3, 5, 6, 7, 8, of the original plan. What we asked Peter to come back with were very specific things. We cannot give conditional approval and sign the plan. Town Counsel has advised us not to. If we have a letter by the next meeting and Peter comes back complying with all the requests made in our motion, and with the changes, then we will consider it a new plan."

Frye - "There are ² ~~five~~ bulldozers and ^{2 + 2 dump trucks} backhoes working. The State has told him to stop, the Conservation Commission have told him to stop and work is still going on."

Evans - "Peter is not going to be allowed to do anything until you approve the plan."

Ginn - "He already has. There are no station marks. Our Clerk of the Works cannot give approval if he has seen how the road has been built."

Madsen - "Mr. Story, would it be possible as an enforcer of our by-laws for you to see if a subdivision road is being made without our approval?"

Ginn - "There is a court order on Peter not to further a subdivision and not to do any work."

Madsen - "He is also in defiance of our regulations."

Evans - "I have a right to build on my property, all over my property. If Peter has done wrong, you can take him to Court."

Madsen - "Shouldn't you advise Peter in a spirit of goodwill that he is working on a subdivision that hasn't been approved. What he is saying is that I really don't care what the Planning Board says, I'm going ahead and doing it anyway."

Evans - "It's a matter of interpretation. There is no subdivision. The fact that you put a road on your property doesn't mean that you have created a subdivision."

Ginn - "Why don't you try to resolve the stipulation. This is a subdivision plan presented to us. I think Peter is in defiance of the stipulation. You said if you were to blow up the plan and lay it on the areas where work is being done it could coincide with the plan. In my mind, I feel you are furthering a subdivision."

Evans - "That's your opinion."

W. Burnham - "If Mr. VanWyck doesn't agree with us, why doesn't he approach the court to have the stipulation lifted."

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Evans - "As I've said, I feel a person can build a road the same size as a subdivision road from one side of their property to the other, and in compliance with all subdivision regulations."

W. Burnham - "What if we turn down Mr. VanWyck's backyard road. It seems it would be simpler to advise VanWyck to co-operate. I felt we were getting somewhere two weeks ago, but now VanWyck appears to be trying to slide in his plan, dated incorrectly, and not the same plan as before."

Madsen - "The larger lots give him the ability to Form A, which the smaller lots do not. I would advise you to come back with what we requested in two weeks."

Frye - "The Board of Health wrote us a letter on this plan. This Board cannot approve a plan that has not been approved by the Board of Health, and they felt they did not have adequate information to approve the plan."

Madsen - "If I confer with Town Counsel, I will ask him to get in touch with you regarding the Board of Health issue."

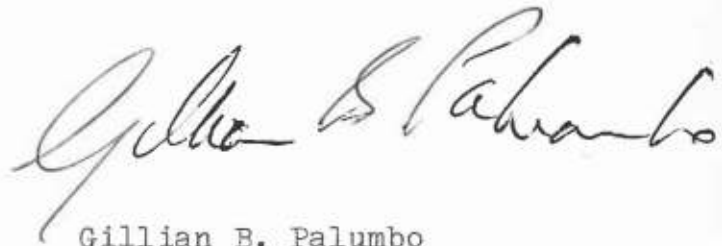
Ginn - "I want everything in writing."

VanWyck - "I had Mr. Huatala look at the subgrade material."

Huatala - "The material being taken from the pond is gravel, stone, traces of clay. The material is well suited on a sub-base on any road in Essex or the State of Massachusetts."

W. Burnham moved that we adjourn the meeting. The motion was seconded by Madsen and the Board voted unanimously to approve.

Meeting adjourned 11 p.m.



Gillian B. Palumbo

Essex Planning Board

September 11, 1985

Present : Michael Cataldo, Chairman; Westley Burnham; Alden Wilson; Everett Burnham; Elisabeth Frye; Rolf Madsen.

Meeting called to order 7.30 p.m.

Cataldo told the Board the reason for calling this special meeting is (i) to discuss Phil Herr's meeting, (ii) to discuss what Town Counsel said about the subdivision of Peter Vanwyck, and (iii) plans that should be reviewed.

The Minutes of August 7, 1985, were read. Madsen moved to accept the Minutes as read for August 7, 1985. The motion was seconded by W. Burnham and the Board voted unanimously to approve.

Cataldo said when reviewing a plan, the plan has to be prepared with all the amendments. We cannot vote on a plan contingent on the changes to be made. We can only vote on a plan with all the requirements shown. Town Counsel said we were wrong in voting approval on the plan.

Peter VanWyck said, "I feel there should be a vote by the members. At the last meeting the 20-day period began. I had the linen drawn up to the Board's requirements and tried to get it to you with no success. I feel some members are trying to stall on this. Coming out with this statement from Town Counsel is not the issue. You have put me at some inconvenience." There was a discussion on the wording for the linen. VanWyck said that had been addressed by Tierney through his lawyer. He read a letter dated September 4 from Evans and Evans to Tierney. The Board said they had not heard from Tierney as he was on vacation. Cataldo felt the Board has a right to accept what Town Counsel has advised. Cataldo read the memo that was sent to the Town Clerk dated August 22, 1985, regarding the decision the Board made at their meeting of August 21, 1985 on VanWyck's definitive plan. VanWyck said the Board took some action on the plan and he would like to see the Board take a vote. Cataldo said he would entertain a motion be made if someone was willing to make one. W. Burnham said, "I can't think of a motion. The original motion states that we have to have the wording approved by VanWyck's attorney and Town Counsel, plus other things that are mentioned in that motion."

The Board discussed the amendments to the subdivision regulations. Page 4, 3.05, No. 1 - Access Adequacy. E. Burnham said if the Town accepts money under Chapter 81 for those roads listed, they are doing it under false pretences, if it isn't used for those roads. His problem is in the Selectmen's certification. He would leave it the way it is. Wilson said, "What do we gain by changing this from the original. Ginn said, "By clarifying the adequacy laws."

Ginn moved that we vote to approve 3.05 - Access of Adequacy, which is an amendment to the Subdivision Regulations. The motion was seconded by Madsen and the Board voted to approve.

Ginn moved that we vote to amend the Essex Subdivision Regulations, Section 3.05, by deleting and replacing it with the following :-

"3.05. Access Adequacy

"1. General.

No plan shall be endorsed as not requiring approval under the Subdivision Control Law and no subdivision plan shall be approved unless each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, Chapter 41, G.L., Section 81-K through 81-GG.

"2. Standards of Adequacy.

Standards of adequacy for streets within a subdivision are contained in other parts of the Subdivision Regulations. Ways providing access by which a subdivision is reached or providing access to lots said not to be within a subdivision shall be considered adequate for creation of lots only if one of more of the following are true.

- (a) approval will result in creation of two or three lots from a parcel as existing on July 1, 1985 which are served by a way which the Selectmen certify is Town maintained,
- or (b) there is assurance that prior to occupancy on any lots, access will be in compliance with the following standards:

	<u>Development potentially served</u>	
	1-10 dwelling units	More units or exist- ing large non- residential use.
Min. right-of-way width	44 feet	44 feet
Gravel foundation minimum	12 inches	12 inches
Surface type	Gravel	3" Bit. Conc.
Surface width minimum*	16 feet	20 feet
Sight distance minimum	75 feet	225 feet
Maximum Grade	8%	8%

*except for short intervals of not more than 200 feet each.

- or (c) the Planning Board determines, following consultation with the Police Chief, Fire Chief, and Board of Selectmen, that because of unusual circumstances, the way in fact will be sufficient to serve the needs for access and

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utilities to serve potential uses of land abutting on or served by the way in question, despite satisfying neither (a) nor (b) above."

'Development potentially served' may be determined based upon limitations annotated on the plan creating the lot in question or on review by the Building Inspector of the land's capacity in cases where it is not otherwise clear.

In all cases, there must be adequate provisions for utilities and drainage without reliance on Town expenditures which have not previously been authorized by Town Meeting.

"3. Obligations.

The Board may require, as a conditions of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening access ways to a width as required above, and that he either make physical improvements within such way or compensate the Town for the cost of improvements necessary to meet the standards specified above."

The motion was seconded by Madsen.

Wilson moved to amend that Paragraph 2 be deleted as it is amending a by-law, 3.05, which we cannot do this evening. The motion was seconded by W. Burnham. E. Burnham voted in favor; opposed were Madsen, Frye, Cataldo, W. Burnham and Ginn.

The vote on Ginn's motion was E. Burnham, Cataldo, Frye, Madsen, Wilson, W. Burnham, Ginn in favor.

No. 2 - "Lot" - W. Burnham moved to table, until the outcome of the Roads Article at the upcoming Town meeting, No. 2 of the recommended regulation changes. The motion was seconded by Frye and the Board voted unanimously in favor.

Roads Article - Madsen moved that we recommend to the Town Meeting that the Roads Article be amended in the Essex By-Laws as follows :-

1. Amend Section 6-3 by substituting these five definitions for the three present definitions of "Lot", "Lot frontage", and "Street", inserting the added definitions at their appropriate alphabetical locations, renumbering and revising references as necessary :-

"Lot. A continuous parcel of land undivided in its ownership, available to be used, developed, or built upon as a unit and meeting the lot area and frontage requirements applicable to it."

"Lot Area. The horizontal area of a lot exclusive of any area in a way open to public use and exclusive of any marsh, swamp, or flat bordering on coastal or inland waters."

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"Lot Frontage. The boundary of a lot coinciding with a street line if there are both rights of access and potential vehicular access across that boundary."

"Street. An existing way providing access to the premises in question if determined by the Planning Board to be 'adequate' under the provisions of the Subdivision Control Law and Section 3.05 of the Essex Subdivision Regulations as in effect October 1, 1985, or a way shown on an approved definitive subdivision plan."

"Street, arterial. The following named street:

Eastern Avenue; Main Street; Martin Street; Southern Avenue; Western Avenue; John Wise Avenue."

2. Amend Section 6-3.22 Lot Measurements by adding item "c" to read as follows :

"c. Lot Frontage. Measured continuously along one street line between side lot lines or, in the case of corner lots, between one side lot line and the corner or the mid-point of the corner radius."

3. Amend item 6-3.33 Yard, Front by adding the following at the end thereof :

"Front yards shall be provided for each street the lot abuts."

4. Amend Section 6-5 by inserting a new Section 6-5.15, to read as follows :

"6-5.15 Access. Every lot created subsequent to adoption of this paragraph shall be provided with access which is 'adequate' under the provisions of the Subdivision Control Law and Section 3.05 of the Essex Subdivision Regulations as in effect October 1, 1985. Determination that a parcel is not a buildable lot because of access adequacy may be appealed to the Board of Appeals by any party having standing, as provided in Section 8 of Chapter 40A, G.L."

The motion was seconded by Wilson and the Board voted to approve.

Business and Industry Article - Paragraph 1 is basically complete. Paragraph 2(a) - Dimensional requirements. Mrs. Bjorklund would like to go on record as being quite afraid of the small non-residential use, where you get random, varied uses which you have no control over. Paragraph 3. You are making it more restrictive if you increase the lot size. Paragraph 3(a) 3 - Add an asterisk.

Madsen moved that we recommend to the Town Meeting that the Business and Industry Article be amended as follows, with one notation on Page 9, Paragraph 3(a) 3 that the asterisk also be noted.

B U S I N E S S A N D I N D U S T R Y A R T I C L E

Revised September 6, 1985

Article _____. To see if the Town will vote to amend the Essex Zoning Bylaw as follows, or act in relation thereto.

1. Amend Section 6.3 Definitions by deleting the definitions of "Industrial Land Use - Class A" and "Industrial Land Use - Class B", and by inserting the following definitions at their appropriate alphabetic location, numbering and renumbering accordingly:

"Non-Residential Use, Large. Premises whose principal use is any non-residential activity other than a hotel or motel (such as retailing, manufacturing, institution, or marina) if involving one or more of the following:

- a building having more than 3,000 square feet gross floor area in retail use, or more than 5,000 square feet gross floor area in any other non-residential use or combination of non-residential uses;
- estimated sewage disposal of more than 1000 gallons on an average business day, based upon sewage flow estimates in 310 CMR 15.00, Title 5 of the State Environmental Code;
- more than 100 motor vehicles trip ends (one arrival or one departure) estimated for the premises for an average business day, based upon either the Institute of Traffic Engineers Trip Generation or an engineering study of the activity."

"Non-Residential Use, Small. Premises whose principal use is any non-residential activity other than a hotel or motel, but meeting none of the standards for classification as a Large Non-Residential Use."

2. Delete Section 6-6.5 and replace it with the following:

"6-6.5 Small Non-Residential Use.

Small Non-Residential uses other than those listed in Section 6-6.9 may be allowed without a Special Permit, and must comply with the following.

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 depth, minimum 100 feet.
 - 4) Front yard, minimum 25 feet.
 - 5) Side yard, minimum 20 feet.
 - 6) Rear yard, minimum 20 feet.
 - 7) Maximum lot coverage by all buildings, 25%.
 - 8) Maximum height of buildings, 35 feet.
- b. Parking Requirements. As outlined in Sections 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 all signs shall not exceed 32 square feet on single-occupant premises and shall not exceed 16 square feet per separate enterprise on multi-occupant premises, and shall conform to the requirements of Section 6-5.10."
3. Re-title Section 6-6.7 and insert a new first sentence so that the section begins as follows:

"6-6.7 Large Non-Residential Use.

Construction of facilities which could accommodate a large non-residential use, whether through new construction or expansion or alteration of existing facilities, requires a Special Permit under Section 6.6-12, unless exempted from such control by The Zoning Act, Ch. 40A, G.L. (e.g. large farms), or unless such change is either consistent with a previously authorized special permit or adds less than 10% to the floor area in non-residential use on the premises. Large non-residential use, whether subject to Special Permit or not, must comply with the following.

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) Front yard, minimum 100 feet.*
- 4) Side yard, minimum 100 feet.*
- 5) Rear yard, minimum 100 feet.*

* 20 feet if abutting a non-residential use, or if authorized on Special Permit upon determination that adequate topographic or vegetative buffers are assured.

- 6) Height of buildings, maximum 35 feet.
 - 7) Lot coverage of all buildings, not more than 25% of total area.
 - 8) Lot coverage by buildings and other impervious surfaces, not more than 60% of total area.
- b. Parking Requirements. As outlined in Section 6-5.8 and 6-5.9. All parking 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 all signs shall not exceed 32 square feet on single-occupant premises and shall not exceed 16 square feet per separate enterprise on multi-occupant premises, and shall conform to the requirements of Section 6-5.10."
4. Delete the title and provisions of Section 6-6.8, and replace with the following:

"6-6.8 Reserved"
 5. Insert a new Section 6-6.12, to read as follows:

"6-6.12 Special Permits for Large Non-Residential Use".
 - a. **Submittals.** In applying for a Special Permit for Large Non-Residential Uses the following materials shall be submitted, unless omissions are authorized by the Planning Board prior to application, on grounds that the materials are not germane to the decision.
 - 1) A development plan indicating buildings, drives, parking, paths, water supply, sewage disposal facilities, storm drainage system, existing topography and proposed grading, and areas of retained and planted vegetation.
 - 2) Building floor plans, architectural elevations, and if important for understanding, sections through the building and site.
 - 3) Documentation of sight distances in both directions at each egress point, and an estimate of peak hour trips onto and off of the site.
 - 4) If more than 1000 gallons per day of sewage disposal are projected, analysis of impact on ground and surface water quality.

- b. **Decision considerations.** Special Permits for Large Non-Residential Uses shall be granted only if the Planning Board determines that the proposal's benefits to the Town will outweigh any

adverse effects for the Town or the vicinity, after consideration of the following preferred qualities, among other things:

1) Location:

- the proposal should be located near uses which are similar to the proposed activity or, if not, the nearby uses should be ones likely to benefit from rather than be damaged by having the proposal nearby;
- Town water service should be available and serving this use should pose no problems which are unusual;
- the site should be able to accommodate the proposal without substantial damage from erosion, siltation, groundwater and surface water contaminants, or habitat disturbance.

2) Activity type and mix:

- the proposed activity should contribute to the diversity of services available in the Town;
- the proposed activity should provide service to or employment for the Town's year-round population.
- the proposal should add little to traffic congestion, considering the location, the number of trips likely to be attracted, and any special access provisions committed (e.g. bike storage facilities, employee ridesharing).

3) Design:

- water and other scenic views from public ways and other developed properties should be considerably treated in the design of the site and buildings;
- topographic change and removal of existing trees or other important natural features should be avoided;
- pedestrian and vehicular movement to, from, and within the site should be safe and convenient, and arranged so as not to disturb abutting properties;
- visibility of parking and service areas from public streets should be minimized through facility location and the use of topography and vegetation;
- potential disturbances such as noise, glare, and odors should be effectively confined to the premises through buffering or other means;

- water quality should be protected through appropriate location and design of disposal facilities in relation to water bodies and site geology.
- primary exterior materials should match the appearance of materials commonly found on buildings within the Town.
- domestic scale should be produced in the building's design through massing devices such as breaks in wall and roof planes and through the design of architectural features."

The motion was seconded by W. Burnham and the Board voted unanimously to approve.

Village and Arterials Article.

Madsen moved that we recommend to the Town Meeting that the Village and Arterials Article be amended in the Essex By-Laws as follows :-

1. Insert a new Section 6-6.4 Districts, to read as follows:

"6-4.4 Districts. The Town of Essex is hereby divided into "Village" and "Rural" districts. The Village District is bounded as shown on the map "Village District", dated January 13, 1985. All remaining land in the Town of Essex is in the Rural District. Lots existing when these districts are established shall be governed in their entirety by whatever district the majority of their street frontage lies within. Requirements of this Bylaw are the same in both districts except where specified to the contrary."

2. Amend Section 6-5.8 by adding a new paragraph at the end thereof, to read as follows:

"In the Village District, these requirements may be met through contracted use of off-site parking provided by the Town or privately, provided that such parking is located within the Village District."

3. Amend Section 6-5.9 Parking Lot so that it reads as follows:

"6-5.9 Parking Lots. Off-street parking shall comply with the following locational rules.

	D I S T R I C T	
	Village	Rural
Setback from street line:		<i>e</i>
Arterial street	10 feet	50 feet
Scenic Road	30 feet	50 feet
Other street	10 feet	30 feet

Maximum distance from building entrance served: No requirement 400 feet

Minimum sight distance at egress, if serving over 20 spaces: No requirement 400 feet

Required parking may be off premises? Yes On special permit"

- 4. Delete existing provisions below "a. Dimensional Requirements" at 6-6.2, 6-6.3, 6-6.5, 6-6.6, 6-6.7, and 6-6.8, and substitute:

"See Section 6-6.12."

- 5. Insert a new Section 6-6.12, to read as follows:

"6-6.12 Dimensional Requirements. Structures may be erected or placed and lots may be created only if in compliance with the following:

Table of Requirements

Table with 3 columns: Requirement, Village, Rural. Rows include lot area, frontage, depth, yard requirements, building height, and lot coverage.

- a. Increase to 200 feet for non-residential uses on arterial streets.
b. Not required to exceed that established by an existing structure on the premises or the average on abutting lots.
c. Increase to 75 feet on arterial streets and Scenic Roads.
d. Increase to 100 feet for large non-residential uses* unless abutting premises developed for a non-residential use, or unless 20 feet is authorized on Special Permit upon determination that adequate topographic or vegetative buffers are assured."

7. Amend Section 6-3 Definition by inserting the following definition at their appropriate alphabetic locations, renumbering as necessary :

"Street, arterial. The following named streets:

Eastern Avenue; Main Street; Martin Street; Southern Avenue; Western Avenue; John Wise Avenue."

"Scenic Road. A street designated by Town Meeting vote as a Scenic Road under General Laws, Chapter 40, Section 15C."

*see definition.

The motion was seconded by W. Burnham and the Board voted unanimously to approve.

Site Plan Review Article.

Madsen moved that we recommend to the Town Meeting that the Site Plan Review Article be amended in the Essex by-laws as follows :-

1. Insert a new Section 6-7.7 Site Plan Review to read as follows:

"6-7.7 Site Plan Review

- "a. **Applicability.** Applications for Building Permits or certificates of Use and Occupancy involving creation of, addition to, or substantial alteration of a parking area having ten or more spaces shall be subject to Site Plan Review.
- "b. **Procedure.** Applications subject to Site Plan Review shall be accompanied by three prints of plans of the proposal. The Building Inspector shall forward two copies to the Planning Board for its review, and shall not approve any application subject to such review without receipt of written plan approval by the Planning Board or their designated agent, unless 25 days elapse from the date of transmittal of plans to the Board without notice of action from the Planning Board.
- "c. **Drawing Requirements.** A site plan shall be submitted that accurately and, at a scale and in detail acceptable to the Planning Board, locates the boundaries of the lot, adjacent streets or ways, existing and proposed structures, walkways and principal drives and service entries, parking, landscaping, screening, recreation areas, utilities, and storm drainage. For plans creating more than 35,000 cubic feet of building volume or more than 25 parking spaces, site plans must be prepared by a Registered Architect, Landscape Architect, or Professional Engineer, unless this requirement is waived by the Planning Board because of unusually simple circumstances.

- "d. Decision. Plans shall be approved provided that the Planning Board determines that, subject to any corrections they may require, the requirements of paragraph e will be satisfied, and that no other conflicts between the proposal and the Zoning Bylaw have been observed.
- "e. Design Guidelines. Any new building construction or other site alteration subject to this Section shall provide adequate access to each structure for fire and service equipment and adequate provision for storm water drainage consistent with the functional requirements of the Essex Subdivision Regulations as in effect October 1, 1985, and shall be so designed that for the given location and type and extent of land use, the design of building form, building location, egress points, grading, and other elements of the development shall be so as to:
- (i) minimize the volume of cut and fill, the number of removed trees 6 inch trunk diameter and larger, the area of wetland vegetation displaced, the extent of storm water flow increase from the site, soil erosion, and threat of air or water pollution;
 - (ii) maximize pedestrian or vehicular safety and convenience within the site and egressing from it;
 - (iii) minimize obstruction of water views; minimize the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used; and minimize glare from headlights or area lighting.

The Planning Board shall adopt and from time to time amend reasonable regulations for the administration of these guidelines."

2. Delete the second sentence of 6-7.2 a) which begins "No building permit shall be issued...".

The motion was seconded by Ginn. Votes in favor - Cataldo, Ginn, W. Burnham, Madsen and Frye. Opposed - Wilson and E. Burnham.

Scenic Roads Article

Madsen moved that we recommend to the Town Meeting that the Scenic Road Article be amended in the Essex By-laws as follows :-

"To see if the Town will vote to designate all roads in the Town, other than state highways and numbered routes, as Scenic Roads in accordance with the provisions of General Laws, Chapter 40, Section 15C; and to instruct the Electmen to seek reflection of the intent of scenic road protection in any repair, maintenance, reconstruction, or paving done on state highways and numbered

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routes within Essex."

The motion was seconded by Ginn. Votes in favor - Ginn, Frye, Madsen, W. Burnham, Wilson. E. Burnham voted present.

The Town Meeting is scheduled for October 21 at the Elementary School.

Cataldo said he would like to form a committee with the Board of Health to review or change the building application. Madsen and Cataldo would like to be on the Committee. Madsen said the fees are too low.

Ginn moved that the meeting be adjourned; seconded by W. Burnham. The Board voted unanimously to approve.

Meeting adjourned 10.30 p.m.

Gillian B. Palumbo

Essex Planning Board

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Present : Michael Cataldo, Chairman; Elisabeth Frye; Alden Wilson; Michael Ginn; Everett Burnham; Westley Burnham; Rolf Madsen.

Meeting called to order 7.30 p.m.

Joseph Brown, Jr., met with the Board for a discussion on the issuance of a Class II used car license by the Board of Selectmen. He said he applied for the license because he did not want to be restricted to one car. His intentions at present are to have one car. His goal is to have one at the front at all times, but no more than five cars total for sale at one time on his two acre lot. He will have no special signs or additional blacktop. He has talked to all close neighbors and they have no objections. He gave the Board a list of signatures of abutters stating their approval. He also would like to be able to get a dealers plate. Ginn asked how much frontage Brown had. He said 155'. E. Burnham asked, "Is this your property?" Brown said, "I am given free housing as part of the salary from the Fair Haven Church. Wilson read by-law 6-6.2, part 5 to Brown. Ginn asked if the list of abutters that Brown gave to the Board are all of his abutters. He said yes, apart from David Dunn's woodlot.

Wilson moved that the Board approve the application of Joseph Brown, Jr. of a business for selling used cars at the property of 211 Western Avenue, not to exceed two cars on display at one time, finding it substantially no more detrimental to the neighborhood and with the agreement of the abutters. The motion was seconded by Madsen; Wilson, E. Burnham, W. Burnham, Ginn, and Madsen approved; Frye opposed.

David Sabatini - The Board received a letter from the Fire Department giving their recommendation. As yet the Board had not received a letter of approval from the Police Department. Sabatini said when he spoke to them they gave verbal approval, so the Board should be receiving a letter soon.

Ginn moved that we approve the plans of David Sabatini, 299 Dodge Street, Beverly, Mass. dated August 15, 1985, and application, finding that it meets Planning Board approval not required, based on the Board's approval of the single access driveway built to the Planning Board standards for 10 houses or less for the purpose of safety, and that the three proposed lots have the required frontage. The motion was seconded by Wilson. E. Burnham, W. Burnham, Ginn and Wilson approved; Frye and Madsen opposed; Cataldo voted present.

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Rhonda Woodman met with the Board to discuss a piece of property on Main Street which she would like to turn into a three-family house. She said she was not sure whether it was a single family residence with an apartment or a two-family, but she would like to convert it to a 3-family for income, and wanted to know the Board's concerns. Woodman was told that it cannot be made into a business, and the Board didn't think there was enough square footage for a three-family.

Peter VanWyck subdivision - John Tierney spoke with the Board because of the confusion of the 1983 court decision. Tierney said, "The decision of the court is that it is being remanded to the Planning Board. You have the stipulations that were filed. Superior Court Judge Elbert Tuttle wanted the road changed from 20' to 24'; he found one of the inclines was too steep on the plan and specified how steep it had to be; drainage had to be adequate and VanWyck had to keep drawing calculations until it was an acceptable degree. Two culverts were acceptable and one was not. Tuttle restricted the number of homes and number of lots to be subdivided. There were to be no more than 51 additional lots. The applicant must have noted on the plan, with wording recommended by his attorney and Tierney that the total density must not exceed 51 houses. The remaining issue was that VanWyck did not depict the 51 lots as they were proposed. If knowing where the houses were would help to see the affect of the drainage, etc. then the applicant was to give information on that. Then the plan could be submitted. We are not making resolutions on conflict of interest tonight."

Cataldo said who can or who cannot vote will not be addressed at a public meeting. Any problems in that respect can be sent in a letter to Town Counsel. Tierney said there had also been civil rights allegations by the applicant. The action was dismissed without prejudice, which means it cannot be tried again. Cataldo asked, "If we require revisions for this plan, is it subject to the old regulations?" Tierney said, "The statute requires that when a plan is appealed the rules state that the regulations that are in effect at the time are to be used." Madsen asked, "Other parts of the denial which do not pertain to the traffic, can we address those other things with the applicant. Tierney said, "Only address those things that I mentioned. For those items that were changed on the amended plan, if your subdivision rules changed in the interim, then the revised plan may come under the new regulations. The drainage, steepness and width of the road are still valid. The court found the Planning Board was right with the drainage, steepness and width of the road, and wrong with the traffic. VanWyck is going to show you how to take care of the steepness and the width of the road. If you can't make a decision, if you are

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not sure of the drainage and how it is going to be, then you have a right to ask him to come back with plans for drainage." Frye asked, "Would work being done on the proposed road constitute the violation of the stipulation." Tierney said, "In my opinion, it would. The best issue of the Town and the applicant, as it seems to restrict the applicant, would be to get rid of it." Cataldo then read a letter from Mr. Peterson, and engineer. The Planning Board had asked him to review VanWyck's plans.

Rano Nastase, who lives on Turtleback Road, asked Petersen for his credentials. Madsen said that the Planning Board had requested this information from Peterson and he is here on their behalf. Peterson said he was a registered engineer who has done several subdivision in the Town of Hamilton and Wenham. He said that not having a topographical plan made it difficult reaching a decision. Using figures that they had been given The culvert could handle this except Station 18-5. That culvert can handle 19.5 cubic gallons/second. Cataldo asked how many culverts were there. Peterson said six. Cataldo - "When the road is built, what is going to channel the water to the culverts." Peterson - "The grade of the road, the size of the embankment." Ginn said "Shouldn't there be drainage swales The road as it is now blocks some of the water flow.

Nastase said, "Are you satisfied with this subdivision? Did you review the culverts. I feel the existing road for Apple Street down and up the hill that the drainage is all wrong, so wrong that the road has holes in it. The culvert up to my road has failed, which I have had to repair." Huatala said the calculations which the Board has were given by Frank Hancock in co-operation with me. Van Wyck - "You are denying the ability of the land to soak up the water, so I feel you should keep the land as it was as much as possible. If you start taking water off the land you will aggravate the problem of drying wells, etc. The issue is that you must start to understand the problem. Bear this in mind when you look at the drainage."

Madsen - "Is that your opinion as a layman or as a professional."

VanWyck - As a professional. I know land, I'm in real estate." When Huatala was asked if the calculations were based on 14 or 16 houses or 51 houses, he said, "They were based on a number of houses but I have never heard the figure of 51." It was noted that Frank Hancock of Hancock Survey said he worked on those plans with Huatala three years ago. Hancock said he would be much happier if VanWyck would ask for revised calculations. VanWyck said, "Tell me which of those calculations are not sufficient. If you want to change the culvert, ask me. Let's not talk about Frank Hancock being here, Huatala is here." Nastase said, "I agree with VanWyck that he tries to keep the water off the land, but he must also keep it off the road. I would like to be assured, and I'm not trying to stop the project, that it is done correctly."

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VanWyck - "The hole in the road is probably because I used a pipe with a hole in it and not the wrong sized pipe. This is a private road, it is not properly ploughed and that could be part of the problem."

Madsen asked Huatala, "On these calculations, was it your assumption it would be 25 houses or more." Huatala - "I thought it would be at least 25, that 25 would be a minimum." It was noted that the drainage calculations that VanWyck gave the Board had no engineer's name on them. Wilson asked if 51 houses were put up would it have an affect on the drainage. 25-50 thousand gallons of water could be running in a 24 hour period. You will be raising the water level by X number of gallons per day. Van Wyck - "There are two acres per lot which is double the requirements of the Town. Aren't you talking about run-off from the roofs." Wilson said he was not talking about run-off from roofs at all.

Ginn - "We asked Mr. Peterson to remain in our services so the two engineers could walk the road with plans in hand and stake the road at intervals, so the plans could be conveyed logically to the planned road, that drainage swales could be increased or decreased and to do whatever needs to be done to get this plan accepted. I think it would be more advantageous than sitting here talking about drainage calculations."

VanWyck - "The time now is for action. Two weeks ago you said that this would be the time for voting. If there is a problem with drainage the court has outlined what to do. It's out of your hands now. Either approve or turn it down."

Nastase - "Town Counsel made four points. The third point I assume that VanWyck will not exceed 51 houses, but points 1 and 2 should be looked at. How is VanWyck going to widen the road and how is he going to reduce the steepness." Frye then read a letter from Robert Morehouse, then added that there is a lot of land there that needs a study. I would like to know where the lots will be. Cy Perkins said "the Planning Board has been studying this for years. Why don't you take the vote and be done with it?" VanWyck was asked how he plans to increase the width and reduce the grade from 9.4 to 8%. VanWyck said, "There is no problem with my living with the grade of 8%. The finished road will be built to that grade. We seem to be bandying about with my grade, but there is another road which you have accepted with a grade more than 8%. The court did say the road should be 24' wide. I can do whatever you want, it's no big deal an extra 4 feet. I think it's a mistake though, a country road should be 20'." Nastase - "The court said the road should be 24'. I feel that 20' is not enough. I have had a near accident. I have lived on Turtleback Road for four years and I don't feel it's adequate. How does VanWyck plan to make a 20' road into a 24' road. Is he going to blast, go into my property?"

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VanWyck said he would like to point out that Apple Street is only 16' wide. Cataldo said the court said we could not use the traffic as an issue. The Board has not been asked to judge on the issue of the safety of the road. The Board received a letter from Frederick and Betsy Fawcett which Cataldo felt should be read into the Minutes. Madsen said this plan is being considered under the old regulations that state a country road be 24'. Nastase felt the Board should, in favor to VanWyck and the people living up there, make a decision in the foreseeable future. David Elwell told the Board that the land is wetlands and if VanWyck is allowed to build, he and others who live by the brook will be washed out. Cataldo said "if anyone feels we are delaying things then they should make a motion. I still think that there are things that should be discussed." VanWyck - "I will make the grade 8%. On the width of the land I will do whatever the Board legally wants. If the road is deemed 24' wide by the courts then I shall abide by that. On the drainage, I will change the culvert." Cataldo - "Would you rather have the Board vote a clear approval or denial, or an approval contingent on more information." VanWyck - "I would prefer an approval or denial. I have one course of action and I will have to resort to the courts again."

E. Burnham said, "As I look at it now it is true in the future VanWyck will build more, then he should come back with his Form A. I have taken the plans out and studied them. As far as the plans for the road, Peterson has agreed they are adequate except for the one culvert which VanWyck has agreed to enlarge. The Water table up there will be a factor at certain times and not at others. There may be a need to address the drainage further down the road, but it is not an issue on this plan." Peterson was asked, "Are you comfortable with the contours and the total plan." Peterson said, "He couldn't tell how the areas will drain. I just have to accept them."

Ginn moved that we approve the plan proposed by Mr. VanWyck dated February 23, 1981, Sheets 1A, 2, 3, 5, 6, 7, 8, provided that he increases the drainage pipe as noted by Mr. Peterson at Station 18-85, the grade be a maximum of 8%, the width of the road be decreased from the court mandated 24' to 20', and further that if the course of construction the drainage is found to be inadequate by our engineer or Clerk of the Works, Mr. VanWyck shall agree to remedy such problems to a final approval of the Board.

The motion was seconded by Alden Wilson.

Madsen moved to amend the motion that the culvert at station 18-85 be drawn in on the plan, and prior to the signing of the plan the following actions be taken (a) corrected culverts

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will be drawn in, (b) the width of the road remain at 24' as mandated by the Court, (c) maximum grade be 8%, also shown on the plan, (d) where the plan meets Essex Park Drive more topographical data be drawn in, (e) a notation be placed on the linen that the density of houses be no more than 51 houses, and (f) the wording of this notation be approved by Town Counsel and Peter VanWyck's attorney.

The amendment to the motion was seconded by W. Burnham. The vote on the amendment was E. Burnham, W. Burnham, Wilson, Ginn and Madsen approve, Frye opposed.

The vote on the original was as follows:- E. Burnham, approved; W. Burnham, approved - they said they were both satisfied the courts requirements and needs had been met.

Wilson approved - meets the courts requirements as stated. motion.

Ginn - in favor, as prior to approval of road the drainage must be corrected. per
Frye - opposed, because I would like to see a complete subdivision plan with location of houses. I'm not sure if all lots perc. Also I am concerned with Mr. Peterson's comments that he could have used more topographical information.

Madsen - opposed, for the same reason as Frye, that basically the plan is incomplete.

Cataldo - "We are voting on the plan which is before us. The stipulation is still in effect. The Board does not consider it in their purview to instruct Town Counsel to go into court. The Selectmen have that power. The onus is on them. We voted on Peter's plan because he has our direction on what to do."

A building permit was submitted to the Board by Sandra Begg, Southern Avenue. W. Burnham moved that we write a letter to Sandra Begg asking her to come in and explain to the Board her building permit. The motion was seconded by E. Burnham and the Board voted unanimously in favor.

A building application was recieved for Peter Tinel, Winthrop Street, for a tool shed. Size of building - length 12', height 9', width 10', no. of stories - 1.

W. Burnham moved that we approve the building application for an accessory building for Peter Tinel, 7 Winthrop Street. The motion was seconded by Madsen and the Board voted unanimously to approve.

A building application was received for Henry Bretell, Conomo Point Road, to tear down steps 6' wide, 40" high and replace with pressure treated stock, 6' high, 40" high. To also replace 5 porch posts 8' high and porch railing 24' long.

E. Burnham moved that we approve the building application for a permit of Henry Bretell, Conomo Point Road, subject to the permission of the Conomo Point Commissioners. The motion was seconded by Madsen and the Board voted unanimously in favor.

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A building application was received from William Nickerson, Story Street, to reshingle his roof, and to enclose and install windows to the existing screened porch.

E. Burnham moved that we approve the building application of William Nickerson, Story Street, to reshingle roof and enclose and install windows to existing screened-in porch. The motion was seconded by Madsen and the Board voted unanimously in favor.

Frye said, upon discussion of Van Wyck's property, that it's obvious a road is being built up there. Peter sits back and does what he wants to do. Wilson said Peter has been violating the court order. The court has to take its own criteria on this. The fact that he has been doing things wrong is between him and the courts. Van Wyck said they are pushing for a court date to remove the stipulation. Madsen said, "We are going to hire a Clerk of the Works to oversee the building of Turtleback Road. I think it would be in the best interests of the Town and people in the area that we leave it up to the Clerks approval. Once we approve this plan and hire a Clerk of the Works, we can have Peter take up the road surface if it is not satisfactory." Cataldo said he would either like to go to Hancock Survey for an engineer or go to the State Department of Public Works for a list of engineers.

Madsen moved that we adjourn the meeting; seconded by W. Burnham. The Board voted unanimously in favor.

Meeting adjourned 10.30 p.m.

Note : attached is letter from Joseph N. Brown, Jr. concerning his used car license. Also attached to these minutes is letter the Board received from Mr. Frederick Fawcett and Mrs. Betsy Fawcett which was felt ought to be part of the record.

Gillian B. Palumbo

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Joseph N. Brown, Jr.
211 Western Ave.
Essex, MA. 01929
July 31, 1985

Members of the Planning Board
Town Hall
Essex, MA. 01929

Dear Members of the Planning Board,

Within the last twelve months or so I have discovered that my front lawn is an excellent place to sell cars. I, therefore, wish to apply for a used car dealer's license so that I may sell more than several cars a year, and so that I may obtain a dealer's plate. I expect that obtaining a license will have little impact on the neighborhood for the following reasons:

1. I intend to display only one car at a time next to the road.
2. I plan to have no more than five cars for sale at one time on my two acre lot.
3. I will have no neon sign, additional blacktop, flags or other commercial-like fanfare.

In short, little will be changed from what I am already doing and could continue to do, but I need that plate and I need to sell more cars than I am presently. Thank you for your fair consideration of this modest proposal.

Sincerely yours,
Joseph N. Brown, Jr.
Joseph N. Brown, Jr.

We, the neighbors of Joe Brown, have read this proposal and have no objections to this business being in our neighborhood.

Name

Address

<i>Robert D. Legge</i>	<i>225 Western Ave</i>
<i>Patrick Z. Wolf</i>	<i>1 2nd GATE ROAD</i>
<i>Mrs. DeSimone</i>	<i>201 Western Ave</i>
<i>Janet Hadden</i>	<i>201E Western Ave.</i>
<i>Frank W. Hickey</i>	<i>304R Western Ave</i>
<i>Vincent L. Lulloch</i>	<i>218 Western Ave.</i>

Essex Planning Board

August 7, 1985

Present : Michael Cataldo, Chairman; Elisabeth Frye; Rolf Madsen; Alden Wilson; Michael Ginn; Everett Burnham; Westley Burnham.

Meeting called to order 7.30 p.m.

Mr. Frederick Sullivan, Gregory Island met with the Board to discuss a change in his boundary line. He owns five lots of land with two cottages. The property is divided into 2½ lots for each cottage at present, but Sullivan would like to sell one cottage with two lots and keep three lots and a cottage for himself. The total land area is 120' x 125' and the total frontage is 120'. The two lots he wants to create would have 50' and 75' frontage. Sullivan said he has had the lots for 31 years and was told that non-conforming lots in common ownership revert back to one lot after five years. He was told to come back with a plan, have the Board deny it, as there is no way the Board can approve it, and then take it to the Board of Appeals.

David Sabatini met with the Board to file a Form A. He told them there is no problem with the State obtaining curb cuts on John Wise Avenue; they have given verbal approval of the third curbcut. In fact, the State has to give them as many curb cuts as there are buildings. They have spoken with their attorney, John Serafino, who said they have the frontage to meet a Form A. With regard to safety aspects, one driveway would be better. The Police Department and Fire Department have approved the plan. Wilson said he felt it should be put on the plan that this is not a subdivision road but a common driveway. Frye feels if we allow the common driveway we are starting a precedent. Cataldo told Sabatino that the Board needs to have a linen with an endorsement box on it; we also need letters of endorsement from the Fire and Police Departments. Sabatini said that when they finally purchase the property, then they can get a letter of approval from the State for the third curb cut. Cataldo said he wants it clear on the linen that there is a right of way to the driveway from the two lots and the driveway is part of Lot 3, with the other two lots having access. There must also be suitable space to record the action of the Board and the signatures of the Board.

Scott DeWitt, Story Street Apartments would like to file an application for a special permit for 15 extra units.

James Dunn, Story Street - the Board had asked Dunn to come in so they could ask him questions pertinent to the issuance of the Class II license to him by the Board of Selectmen. Dunn said he would like to start selling one car at a time from his home on Story Street. Dunn was asked, "Are you having anyone working

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for you?" Dunn - "No." Cataldo - "Are you calling this a home occupation?"
Dunn - "The Selectmen put a restriction on the permit allowing no signs."
Dunn's father wondered at the legality of the sign restriction. Mrs. Dunn felt they have an appropriate piece of property for a business, where others do not. The most cars they would handle at one time would be two, but there is no way they can sell cars in the garage. The Selectmen had stipulated two cars on the license. Ginn feels it should be called a business instead of a home occupation. Selectman Harold Addison felt the Board's problems with the issuance of this license should be with the Board of Selectmen and not the Dunns, and therefore they should see the Selectmen concerning this. He added that the license issued to Dunn was the most restrictive one they had issued. The Board, after a discussion, felt they could find no problems with it.

George Fallon and John Matheson met with the Board. Fallon told the Board, "We submitted a previous plan which the Board didn't feel was definitive enough. We are submitting a revised plan this evening." The plan was submitted at 8.40 p.m. The Board then reviewed the plan.

Cataldo read a memo from the D.P.W. concerning Robert Hanlon's Indian Rock Lane. The memo stated the D.P.W. had not received the necessary 20' easement/right-of-way for water service.

Howard Lane withdrew his objections to the Board's findings on Hill Road. Cataldo read a letter from Bowes, Hallinan, Atkins and Porter dated July 31, 1985, concerning this, and also a letter from Town Counsel. E. Burnham moved that the Building Inspector check on continued violations at 9 Hill Road. W. Burnham seconded and the Board voted unanimously in favor.

Cataldo said we are having a meeting on the by-law changes. Do we want to schedule a Town meeting. E. Burnham felt we should wait until we see how the by-law meeting goes.

It was brought to the Board's attention that a building application for a machine shop for Weinberg has a two-family house there already. Is the lot conforming? Madsen said we should table this until Story comes back.

A building application was received for Amory and Deborah Aldrich, Coral Hill Drive, for enlarging an existing cottage. Area of land 66,000 square feet; size of building - length 36', height 34', width 30'; no. of stories - 3. Distance from the street line - 320'; right side line 55±; left side line 50±; rear line 55±.

Madsen moved that we approve the Building application of Amory and Deborah Aldrich 9 Coral Hill, for a cottage remodelling on Coral Hill Road. Frye seconded and the Board voted unanimously in favor.

Mr. Frederick Richardson and John Dick, Conomo Drive extension, met with the Board. At this point, Cataldo turned over the meeting to Rolf Madsen. Dick gave the Board the final construction plans for the Conomo Drive extension. Dick showed a tentative location for the second culvert, with the approval of the Conservation Commission. The hammerhead will be 61' x 44'. The steepest grade is 10%. The Board then reviewed the plans.

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E. Burnham moved that we would consider the construction of the road proposed on the plan dated July 17, 1985, and revised on August 2, 1985, drawn by Hancock Survey Associates, could provide adequate access for five additional parcels on Conomo Drive, pursuant to a subdivision approval not required application, Form A. The motion was seconded by Frye and the Board voted unanimously to approve.

Peter VanWyck met with the Board. He would like to give the drainage calculations to show the culvert sizes. The calculations were done in August 1982. John Dick said that he was not representing Peter Van Wyck at this meeting and all he would say about the drains on the plan was that they seem to be in accordance with the calculations. The calculations were done by Hancock Survey but the plans were not. Frye said she feels this is an important area for drainage and that it should be reviewed carefully. Madsen read from the court order that the Board is to work with the definitive plan. We do have to act on Pages 1, 2, 3, 5, 6, 7 and 8, but we are not ready to act on this tonight. Cataldo asked Van Wyck, "Do you feel that the plans you have submitted meet all the requirements?" Madsen said we have to review this again because there are members on the Board who were not on the Board when this first came to us. We have to find whether the calculations satisfy the requirements as asked. We would like to see on the plan that there is a limitation on the number of house lots. Van Wyck told the Board that he had bought an additional 17 acres. Madsen told him, "What you have bought does not play a part in the stipulation." Cataldo read a letter from the D.P.W. dated July 26 concerning Peter Van Wyck. He also read a letter from Evans and Evans. Van Wyck's attorney, George Evans, felt Van Wyck did not have to come under the Wetlands by-law, 6-10.3.

Wilson moved that Mr. Van Wyck's Turtle Back Road is not subject to the Wetlands By-law 6-10.3 because the area in question is not delineated on the Essex Wetlands Map. The motion was seconded by Madsen and the Board voted unanimously in favor.

VanWyck then said that the ball is in the Board's court and for them to check the calculations. Madsen told him, "You have been to these meetings 2 or 3 times; we have asked you for drainage calculations. You finally come in with calculations and expect me to make a decision at this time. Van Wyck said, "You have indicated to me what you wanted and I have given them to you. I would like to have the Board vote on this. Cataldo said, "Aren't you working up there." Van Wyck - "I'm digging a pond and putting fill into piles." Cataldo - "I suggest that all members go up and look to see what is going on. Is the court stipulation not in effect anymore. The area up there now is substantially different to a month ago." Van Wyck - "I'm putting fill where I want it placed. I have legal counsel advising me on this. We have complied with the signed stipulation." He added that the Board should lift the stipulation. Cataldo feels we should either go to court to see exactly what Van Wyck should do or have a collective meeting with the Planning Board, Board of Selectmen and Conservation Commission. Madsen said, "What the judge found is right here. We were going on three issues but decided to go on traffic." Van Wyck said, "We are not in agreement on how to lift this stipulation. You've tied me to a point where I can't move to do anything. I don't think you know what I've done in violation of the stipulation. We have satisfied all the requirements of the stipulation. Frye asked Van Wyck, "Do you think it's correct to have done all what you've done until the plan has been approved?" Van Wyck - "I have a right to clear land." E. Burnham felt we should either accept or deny the plan. Wilson said, "You want to have this road approved." Van Wyck said, "I would like to get the road approved. The question is, am I dumping the fill in the

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area of the road." Cataldo said, "You are building a subdivision road." Madsen moved that we table this discussion until our next meeting and review all 8 pages, to either accept or deny the subdivision plan provided for Turtleback Road by Peter Van Wyck. The motion was seconded by Wilson. Ginn wanted an amendment to the motion, that the part to accept or deny the subdivision plans be struck. The amendment was seconded by Madsen. Ginn said he felt it wasn't fair to be tied into accepting or denying the plan at that time. Madsen said he would like to make a decision instead of 'hashing' it about. Cataldo and Ginn were in favor of the amendment. Wilson, E. Burnham, W. Burnham, Madsen were opposed; Frye abstained. The Board then voted on the original. Opposed were Ginn and Cataldo; in favor were W. Burnham, E. Burnham, Wilson and Madsen; Frye abstained.

Frederick Fawcett asked if E. Burnham had been partaking in this voting. He said he felt it was a conflict of interest as Burnham's trucks have been working up there.

Wilson asked if the Board were going to get an engineer to affirm or deny the catch basin. Madsen felt the Board should read the original denial of the plan.

Ginn moved to adjourn the meeting. The motion was seconded by W. Burnham and the Board voted in favor.

Meeting adjourned 11 p.m.

Gillian B. Palumbo

Essex Planning Board

July 17, 1985

Present : Michael Cataldo, Chairman; Michael Ginn; Elisabeth Frye;
Everett Burnham; Alden Wilson; Rolf Madsen.

Meeting called to order at 7.30 p.m.

- * The Minutes of the meeting of July 2, 1985 were read. Ginn moved to accept the Minutes as read. The motion was seconded by Wilson and the Board voted unanimously to approve.
- * Stephen Burr and David Smith (architect) met with the Board to find out whether they consider Conomo Drive adequate, which they felt would make their lot a buildable lot. Cataldo said he feels Conomo Drive is adequate; the question is of access. Ginn said the road ahead of this lot is in much better shape than the road in front. His suggestion would be to get a 44' easement on Pond Street. Madsen said he felt the Board could only consider a deeded easement. Burr was told he should come back with plans showing the driveway easement to the street and a written easement from whoever owns the land.
- * David Sabatini, who plans to purchase property on John Wise Avenue, together with broker Ed Dick, met with the Board. He filed a preliminary plan and a Form B with the Board at 8.15 p.m. on July 17. Waivers for consideration are underground services and a 20' road. Dick said all the frontage is on the main road, so the road to the three lots should be considered a driveway and not a subdivision road. There is one curb cut for all lots. He asked if there was anything in the regulations that prevent a common driveway. He felt the submission of a preliminary plan was not necessary here. Cataldo told him the Board had never approved a common driveway and would not want to start a precedent now. Dick said he did not feel they were starting any precedent to which the Board disagreed.
- * Michael Doyle, County Road, was told that the parcel of land, behind his father's house, lacked sufficient frontage .

Wilson moved we deny the building permit for Michael Doyle for Parcel D on July 17, 1985, due to lack of frontage. The motion was seconded by Madsen and the Board voted unanimously to approve.

- * The Building Inspector gave the Board a building application for Richard E. Teel, 245 Western Avenue, for an aluminium building, length 105', height 20', width 48', no. of stories - 1. The building use is manufacturing.

Ginn moved we accept the building application of Richard E. Teel for an aluminium building 105' x 48', subject to the approval of the Board of Health. The motion was seconded by Frye and the Board voted unanimously to approve.

- * The Board received a building application from Mary V. Buckley, owner/ Mark and Ann Buckley, 3 Orchard Road, for a two-story post and beam addition to

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the existing house, connected by a roofed breezeway with the same dimensions as the existing garage but extending 3' further to the back. Size of the building, length 28', height 25', width 26', no. of stories - 2. Distance from the street line 65'6", right side line 150', left side line 63', rear line 24'. The foundation will be a poured crawl space.

Ginn moved that we approve the building application of Mary V. Buckley, and Mark and Ann Buckley, 3 Orchard Road, under 6-4.2, finding that the proposed alteration to be substantially no more detrimental to the neighborhood than the existing non-conforming use, but subject to approval from the Board of Health. The motion was seconded by Madsen and the Board voted unanimously to approve.

- * Mass. Farm and Conservation Lands Trust, Old Manchester Road - Cataldo read the progress report prepared by Hancock Survey to the Board. The site was reviewed and approved by Thomas LaFoe, the Board's acting Clerk of of the Works.

Ginn moved that based on the documentation presented to us tonight by Mr. Thomas LaFoe, acting as our Clerk of the Works, the road abutting Mass. Farm and Conservation Lands Trust meets our requirements for adequate access. The motion was seconded by E. Burnham and the Board voted unanimously to approve.

Ginn moved that we approve the plan of land in Essex, Mass., property of Mass. Farm and Conservation Lands Trust, located on the Old Manchester Road, drawn by Hancock Survey Associates, Inc., dated October 3, 1984, finding that the plan meets the subdivision approval not required law, Chapter 41, G.L. Section 81P. The motion was seconded by Frye and the Board voted unanimously to approve.

A building application was given to the Board of Stephen Wedlock and Kim Pederson, for the construction of a new single family residence. The area of land is 6.6 acres. The size of the building is length 40', height 32', width 30', no. of stories - 2.

Wilson moved that we approve the application for a permit to build of Stephen Wedlock and Kim Pederson on a lot situated on Andrews Street. The motion was seconded by Madsen and the Board voted unanimously to approve.

- * Frederick Richardson, together with his attorney Mark Glovsky and John Dick of Hancock Survey Associates, met with the Board. At this time Cataldo asked that Madsen chair the meeting to avoid a suggestion of conflict of interest. Dick then showed the Board plans for the road. There will be about 140' of 14%

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grade. One waiver would be the minimum criteria of a grade of 8%. The proposal would be to pick up at the end of the hammerhead at 10% for 225' and then would be taken over the hill at an acceptable grade. The road would be 16' gravelled surface, essentially constructed as before. There will be a full hammerhead at the end of the road. Glovsky said there will be five lots and they will upgrade the existing way to the standards for 10 houses or less. Madsen asked if a deed restriction will be placed on the lots. Glovsky said there would be. He said they were trying to get some input from the Board and that when the work is complete they will come back with a Form A. Burnham asked if any thought had been given to a source of water for fire safety. Glovsky said one solution would be to limit development. Madsen then asked the Board members if 10% grade was acceptable to them. Wilson said yes, Frye said her preference was 8%, E. Burnham felt it was acceptable in this case and Ginn said yes, based on the fact it's a straight road and will not be going to an intersection. The Board were satisfied with 16' as the width. Dick said he felt there ought to be a second culvert if a place can be found to put it, and would present a plan in a couple of weeks. Glovsky added that an endorsement will be placed on the plan as it was on the previous one.

* Peter VanWyck gave the Board a plan for a through road from Turtleback Road to Essex Park Road, the same road that was proposed two years ago with the same layout. Sheets 1A, 2, 3, 5, 6, 7 and 8 were presented to the Board. Madsen said, "You are asking the Board to re-evaluate the set of plans and make a finding on it, but the one issue we cannot use to turn it down is traffic." He then read from the court decision and said, "This is the same plan that we reviewed two years ago with culverts that we did not find acceptable. If there is no change then the same problem exists. The court order is a work sheet for you and us to use." Cataldo suggested that VanWyck finish the plans according to what the court asked for. They had also been asked to address the stipulation by Town Counsel. VanWyck said he does not have to repair anything. Cataldo then read from the stipulation. VanWyck said he has a Notice of Intent before the Conservation Commission regarding the correction of drainage at Hildonen's and Brownings. Cataldo then told VanWyck that when he comes back with more detailed plans then the Board will consider it. Madsen asked if Matt Huatala, VanWyck's engineer, had the calculations requested. VanWyck said he didn't. Cataldo then asked the Building Inspection if in his opinion this was the furtherance of a subdivision, to which Story said yes.

Madsen moved that we table the discussion. The motion was seconded by Ginn and the Board voted unanimously in favor. Cataldo suggested that Huatala and VanWyck's attorney have a conference and get all the information required.

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Cataldo read to the Board a request from VanWyck for a permit to remove top soil, gravel, fill and stones from Low Land Farm to Turtleback Road. Ginn said he had no problems with VanWyck being issued a permit except that he hadn't signed a contract with the Selectmen. Cataldo said that Town Counsel had stated it must be more specific. He, himself, would not be comfortable signing this. The Selectmen had postponed action on this because it is too general. Cataldo then read the Selectmen's letter. VanWyck read his letter that he had sent to the Selectmen. VanWyck said the bulk of top soil has been cut in half because the Conservation Commission felt it was wetlands. Cataldo told him the Army Corps of Engineers had also said it was wetlands. VanWyck said, "I will be needing the topsoil for the road, so I will take gravel and topsoil from Low Land Farm for the road on Turtleback Road, and fill the holes with dredging material." Ginn felt he would have to go along with the Selectmen and table the discussion. Cataldo said, "I need to see where this is all going." VanWyck told him, "That is none of your business." Cataldo felt the issuance of a permit should be tabled.

Wilson moved that the Planning Board approve the request of Peter VanWyck to excavate and remove loam, topsoil, gravel, fill and stones, as requested in a letter dated July 10, 1985. The motion was seconded by Madsen. The vote was as follows :- In favor - E. Burnham, A. Wilson, M. Ginn; opposed - R. Madsen, E. Frye, M. Cataldo.

- * A building application was received from Mary Gannett, 38 Pond Street for a single family dwelling. Area - 1.4 acres; size of the building, length 80', height 30', width 38', no. of stories - 2.

Madsen moved that we approve the siting of the house on the building permit by Mary Gannett, 38 Pond Street, under 6-5.5. The motion was seconded by Ginn and the Board voted unanimously to approve.

- * The Board received a building application for Carl and Ruth Crocker, Lot #1, Belcher Street for the construction of a single family dwelling. Size of the building, length 89', height 18', width 30', no. of stories - 1.

Madsen moved that we approve the siting of the house of Carl and Ruth Crocker on Lot #1, Belcher Street. The motion was seconded by Ginn and the Board voted unanimously to approve.

A building application was received from August G. Mears, Jr., Belcher Street, for a garage with mother-in-law apartment (adjacent to the present home). Area of land - 22 acres; size of building, length 36', height 20', width 24', no. of

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stories - 2.

E. Burnham moved that we approve the building application of Augustus G. Mears, Jr., Belcher Street, for a garage with mother-in-law apartment under 6-5.5. The motion was seconded by Ginn and the Board voted unanimously to approve.

- * Subdivision - corner of Redgate Road and Western Avenue - Madsen moved that we deny the preliminary plan of George Fallon, 11 Fairfield Street, Salem, for the land of Rosamonde Munnelly, Western Avenue, based upon the Minutes of of May 15, 1985, where the said developer stated that Lot 1 would have to be modified and such information has not been received within the required time frame. It is the opinion of the Board that it would be inappropriate for the developer and Planning Board to review the presented plan. The motion was seconded by Frye and the Board voted unanimously in favor.

- * It was brought to the Board's attention regarding signs in front of the Old Essex Village. Is it something the Board should do something about? It was felt if they are left out overnight then Story should tell them about the sign codes.

Madsen moved that we adjourn the meeting; seconded Wilson; the Board voted unanimously in favor.

Meeting adjourned 11.10 p.m.

Gillian B. Palumbo

Essex Planning Board

July 2, 1985

Present : Michael Cataldo, Chairman; Elisabeth Frye; Alden Wilson;
Westley Burnham; Everett Burnham; Rolf Madsen.

Meeting called to order 7.40 p.m.

The Minutes of the meeting of June 19, 1985 were read and approved.

- * Cataldo told the Board that Frederick Richardson would like a new Clerk of the Works. Cataldo said he personally feels that the Board should stay with LaFoe and invite him to the July 17 meeting when Richardson will meet with the Board to present his plans for further construction on Conomo Drive.

Wilson moved that we procure the services of Mr. Thomas LaFoe as Clerk of the Works for the requirements of the Essex Planning Board in the future. The motion was seconded by Frye and the Board voted unanimously to approve.

- * Stephen Wedlock, Old Manchester Road - Cataldo said talked with LaFoe concerning the road, who said everything that has been done is adequate except for a pipe of aluminium which they feel may not carry an H2O load. This assumption depended upon the grade of aluminium. Wedlock gave the Board easement approvals and an easement from him to the Town.
- * Cataldo said he would like to schedule a legal hearing for by-law changes for August 7. E. Burnham felt it was not a good time for a meeting for something as important as the by-law changes. Cataldo said he felt September was too late and that it wouldn't make a difference having it in August.

Madsen moved that we have a hearing on August 7, 1985 at 7.30 p.m. The motion was seconded by Frye ; opposed to the motion were E. Burnham, W. Burnham and Wilson.

Madsen moved that the chair set another date. The motion was seconded by Wilson and E. Burnham, W. Burnham and Frye voted in favor. The date decided on is September 7, 1985.

- * James Dunn - Class II license - The Selectmen issued the used car license to Dunn and it was felt the Planning Board should have been notified before a business is allowed in a residential area, and on a non-conforming lot. Ed Story read to the Board the definition of a Class II license. He said this can't be called a Home Occupation, this license has created a business use. Madsen said we are changing it from a residential non-conforming lot which it is a present, to a business non-conforming lot. W. Burnham said he felt there is a business there with all the farm equipment that is stored. Cataldo felt the Board should be notified of these changes. A discussion followed concerning home occupations and businesses. Cataldo said Dunn should be asked to come into the Board to explain what he plans to do.

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Madsen moved that we write a letter to the Selectmen stating that any licenses granted to change a business use or a non-conforming lot, that the Planning Board be so notified. The motion was seconded by Frye and the Board voted unanimously in favor.

- * David Sabatini, John Wise Avenue property - told the Board one driveway will service the three lots. The D.E.Q.E. have flagged along the stone wall, which is at the edge of the property. He was told what was required of him to submit a preliminary plan to the Board.
- * Christopher Phillips, 74 Eastern Avenue - The Board reviewed the plans.

Madsen moved that we deny the plans submitted by Christopher Phillips for two lots at 74 Eastern Avenue on the basis of 6-3.28, Street, "A public thoroughfare 30 feet or more in width established or maintained under public authority or a recorded way plotted or laid out for public use and which affords principal means of access to abutting property. No new street shall be less than 44 feet in width" and 6-3.20 which defines lot frontage, "the front of a lot shall be construed to be the portion nearest the street. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section". The motion was seconded by W. Burnham and the Board voted unanimously in favor.

- * Michael Doyle, County Road - gave the Board a plot plan showing how the property would be divided. Cataldo said he had checked with Town Counsel who said that the footage of the road cannot be counted with the lot footage. It was felt that as there was not a 40,000 square foot lot it should be turned down so Doyle could go to the Board of Appeals. The Board told Doyle that they must have an adequate plan given to them, in order for them to deny it, and that the one he gave to them tonight was not sufficient.
- * Tom Griffith spoke to the Board about a subdivision at 160 Western Avenue and was told it would require an access road. He was scheduled to return to the Board at their August 7 meeting if his plans are complete.
- * Dennis Gannett, with his representative Clay Morin presented a preliminary plan to the Board. Cataldo read through the list of requirements for presentation of the plan.
Note : The preliminary plan of Dennis Gannett was filed at 9.55 p.m. on Wednesday, July 2, 1985.
- * Ed Story gave the Board a building application for Mr. and Mrs. Robert Brophy, 46 Western Avenue, for an 8' x 22' breezeway and a 24' x 36' garage and workshop. The length is 14', one story high.

Wilson moved that we approve the plan of Robert Brophy at the corner of Western Avenue and Prospect Street for an addition and accessory building,

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finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by W. Burnham and the Board voted unanimously to approve.

- * The Board received a building application for Ann and Michael McCoy, 45 Main Street for an addition. Size of the building - Length 14', Height 10', width 10', no. of stories - 2½.

E. Burnham moved that we approve the building application of Ann and Michael McCoy for a small addition to the kitchen on the rear of the building under 6-4.2, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson and the Board voted unanimously approve.

- * Story resubmitted the building application of Kerry Kaplin, 29 Robbins Island Road, that the Board would not approve at their last meeting because of insufficient signatures of the Conomo Point Commissioners.

Frye moved that we approve the application of Kerry Kaplin for an addition of a dormer to the second floor of his home at 29 Robbins Island Road, subject to the approval of the Board of Health. The motion was seconded by Wilson and the Board voted to approve.

- * Peter VanWyck met with the Board for a discussion on his preliminary plan for a road going all the way through to Essex Park Road. This was the original plan which went to Court and on which the Board lost their appeal. Cataldo said to VanWyck, "If you are talking of two roads not connected, how long are those roads going to be. 1200 feet have been used for the right of way and any more over that will have to be a waiver. Burnham felt the road should be tied into Essex Park Road which is a 24' paved road, but wondered how far it should go. Frye felt it should be 24' all the way through. Madsen said the real problem seems to be that the Board asks VanWyck for the number of lots and he says he doesn't know. He should give us some definite boundaries and the number of lots. VanWyck said he feels it involves a lot more than just taking the by-laws of Town; it involves where percing is, etc. and he can only get percs at certain times. Madsen told him, "You are asking us to make a decision on an incomplete plan. You come in and ask us for our input. We tell you what we want and then you tell us what you are going to give us." VanWyck said, "I am giving you a number of 55 houses which includes four houses on Turtle Back Road. Cataldo said, I would like to see a complete plan laid out for Turtle Back Road through to Essex Park Road. If you are talking 55 houses, then it's ludicrous to talk about putting them on a dead end street. Frye said, "All along it has been a discussion on how many houses, and for you to show us a complete plan so we know what we are dealing with." Madsen said we would like to see this resolved, so show us a total plan. If you come back with incomplete plans, the answers will be as before." VanWyck said, "This is the plan that we went to court on. I will come back with a section of this road, with probably 10 or 11 house lots; but you would like to see the total road laid out." Madsen - "Yes". Frye said that most of this Board said they would like to see a through road. Wilson said it should be

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passable to Western Avenue. VanWyck said he came to the Board to try and find out if they prefer to have two separate streets or one through road. He asked if the Board would like to see the through road in gravel form and finished as the houses are built. Cataldo said he couldn't see that. Madsen said he should come in to the Board with specific waivers. Cataldo then told VanWyck, "I would like to have a preliminary plan of all the lots, the drainage, etc. I think the court said that we did not have to accept what you gave us. We had to consider it as we would anything else, but without taking traffic as a consideration. I feel it is the consensus of the Board that the through road is the way to go." Wilson said he felt the idea would be to have it gravel and finish it as the lots are developed. Frye said, "This is a huge subdivision and we should give it some thought." Cataldo said he would like to talk to Town Counsel and Phil Herr about this.

- * Markham/Stavros - Cataldo said he spoke to Alan Swann who said he could probably come to a settlement out of court with Stavros.
- * Wilson said he would like to make the following motion:- I move that the Planning Board notify and go on public record that they take umbrage at the way the Board of Selectmen issued a license for James Dunn of Story Street, as we had no chance to decide if the business was suitable for this area. The motion was seconded by Madsen; Everett Burnham, Frye and Cataldo voted in favor; W. Burnham opposed.
- * Cataldo entertained a motion that we ask Dunn to come in. Frye moved that the Board request that James Dunn come in to discuss the change of use of his non-conforming lot due to the issuance of a used car license by the Board of Selectmen. The motion was seconded by Cataldo; Wilson and Madsen approved; Everett Burnham and W. Burnham opposed.
- * Cataldo moved to adjourn the meeting; seconded by E. Burnham; the Board voted to unanimously approve.

Meeting adjourned 10.45 p.m.

Gillian B. Palumbo

Essex Planning Board

June 19, 1985

Present : Michael Cataldo, Chairman; Westley Burnham;
Michael Ginn; Elisabeth Frye; Everett Burnham.

Meeting called to order 7.30 p.m.

- * Daniel Doyle, County Road, met with the Board. He said that he bought his parcel of land 25 years ago and since that time has bought other lots at different times. All the parcels have been registered, but would now like to have all these parcels drawn onto one linen instead of separate ones. He gave the Board a new linen for their signatures.

Westley Burnham moved that we sign the plan of Daniel R. Doyle and Dolores Doyle of County Road dated March 14, 1985, signed by Essex Survey, finding it to be a conforming lot with adequate frontage. Seconded by Ginn; the Board voted unanimously to approve.

- * Michael Doyle told the Board he would like to put a house on Parcel D of this property. The driveway is 40' at the back and 68' at the front. Ginn told him that if he is going to make a subdivision road he would need a 40,000 square foot lot. Doyle said he can get 40,000 square feet if he includes the road. The road is 40' and Doyle was told it must be 44' wide. Cataldo asked if the road area could be computed with the land area. It was felt this should be checked.
- * Charles Storey met with the Board, representing his mother, who is selling property to Jamie Richardson. The property is located on Island Road, with frontage on that road being 263.47'. He will access the road by the stonewall as shown on the plan. Storey told the Board the plan is a new one of an existing lot. He is asking the Board to sign it because the new owner would feel more comfortable with this.

Everett Burnham moved that we sign the plan of the property of Charles M. Storey, drawn by Hancock Survey Associates, dated November 11, 1979, under subdivision approval not required. The motion was seconded by Ginn and the Board voted unanimously to approve.

- * Clay Morin met with the Board concerning a division of land on Pond Street for Dennis Gannett. There is approximately 4 acres of land. Gannett wants to create a driveway to the back of the property. Morin was told there must be a subdivision road, which would then give the frontage for the rear lot. The by-laws on frontage were read to Morin. Morin suggested a cul-de-sac to obtain frontage. He was given the Standards for Country Roads of 10 houses or less.

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- * Mr. Hanlon met with the Board for discussion regarding Indian Rock Road. The water line is leaking so the road will have to be dug up, so, Hanlon said, rather than hold up the people who are building there he wondered if he could come to some agreement with the Board about completing the road. Burnham said he had told Hanlon to have an engineer look at the road and to write a letter stating that there is 12" of gravel there. Cataldo said he personally feels that the road is not built to the standards, but if the engineer states that it is, then he will accept it. The D.P.W. has said the water line is not up to standard as there is a leak, so they haven't given their approval yet. Cataldo said this Board has always had a policy of not issuing a building permit until the road is up to standards, but he spoke to Mr. Rumpf, a certified engineer, who said he is willing to certify the road is built. Cataldo added that he felt he couldn't circumvent the D.P.W., and therefore when both letters are received, from the engineer and the D.P.W., then a building permit could be issued. Hanlon said they have to wait for the D.P.W. to go and check the leak whenever they have the time.

Westley Burnham moved that the Building Inspector be allowed to issue a building permit on receipt of a letter from a certified engineer certifying the construction of the road is adequate and approval from the D.P.W. of the water installation, the road entrance and drainage. Frye seconded the motion and the Board voted unanimously in favor.

- * The Minutes of the meeting of June 5 were read to the Board. Westley Burnham moved that we accept the Minutes as read; seconded by Ginn and the Board voted unanimously to approve.
- * Mr. and Mrs. Patterson, 5 Beach Circle, Conomo Point, met with the Board for further discussion on their proposal to build a garage. Ginn said he felt that perhaps his statement from the last meeting was a bit strong, but his concern is because the area of lots is so small that to increase on the lots would be detrimental. The one question the Board cannot address is that of the septic system; when the number of buildings are increased on the lot it takes away from the area of the septic system. His concern would be is the septic system up to par and will the garage be on the septic system. Ginn moved that the building permit placed before us be approved under 6-4.2 and upon the approval of the Board of Health and the Conservation Commission. Frye seconded the motion and the Board voted unanimously to approve.
- * Christopher H. Phillips, Eastern Avenue, - He was represented by attorney Mark Glovsky, who gave the Board a proposal to subdivide his property into two lots. The total upland area is 13 acres. There is an existing paved driveway from Eastern

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Avenue, which goes to Phillips' existing residence. Along the driveway are two areas which allow vehicles to pull to one side or for emergency vehicles. The frontage proposed is for Lot A. A note on the plan would read 'Endorsement of this plan is based upon the sufficiency of the "existing paved driveway" to serve the two lots shown thereon. If additional lots are to be served thereby the Planning Board may require improvements.' Glovsky said the roadway is adequate and the Planning Board has the right to waive when they think it is not contrary to the subdivision regulations. 3.05 does not require a paved roadway, but we have a paved area. Cataldo felt a decision should not be made by the Board at this time, and said the Board had never waived a 44' easement. Glovsky said they do not want a subdivision road to go in.

Note - the application for the subdivision approval not required was received June 19, 1985.

- * The Building Inspector gave the Board a building application for Mr. and Mrs. David Swett, 11 Southern Avenue, for a new single family residence on Lot #1, Conomo Drive. Area of land - 3.5 acres. Size of building - length 82', height 26', width 28'. no. of stories 2. Ginn moved that we accept the application of a building permit of Mr. and Mrs. David G. Swett, located at Conomo Drive, Lot #1. The motion was seconded by W. Burnham and the Board voted unanimously to approve.
- * The Board received a building application for Joan and Archie Dort, 35 Grove Street for a new single family residence. Size of building - length 50', height 20', width 26', split entry. Ginn moved that we approve the building application of Joan and Archie Dort, as meeting the requirements under 6-5.5. The motion was seconded by W. Burnham and the Board voted unanimously to approve.
- * A building application was received from Dennis Outwater, Lot #1, Belcher Street. Outwater was asked if this was one of the original lots or whether the lot lines had been changed. * Size of the building - 45' length, 30' height, 35' width, no. of stories - 2; area of land 3.91 acres. The application is for a new single family residence. *Outwater said this lot was approved by the Planning Board. E. Burnham moved that we approve the permit for Dennis Outwater, Lot #1, off Belcher Street, as shown of Lot 1 on Plan of Land of Dennis Outwater dated January 21, 1983. The motion was seconded by Ginn and the Board voted unanimously to approve. The Minutes dated September 16, 1981, were read to the Board pertaining to the lot approval of Dennis Outwater.

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* Frederick Richardson met with the Board to discuss his plans for the remaining 61 acres of his property. At this point Cataldo turned the meeting over to Elisabeth Frye to chair so as not to be in conflict. Richardson gave the Board Map 1 showing the whole length of Conomo Drive. Map 2 focuses just on the Richardson property. Dark blue on the map is owned by the Conservation Commission; light blue is owned by the Manchester Conservation Trust.

Richardson told the Board he had been approached by a Conservation Group who are interested in obtaining the pond, and that he told them if they would maintain it and the road he would be willing to donate it, or otherwise he will sell it. If the Planning Board and this Conservation Group will make it possible to have a rural road, then he will go for minimal development, otherwise he will be inclined to sell it to a developer. He has been percing the land and has found three new perc holes. He now has 8 fully approved perc sites and 5 that almost certainly will be approved, because they meet all the conditions. Frye asked if they had been approved by the Town. Richardson said seven have been approved by the Town, and there is one that was found after the dead line. On the 5 9-12 acre uplands map, he would like to have five parcels, in addition to the three existing ones, making eight. There would be eight residences. He felt a developer could find 20 perc sites. He has made an offer on the Marion property. He feels there are two contrasting ways of going, (1) to insist on a black top suburban road, or (2) a simple rural road for a few houses. He has a deed to Conomo Drive and it allows for a road and a right of access to that road. Richardson mentioned that the Planning Board had raised a question of whether or not you can have a dead road. He would like to have a rural road up to Mrs. Learys.

Richardson said his meeting with the Board tonight was to get some direction from them whether they want to see Conomo Drive as a through road. Glovsky, attorney for Richardson, said Richardson's preference is to minimise development in this area, but that he does also have an investment here. He would like to do something here that is consistent with the plans of the Town. The more work we have to do on the road, the more lots we have to put in to make it economically feasible. Richardson said he would prefer to go all the way through. Frye said she felt there are some issues that must be addressed such as dead ends. Ginn asked, "You are not adverse to securing a permanent through road to Andrews Street." Glovsky said no. Ginn said he is in favor of a plan like this, but doesn't see how it can be approved, if the road wasn't up to the Board's standards. He also would like to see the road go all the way through. Burnham said that it is an existing way. If it is maintained up to our standards we could accept frontage on it. He felt the Board should stick by the same policies as we had,

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that if he builds the road up to adequate standards, we could accept it as frontage. Cataldo said that when we get to the end of Richardson's land and it just stops dead isn't it better to plan for it all the way through. The standards that we have set up for him right now should carry through. Richardson was given a copy of the Standards for 10 houses or less. Richardson asked the Board if they would accept that a section of the hill be a 10% grade. Ginn told him, "If you can convince me you can go over it safely." Glovsky said he would rather come in with a definitive plan because of the scope of the development.

* Jerome French - An extension of time was given until his plan is ready.

* Glen Warren asked the Board, in view of the fact that there have been tie votes on the last two motions made concerning his property, and that now there is an odd number of Planning Board members to take a vote, could a vote be taken. No motion was made at this time.

* A building application was given to the Board for Kerry Kaplin, 29 Robbins Island Road. It was noted that there was only one signature on the application of the Conomo Point Commissioners, that of Richard Osborn, who is listed as the contract for the project. The application is for an addition of a dormer on the second floor.

Wesley Burnham moved to deny the building application of Kerry Kaplin because you are required to have a majority of the Conomo Point Commissioners approval. The motion was seconded by Ginn and the Board voted unanimously to approve.

* A building application was received from Harvey Schwartz and Rebecca Linhart, Lot #2, Conomo Drive, for a single family dwelling; length 64', height 32' and width 36', no. of stories - 2.

Ginn moved that we approve the application of Harvey Schwartz and Rebecca Linhart for a single family dwelling on Lot #2 of Conomo Drive. The motion was seconded by W. Burnham and the Board voted unanimously to approve.

* A building application was received from Richard Quinn, Indian Rock Lane, for a single family dwelling.

Westley Burnham moved that the Building Inspector be allowed to issue a building permit for Parcel B on Indian Rock Lane, upon receipt of a letter from a certified engineer certifying the construction of the road is adequate and approval from the D.P.W. of the water installation, the road entrance and drainage. The motion was seconded by Ginn and the Board voted unanimously to approve.

* Capital Budget representative - Rolf Madsen.

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- * Frye told the Board that the Kanters want to know what is going on. They would like someone to go up to Hill Road and note what is still going on before the Board of Appeals meeting.

Madsen moved to adjourn the meeting; seconded by Ginn; the Board voted unanimously to approve.

Meeting adjourned 11.15 p.m.

Gillian B. Palumbo

Essex Planning Board

June 5, 1985

Present : Michael Cataldo, Chairman; Rolf Madsen; Michael Ginn; Elisabeth Frye; Everett Burnham; Westley Burnham.

Meeting called to order at 7.40 p.m.

The Minutes of the meeting of May 15, 1985, were read.

Madsen motioned that we approve the minutes as read; seconded by Ginn. The Board voted to approve.

Ed Story gave the Board a building application for John and Marilyn Heath, 83 Western Avenue, for an addition of a solar room onto the back of the house, squaring off the corner of the house. Two letters from abutters stating their approval of the project were given to the Board.

Madsen moved that we approve the building permit of John Heath, 83 Western Avenue, under 6-4.2, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use, the Board being in receipt of letters of approval from abutters. Ginn seconded the motion, and the Board voted unanimously to approve.

A building application was given to the Board for Ronald A. Hemeon, 7 Lufkin Point Road, for a new dwelling located at Lot #3, Conomo Drive. The size of the building - length 46', width 32', no. of stories, 2. Distance from the street line, - 90', right side line - 120', left side line - 100', rear line - 130'.

Burnham moved that we approve the application of Ronald A. Hemeon on Lot 3 of Conomo Drive, deciding that the house in question is acceptable; seconded by Ginn; the Board voted unanimously to approve.

The Board received a building application from Craig Doyle, 36 Pickering Street, for a single family residence at 170 John Wise Avenue. Size of building - 66' x 36', no. of stories- 2.. Distance from the street line - 400', right side line - 66', left side line - 300', rear line - 85'.

Madsen moved that we approve the application of Craig Doyle, of 170 John Wise Avenue, as it meets all the dimensional requirements of the Essex By-laws; seconded by Westley Burnham; the Board voted unanimously to approve.

Glenn Warren, Belcher Street - Cataldo told the Board he had spoken with John Tierney, Town Counsel, questioning if this plan was an acceptable one. Tierney replied in a letter dated

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May 23, 1985, which Cataldo read to the Board. Frye then read from the Minutes of February 25, 1985. Cataldo said Warren was going to create his access and call it a driveway, but he felt the access had to be there and should not be created. Madsen asked, "You are saying that your frontage is from Belcher Street?" Warren said, "All lots are accessible from Belcher Street." Cataldo said, "You believe that you have adequate access to all buildable lots as the plan is drawn now." Burnham felt the Board could withhold the building permits for the lots until the road is adequate. Madsen asked Warren if he had any more plans for a common driveway. Warren said he did not want to answer that question, that he was given the general understanding from members of the Board that they liked the concept of cluster zoning.

Westley Burnham moved that we approve the subdivision as laid out by Glen Warren. The Motion was seconded by Ginn; Westley Burnham and Everett Burnham approved; Madsen, Frye and Cataldo opposed.

Madsen said he would like to state a point of order; as we have already turned down the plans of Glen Warren once because of the front yard requirements, we should not have voted on the plan again, just because Warren said he had changed the plans somewhat. He should have gone through the Board of Appeals.

The Board received a memo from the Board of Health concerning two apartments at one of the houses on the Quinn Bros. property. Ed Story said Quinn Bros. went through this once before about 4-5 years ago. It was originally a house before Quinn Bros. moved it back. It's a mixed use. Ginn questioned the uses; if there are apartments what about the offices on the first floor. The Building Inspector said he would check on this for them.

Appointments - Cataldo said the Planning Board has been asked to appoint a member to the Conservation Commission.

Ginn moved that we recommend Michael Cataldo continue his services on the Conservation Commission. The motion was seconded by Frye and the Board voted unanimously to approve.

Ginn motioned that we recommend the re-appointment of the Building Inspector, Mr. Edwin Story. The motion was seconded by Everett Burnham and the Board voted unanimously to approve.

Jerome French subdivision - A letter was sent to French stating the Board would like to have additional information (1) topograph of the land and (2) proposed system of drainage.

Chebacco Estates - On the preliminary plan there was (1) no block for approval and (2) easements required - railroad, Tennessee Gas. When the Board has been notified of the definite submission of this preliminary plan, then a letter

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should be sent stating these omissions.

Continuation of the Public Hearing of Frederick Markham. Mr. Alan Swann, attorney for Frederick Markham, said he did not have anything to add to what had been said at the last meeting of May 15, 1985. Cataldo said he spoke with the D.P.W. who said they had been reviewing the wrong plan and now approved the definitive plan. Donald Coleman, attorney for John Stavros, an abutter, said they had their property staked today based on the survey and have taken photographs of the topography. He asked Dr. Mulligan to go out to see what the road would do to the erosion problem. Dr. Mulligan had real concerns; based on the plan, the low-lying land of John and Mary Stavros would silt up to the property. Coleman gave the Board photographs of the area showing the erosion, the wall that had been knocked down, and the undercutting that had taken place. Madsen asked where they anticipated the siltation and erosion problem would occur. Coleman said right on the boundary of the Stavros property. By making a road of this tremendous grade the Stavros's are getting the run-off and siltation on both sides now. He doesn't know what it will do to Pond Street, but it is affecting the water shed on another parcel of Stavros's land. Ginn said he felt that when the D.P.W. cleaned out the culvert it would help the problem of run-off on Pond Street. Matt Huatala, Markham's engineer, said they cannot stop the flow of water whatever they do. It will lead across Pond Street or to the West of Pond Street. Ginn asked, "Wouldn't it be feasible to put in an energy dissipator to slow down the water, and see the drainage swale or banking itself, to slow it down." Huatala said they could slow down the flow of water. Burnham asked about sloping the road away from the Stavros property. Huatala said he felt it would be foolish to drain it to the parcels of land. It is all directed to Pond Street. Coleman asked if a plan could be given directing the water away from the Stavros property. Ginn wondered that as the problem of run-off is an existing problem, how we can ask to have something done about it. Frye thought Markham may be making it worse.

Swann summarised by saying that that was why they had Huatala here. Huatala has expressed that the design he shows will eliminate this problem. We now hear of Dr. Mulligan, who is not here, and there are no written reports from him. We deny any tampering with the stone wall has taken place. We have the survey here presented by Huatala based on his own staking. Coleman said that Huatala had said 'if that's a problem, I can change the swales'. If that is what he is going to do we would like to see plans of the change. Swann said Huatala spent a lot of time devising the drainage plan; Mr. Stavros and his attorney have not done so. Coleman said the Board has an obligation, not just to Mr. Stavros, but to the community as a whole. My request to the Board would be

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that they do not approve the plan until plans have come in showing the change. There is a great deal of run-off and the petitioners should come in to prove nothing will happen.

W. Burnham moved that we approve the subdivision plan of land of Frederick Markham of Pond Street dated February 11, 1985. The motion was seconded by E. Burnham; Ginn and Madsen approved, Frye opposed.

Mr. and Mrs. Patterson, 5 Beach Circle, Conomo Point met with the Board to discuss their plans to build a garage. They presented the Board with a plot plan and a letter from the Conomo Point Commissioners and told them that the abutters agree to their proposal. There will be an open space above the garage which will be a storage area. The roofline may be a little higher than the house but there is no objection from the abutter. Ginn said he is not in favor of any more development down there. Mrs. Patterson asked him, "Why do you regard it as a development, we are just building a garage?" Ginn told her, "I feel it is taking away from the area. There has been enough building going on there." Patterson said it is year-round property, the Commissioners are in favor of it, the abutters are not objecting to it. The Commissioners had told them to come before the Board as it is a non-conforming lot. It was decided that the Board members would look at the site.

Arthur Austin met with the Board. He has been in the process of purchasing property off Eastern Avenue at the rear of Nunes property. The parcel is approximately 8 acres. Austin felt his frontage was on his right of way. Madsen read the by-laws to him pertaining to lot requirements. He said the Planning Board should turn this down and that Austin should get approval from the Board of Appeals because of the frontage. There is no way the Board could grant a building application.

Ginn motioned that we disapprove the plan presented by Briar Pasture Farm Trust based on the Essex by-law 6-6.2 Section 2 that this parcel is lacking lot frontage minimum of 150'. The motion was seconded by Madsen, the Board voted unanimously to approve.

Subdivision on Milk Street - Doyle of the D.P.W. felt it was adequate, but Ginn and Cataldo felt there wasn't 12" of gravel. Ginn said he was assured there would be 12" of material when the top coat is put on. It was the consensus of the Board that no building application be issued until 12" of gravel and the road is as drawn, and approval is received from the D.P.W. of water installation.

Madsen moved to adjourn the meeting at 10.15 p.m.; seconded by Ginn. The Board voted to approve.

Gillian B. Palumbo

Essex Planning Board

May 1, 1985

Present : Elisabeth Frye, Chairman; Alden Wilson; Michael Ginn; Michael Cataldo; Everett Surnham; Rolf Wadsen.

Meeting called to order 7.30 p.m.

Wilson moved that we waive the reading of the Minutes of April 17, 1985; seconded by Cataldo. The Board voted unanimously to approve.

Conomo Drive - The Board was given a letter from Mark Glovsky, attorney for Frederick Richardson, regarding the road work and completion of the work on Conomo Drive. Glovsky said at this point he is not ready to ask the Board to sign a plan, but would want to discuss the issues raised in the letter.

John Dick, Hancock Survey, and Thomas Iafce, the Board's Clerk of the Works, met with the Board concerning the roadwork on Conomo Drive. Iafce stated he didn't know where he was going as there were no stakes and no elevations. Dick said that Iafce had a profile of the road and that it was his understanding that the road was to be graded out to its present state. The last hill is rock all the way through. Its grade is 8.5% and it would be hard to do that without bringing up the wetland grade to that level. Iafce was then told the right of way is not marked. Iafce asked if horizontal control was a factor here. Dick told him they are not redirecting, they are just regrading an existing road. The whole point of the engineer is to design a road acceptable to the Conservation Commission. Iafce said, "How do I know where the road is and how do I know where it has been." Wilson asked Iafce if he had inspected the road and if there was 12" of impacted gravel. Iafce said, "Not when I was there." Wilson told him they would like him to oversee the 12" of compacted gravel, and that the sub-base is up to our standards. Iafce said he just wants something to go on; he is still a little in the dark. Dick said, We are essentially upgrading an existing roadway, but suddenly this has become a major issue. It does not require grades being set. I can provide Mr. Iafce with bench marks. The issue is, is there 12" of gravel base and does it meet the specifications. There is no modification of the existing road. The road basically is going back to the way it was. Iafce asked Dick why he didn't want to put in side stakes at the moment. Dick said they were not set up to do that, that this was not meant to be a major construction project. Iafce asked if the original design was accepted by the Conservation Commission. Dick said yes, but there was a revision of an energy dissipator at points B and D on the map. Iafce asked if this drain was going to be the same as further along the road. Dick said, Swale is going to take the water and channel it. The whole point of the stone paving is to prevent a minimum of siltation. Do we want to put in catch basins? I

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can do this but it was something that wasn't considered to begin with. I will have to redesign this." Cataldo asked Dick if his reason for the catch basins is for the drop off of the road. Dick said the inlet is at the edge of the fill. Lafoe said he would like to have off set stakes to avoid confusion.

Piccariello, contractor for the project, said the finish material is coming from Freemont, New Hampshire. The largest boulder is 2". Lafoe asked if the road was going to be finished immediately. Dick said, "The grading is going to be finished, but the hot top will be done later upon receipt of a bond. I wouldn't advise going in and grading and paving the road immediately. The road should be allowed to compact. It will have to be approved before the first gravel is put on." Lafoe said he was thinking of a binder coat for the gravel. Dick said, "We have to decide what our policy is so that we can write up an agreement. (1) you can finish the road completely; (2) build it up to grade and put on a binder coat; (3) bring it up to subgrade, hold off until it's compacted and before construction is finished, and then put on the top coat." Lafoe said he doesn't put on a top coat until the road has gone through a winter. Dick said he would like to set a time for a site visit with Lafoe, and get all this completed by the next meeting.

The Minutes of the meeting of April 17 were read. Cataldo motioned to accept the Minutes as read; seconded by Burnham. The Board voted unanimously to accept.

Ed Story read to the Board the letter he had sent to Howie Lane. Frye then read a letter to the Board sent to them by Michael Shea, Lane's attorney, stating that the Board had held meetings and voiced allegations with out Lane being present to respond. Kanter said a letter was sent to Lane on behalf of the Planning Board, by Ed Story, citing some violations. He said about a year ago he was asked to substantiate these violations. He brought in notarized letters, pictures, and have had the area looked at. He has dealt with the Town very patiently, but what is he supposed to do during this time. Is the Board not giving preferential treatment to Lane. He has not broken any law. Kanter then said, "I demand some action plus some protection. What is the Planning Board going to do to protect my rights." Wilson told him that the Board is doing all that it can do legally. We can't go up there and take Lane's trucks away from him. This has to be done through due process like any other situation. Mrs. Kanter asked what would happen after thirty days. Burnham said that if Lane hasn't appealed it then we'll have to get Tierney to go to Court for a court order, which is up to Ed Story to present to Lane. Mrs. Kanter asked if Lane would get a cease and desist order after thirty days. Burnham said the Board would take that up

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with Town Counsel when the time comes. Kanter said she thought Lane had seven days. Burnham said that it was in the Board's motion and in their letter, but the time frame is thirty days. Frye said, "the only thing Lane could hide behind would be that it is a home occupation, but it isn't. I think we've taken that stand. I think the answer is clear what we have to do. In 30 days if it hasn't been appealed then we take action as a cease and desist order; then it will definitely be taken to Town Counsel after the 30 days." Madsen said, "If there is a hearing, all the abutters of the property are required to be notified of the hearing within 21 days of that hearing. Burnham said that if Lane appeals it, the Appeals Board has 65 days in which to hold a hearing and ten days to make a decision.

The Board was given the building application of Howard and Debra Lane, 176 John Wise Avenue, for a single family house and barn as an accessory building. The size of the lot is $1\frac{1}{2}$ acres.

Distance from the street line, 105'; right side line 90'; left side line 30'; rear line 40'.
Size of the house - length 46', height 2-story, width 26'.
Size of barn - length 40', width 50', height one-story.

Burnham said, "If Lane is applying for a residential permit he can only use that for a home occupation. If whatever he does for a home occupation, if he can contain it within the by-laws, it has got to be acceptable. Frye told the abutters from Cheate Street, "I know that a lot of you here are concerned, but it was explained to you last time that there is nothing anybody can do about it. We have here an application for a house and barn. All Lane could have is a home occupation. He certainly couldn't have the same kind of operation which he obviously is running at Hill Road right now.

The by-laws for a home occupation were then read to the public.

Cataldo said there are other issues, health issues, noise issues, that are addressed by other Boards in Town. We can only deal with the by-laws. Kanter said, "The Police Department does not want to deal with it, the Health Board doesn't want to deal with it, the Planning Board are the only ones dealing with it; the Board of Selectmen said it's up to the Planning Board and Town Counsel said we have to come back to the Planning Board. Frye said, "Tierney has said he has his appeal period. Her own personal feeling is that it doesn't make sense; that you don't put a stop to something which is in clear violation and then let him appeal it. I can't understand letting it continue for 90 days so I will ask John Tierney if he fully understands this.

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Lanter said if the property has been sold he would like to add the new owners name on to this so they do not have to go through this again when the new owners try to do the same thing. He would like this put on record now so when he calls up Mr. Story and asks him to send a letter to Michael Lane, because he is the new owner, he wants him included in this action.

John Cunningham, representing Robert Provost, said he was disappointed Lane was not present but would like the record to show that the neighbors have come in at this point prior to his expenditure of any money for the construction of a home or barn on this property, and make it known to the Board and the applicant that if he proposes to put a home occupation here of the nature that this Board has already found to be not in compliance with the by-laws, his client and the neighbors will be taking the steps to bring enforcement. He felt the Board, before they take any action to grant this permit, was entitled to know what the use of the property would be, and that the Board has evidence, as presented by his client, that the applicant intends to use this property for the garaging of diesel trucks. He said it seems the applicant is trying to move the problem from one area to another.

Frye said all we have to deal with is an application for a house and barn, therefore we cannot jump on him until he has done it. Cunningham said he felt it would be appropriate for the Board to inform Mr. Lane that this Board is not granting permission for the garaging of trucks on that property, and if he intends to bring the trucks up, leave tires out, things which have been brought to the Board's attention, and clearly in violation of the by-laws, it will not be tolerated.

It was asked whether the Board could postpone action on granting the application until Lane could be present to answer any questions that may arise. The Board felt they could not take such action because in this case he conforms to the by-laws, and therefore it had to be approved. Frye said she would find out about this. Madsen said just for the record Lane says on his application a two-story single family home with one accessory building. He clearly states it is not a business use. He says it's a family use which rules out business and industrial use. We can't deny his application.

Ginn felt at this point that this discussion should be tabled and to act on the building application at the next meeting following discussion with Town Counsel. Frye said we could put off the decision for a week and check with Tierney if we can write contingencies into a building permit.

Wilson motioned that we table the building permit of Howard and Debra Lane as of this date due to the concerns of the neighbors of a possibility of running a home occupation in excess of the Town by-laws and we schedule a meeting with Mr. Lane two

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weeks from tonight, and let him come down and explain his situation to the public. The motion was seconded by Ginn; Burnham and Madsen were in favor; Cataldo and Wilson voted present.

Janter said she would just like to clarify the situation, that Story would be talking to Town Counsel to see if a cease and desist order can be implemented while the appeal process is going on. She would like to be notified of it. A meeting with Lane was scheduled for 9 p.m. on May 15.

Up-date on dredging - The plan shows the area where the dredging will be placed.

Robert Coviello, Hotel Essex Antiques, 67 Main Street, met with the Board to discuss his proposal to eliminate the apartment on the second floor and to use this for a continuation of his antiques business. An apartment on the third floor will remain.

Burnham moved that we approve the application of Robert Coviello, Hotel Essex Antiques, 67 Main Street, to change the second floor from a residence to an extension of his antique business. The motion was seconded by Wilson and the Board voted unanimously to approve.

Markham plan - Huatala said the road should be hot topped so gravel will not be washed away.

Callahan's Restaurant, Main Street - Story gave the Board a building application to add on a 16' x 16' deck to the existing 10' x 29' deck.

Cataldo motioned that we approve the building permit for a 16' x 16' deck to Callahan's Restaurant under 6-6.2, finding it substantially no more detrimental to the neighborhood than the existing non-conforming use. Wilson seconded and the Board voted unanimously to approve.

John Michael Reilly, 97 Western Avenue - The Board received a building application to expand the existing laundry room 9' x 10' and to enlarge the existing adjacent kitchen. Pump out mud room wall to accommodate washer and dryer. (3½' x 10')

Burnham motioned that we accept and approve the building permit for John Michael Reilly, 97 Western Avenue, for a 9' x 10' expansion finding that it is substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Madsen and the Board voted unanimously to approve.

Wilson was appointed Planning Board representative on the jail cell committee.

Madsen motion that we adjourn the meeting at 10.10 p.m.; seconded by Cataldo and unanimously approved by the Board.

Gillian B. Palumbo

Essex Planning Board

April 17, 1985

Present : Michael Cataldo, Acting Chairman; Michael Ginn;
William Holton; Alden Wilson; Everett Burnham;
Rolf Madsen.

Meeting called to order 7.30 p.m.

Ginn voted to accept that portion of the Minutes of April 3, 1985 completed for this meeting (up to Page 8) as read, to be continued at the next meeting. The motion was seconded by Cataldo and the Board voted unanimously to approve.

Spear Trucking - The Board received a memo from the Conservation Commission stating that at this time Spear's proposal would not come under M.G.L. 131 Section 40. The meeting was then opened for comments on the granting of a Special Permit to Spear Trucking. Ginn said he was in favor of it. The location is off the road by quite a distance, would be somewhat hidden from view and that this would be a good place to put something like that, with good use of the property.

Wilson said that the Conservation Commission had brought up fencing, but as he drives by the location he can't see anything, so feels that it is naturally fenced. Madsen said there was a concern that it would create more traffic, but it was his own opinion from the Public Hearing that it would not generate more traffic, so this should be taken into account.

Cataldo said he is in favor with certain things addressed. Madsen said the Board should be concerned that if we are limiting Spear that there isn't another business at Quinn Brothers which is creating as much traffic. Holton feels it's within our power to limit the number of trucks. He isn't opposed to it and feels it's naturally screened. Burnham said he felt the Board should have let Spear have his terminal without a hearing. There are regulations that control fuel, etc. As he has heard no problems with it from the other Boards he can go along with it.

A neighbor of this property said he is concerned with the increase of truck traffic and hates to see something like this expanding. All members were in general agreement that the permit should be issued. It was felt the following safeguards and limitations should be imposed :- (1) Limit the normal hours of operation from 6 a.m. - 6 p.m.; (2) The facility should be used by one company only, and any additional usage by other companies shall require the permission of the Planning Board; (3) limit of outside storage and trailers; (4) limit of or no storage

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of hazardous materials; (5) no cleaning or use of solvents for cleaning vehicles except those approved by the Board of Health; (6) no on-street parking; (7) conforming to the Fire code; (8) approval of diesel storage tank by the Board of Selectmen and the Board of Health.

Muise asked what the building was made of. He was told it was all cement and metal. Madsen said he felt Spear's warehousing activity should be limited. Holton said he was very concerned with the coming and going of the vehicles on Route 22 early in the morning and late at night. Symond's, who owns the property at present, felt that if you limit the times of the trucks going into the property then the trucks will just sit on western Avenue, engines running, until the time they are allowed to go in. Hazardous material is covered by the Fire Department but Ginn felt the Board should say no to all hazardous material. It was asked whether Spear might have anything to do with refrigeration. Symonds said he would speak for Spear on this, that Spear doesn't do anything with refrigeration. For diesel storage, it was felt that it should be suggested that a fibreglass tank be used.

Holton motioned that we issue the Special Permit to Spear Trucking Co. of Beverly, Mass., to conduct their business at 197 Western Avenue (formerly Chavel Skating Rink), the Special Permit to be issued in accordance with Paragraph 4 and Paragraph 5 of Page B-003 of the Essex By-laws, with the following conditions :-

- (1) Limit the normal hours of operation from 6 a.m. to 6 p.m.
- (2) The facility should be used by one company only, and any additional usage by other Companies should require the permission of the Planning Board.
- (3) Limit of outside storage and trailers.
- (4) No storage of hazardous material
- (5) No cleaning or use of solvents for cleaning vehicles except those approved by the Board of Health.
- (6) No on-street parking.
- (7) Conforming to the Fire Code.
- (8) Approval of diesel storage tank by the Board of Selectmen and the Board of Health.

The motion was seconded by Madsen and the Board members voted on this as follows :- Ginn, in favor; Wilson in favor;

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Madsen in favor; Holten in favor; Cataldo in favor;
Burnham in favor.

Walnut Park, Dean Property - Garcia Kimble of Essex Realth, together with attorney Marc Sandler, represented Dean. Kimble told the Board there is a plan on file for this property at the Registry of Deeds dated 1905. The deed is dated 1915. This property is Lot No. 12. They have an approved septic system from the Board of Health.

The site plan was given to the Board for them to review. There were no problems with the front and rear setbacks but there is only approximately 17 feet on either right or left hand sides. Sandler said he wanted to call the Board's attention to Section 6 of 40A that addressed lots that are undersized by current regulations, but that complied with the regulations which were in existence when the lots were created, providing the property had never been in common ownership. The Grandfather clause protects the lot so it cannot be removed as a building lot. He doesn't feel it is appropriate to ask Dean to get a variance because of the local ordinance overruling the State ordinance.

Cataldo then read a letter to the Board from the Conservation Commission. James Prentiss, speaking as a member of the Conservation Commission, stated that a natural stream flows through the property. It was a stream that was overridden by the Board of Health when they approved the septic system. He said he would like the property owner to come to the Conservation Commission with a Notice of Intent. Sandler said he had asked Kimble if that was an issue with this property, if it was a naturally created stream or water run-off. Before the Building Inspector issues his approval they will go to the Conservation Commission regarding the issue of the placement of the septic system in relation to the brook, but would at the moment like to see the Planning Board address the issue of whether this is a legal building lot, subject to the requirements the owner may need. Prentiss said, "Knowing they had a perc test done last year, why was machinery digging on the property about three weeks ago?" Kimble said it was felt it would be more attractive if the septic system was at the back and the house in front instead of the other way around. Burnham said as far as the lot goes it is grandfathered, but he would like to see the minimum lot size of the State. Ed Story, Building Inspector, said he had talked to Town Counsel, who said it conforms to the statutes. Cataldo said that he would like to put this under advisement at the moment, but would like to have the house situated on the plot plan as requested of the owners at a previous meeting of the Board.

Glen Warren, Belcher Street, told the Board he has had four more successful perc tests making a total of six. He showed

the Board a plan of six lots in a cluster type arrangement. Madsen felt one lot was in violation of 6-3.33 - Definition of a front yard. Warren said his deed says he can't put a public way on the property in accordance with the Rules for 10 houses or less. Warren asked if it was possible to get a variance using a Form A. Madsen told him that the Planning Board can't Form A it as it is in direct violation of our By-laws. The Board would have to deny the frontage and will then have to address the adequate way.

Madsen motioned that we deny the plan of Glen Warren, off Belcher Street, based on the fact due to By-law 6-3.33 - Definition of a front yard. The motion was seconded by Cinn and the Board voted unanimously to approve. It was felt a letter should be sent to the Board of Appeals stating why the Board denied the plan.

Howard Lane, Hill Road, is purchasing a parcel of land on John Wise Avenue and neighbors of this parcel met with the Board with their concerns. Nicholas Athans said he came to this meeting because at present he has a view, but when Lane builds it will be directly in front of it. Cataldo told him there is nothing in the by-laws to say Lane cannot obstruct the view apart from the height of the building. Thomas Ellsworth said he would like to state that the area is residential and would not like to have it turned into a commercial area. He is opposed to Lane being given a permit for a business. Holton said Lane's plan was denied because the garage was not marked on the plan and the Board felt it should be shown because of past problems. Cataldo said the lot size is 1.2 acres and because of lack of zoning can be either a business or residential. Robert Provost, an abutter, said he would be opposed to a business going in. Ron Beck, also an abutter, is in agreement with the other neighbors. There is a great deal of concern that some of the problems will occur here that have occurred at Lane's present home on Hill Road. Mary Anne Provost asked if there was any way Lane's business can be classified as a home occupation. Cataldo said he felt Lane had gone beyond the concepts of a home occupation. Holton reviewed some of the requirements of a home occupation and said when those by-laws were enacted there was a lot of cottage industries, but now that whole section is outdated. Ellsworth asked if he could put up a large garage and was told he could if he met all the requirements. Cataldo told the group that the Board has tried to change some of the zoning by-laws and to be sure they attend the meetings with Planning Consultant Phil Herr to give their input on these types of situations. The Board is hoping within the next six months to have more stringent regulations and that people should be there to vote on these.

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The Board then discussed Lane's situation at Hill Road.

Madsen motioned that we write a letter to Howie Lane, and concurred by the Building Inspector, that it is of the Board's opinion that Howie Lane Trucking, Inc., exceeds the guidelines of the Town's By-law 6-6-2, Paragraph D, specifically the use of No. 2 "The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants", No. 4 "No traffic shall be generated by such home occupation in greater volumes than would be normally expected in a residential neighborhood. The determination of such a situation shall be decided by the enforcement officer," and No. 5 "All home businesses and occupations conducted on residential property including storage or display shall be conducted in an enclosed building, except for display and sale of shellfish, garden or poultry produce, or small homemade handcraft items". We recommend that a letter be sent by Building Inspector, Ed Story, so action will be taken, to Howie Lane instructing him to immediately conform to the Home Occupation Standards and specifically the above violations be rectified. Further legal action will follow if these requirements are not met.

The motion was seconded by Wilson and the Board voted unanimously to approve it.

Jack Schyilling met with the Board to discuss his proposed purchase of a parcel of land off Belcher Street. He wanted to know if there would be any problems building there. The Board didn't think there would be any problem with the road. Schyilling then asked about subdividing his parcel into two lots. The Board felt that although the road might be adequate for one house, two would be a different set of circumstances. The Board would have to deem the road adequate.

Ed Story gave the Board the following building applications :-

Ronald Deley, 101 Western Avenue - use is for a shop and bedroom; no. of stories - 2; distance from rear line is 3½'.

Wilson motioned that we approve the plan of Ronald Deley, 101 Western Avenue, for an addition to the house deeming it substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Madsen and the Board voted unanimously to approve it.

Callahan's Restaurant, Main Street - to square off first floor of west end of the building 3½' x 11' for a storage closet.

Madsen moved that we approved the application of Callahan's

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Restaurant under By-law 6-4.2. The motion was seconded by Ginn and the Board voted unanimously to approve.

Mark Glovsky, attorney for Frederick Richardson, Conomo Drive, met with the Board for further discussion of the progress of Conomo Drive. Glovsky told the Board that all the dirt work for the road should be finished within a week or two. Lefoe, the Board's Clerk of the Works, has had trouble because the work is being conducted without stakes. He has not been able to contact anyone as yet. Glovsky said he felt it doesn't make sense to do the bituminous before the construction has been completed on the lots. Three people who are buying the lots are contributing funds so they will put these funds in escrow. Ginn said he felt we could be somewhat flexible to get around the hot-top situation, even though it was the advice of Town Counsel to get it all done. Holton felt it was a reasonable request. Burnham asked if perhaps there were any arrangements the buyers could make with their bank. It was also felt they could be asked to sign a statement. Building permits can be issued at the time the sub-base is in, and occupancy permits issued when the bituminous is completed. Burnham felt Glovsky should come in with some type of assurance that the hot-top will be completed, and an assurance that the money is in escrow.

Peter VanWyck - Cataldo read a letter to the Board about the Cease and Desist Order that was issued. Burnham said the action taken by the Planning Board was null and void because it was improperly implemented as it was not agreed upon at a public meeting. Cataldo asked, "Where do we go from here. We have asked him to do certain things which he has flaunted." Holton feels that it is important that we don't ignore these things, that we must stay cohesive on this. Burnham said, "All the Planning Board has on the stipulation is the drainage on Apple Street. The plan VanWyck had has stagnated. Everytime he comes in, it ends up in a disagreement and nothing gets done. Madsen said that if somebody else other than VanWyck had owned that land things would have been different. Peter has never given the Board a good complete set of plans. Cataldo said that the Board will not take any further action without a posted meeting. Burnham said he would like to get the stipulation resolved. Does the stipulation say he cannot maintain his land? Why does the court decision have to be appealed? A general discussion followed on the stipulation. Burnham said he would like to find out how the Board can get stipulation lifted at the next Selectmen's meeting.

Madsen motioned to adjourn the meeting. The motion was seconded by Holton and the Board voted unanimously to approve. Meeting adjourned 11:10 p.m.

Gillian B. Palumbo

Essex Planning Board

April 3, 1985

Present : Elisabeth Frye, Chairman; Michael Ginn;
Michael Cataldo; William Holton; Alden Wilson;
Everett Burnham; Rolf Madsen.

Meeting called to order 7.30 p.m.

Lowell and Lorraine Peabody, 22 Winthrop Street. The Board was given a building application for a single family house on Apple Street. The size of the property is 10 acres.

Ginn motioned that we instruct Story to issue a building permit providing all setback requirements are met. The motion was seconded by Holton and the Board voted unanimously to approve.

The Minutes of the meeting of March 20 were read. Ginn motioned to accept the Minutes as read with the following correction in the first paragraph....Frye found that this situation required a special permit and not a public hearing as stated. The motion was seconded by Holton and the Board voted unanimously to approve.

Frye told the Board that the fee for filing for a Public Hearing is \$50.00. The advertisement in the paper costs the Board \$80.00 plus the secretary's time, and therefore she felt the filing fee should be upped to \$100.

Wilson motioned that Section Appendix B "Special Permit Issuance Rules" No. F be amended to read \$100. The motion was seconded by Holton and the Board voted unanimously to approve.

A Public Hearing was held at 8 p.m. in response to an application by Eugene Spear of the Spear Trucking Co. for a special permit under Section 6-6.9, F, of the Essex By-laws to operate a trucking terminal at the site of the Chaval Rink at 197 Western Avenue. A copy of the application was submitted to the Board of Selectmen, Board of Health, Conservation Commission, Department of Public Works, Police Department and Fire Department. Letters have been received from all but the Conservation Commission who had not received theirs in time for their last meeting, showing their areas of concern. Spear was asked to describe his business which he said was long distance machinery moving, and will be using the property as a storage site. He said he owns four tractors and eight trailers. Cataldo asked him, "What are the basic hours of operation for you?" Spear said mostly the trucks are gone 2 to 3 weeks at a time. Cataldo then said, "I know it's hard to anticipate, but you don't expect a lot of late night traffic." Spear said the trucks were gone most of the time.

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Burnham asked Spear, "Are you operating under Mass. Carrier Permit or ICC Permit or do you have both?" Spear told him he had both. Frye asked him if at present he had any plans for expansion? Spear - No. Cataldo asked, "Do you anticipate use of the facilities from any other trucking company other than your own?" Spear said that maybe one will store his trucks there. He travels long distance as well and has two trucks. Wilson asked, "Do you anticipate any overnight engine runnings?" Spear - None. Cataldo then asked if Spear hauled any type of hazardous or toxic materials. Spear said none. Frye said, "You were going to apply to the Selectmen for the storage of diesel fuel." Spear - "Yes, we would like to." Frye then said one the big concerns of the D.P.W. has to do with the storage of diesel fuel up there because anything that should spill or leak and get into the water there, goes down the hill and over the Town wells into Chebacco Lake. Spear said they don't have to put it in. If the Selectmen want to tell them where to put it that would be fine.

Ivan Muise, Fire Chief, asked if Spear would be having both gas and diesel. Spear said just diesel. Muise said he was sure it had to be 100 feet from any watershed. He then asked Spear if he was just having a terminal there for trucks or if he was having a warehouse in the same building. Spear said they would be storing things inside. Muise asked, "Will you have trucks within that same building." Spear said the trucks will be partitioned off from the machinery. It will be a sort of garage where he can work on the trucks if he has to. Muise told him he would have to come under the State Building Code regarding that. Spear asked, "In what respect?" Muise said, "You've got two different uses, a warehouse and a garage." Muise then asked if there would be any gasoline in the building. Spear said no they don't use gasoline, or any flammable fluids at all. Muise asked, "How big would the warehouse be, approximately?" Spear said the building is 220' long by 175' wide, the warehouse would be 75-100 feet long and the whole width across. Muise asked him if he planned to put in a fire alarm or a water sprinkler. Spear said he could put in a fire alarm but had no plans for a sprinkler. Muise warned him that he may be within two months of having to have a sprinkler. Muise asked Spear about the right of way, that there would not be anything to hinder the fire trucks from going across. Spear said there will be nothing there. Muise said Spear would have to submit a plan to the Fire Department of what they will be putting in there. Wilson asked Spear what type of materials he would be storing in the warehouse. Spear told him it would be machinery mostly. There will also be some file records from Sylvania, who will be storing them there. Cataldo asked Spear if he anticipated enlarging the building at all. Spear - No. Frye said she

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didn't understand what the moving trucks are doing. Spear said they would be renting as they do at present. They are gone most of the time as well. Muise asked if the other trucks would be gasoline. Spear said no, they are all diesel.

Frye said the Police have no objection. She then read a memo from the Board of Health stating that two septic systems were installed. They have no plans for the first system, but the second one was installed in 1975. Their concern was the placement and installation of fuel tanks to the proximity of the water source. Also a consideration was the using and removal of oil and refuse which comes under hazardous waste. Cataldo asked Spear if he would be maintaining his trucks there. Spear said most of the trucks are maintained on the road. Frye went over the Selectmen's concerns with Spear. Wilson felt the size and weight of trucks was not necessary. Transportation of hazardous material - none; Would they create a traffic problem on Route 22 - Ginn said he did not think there would be any more of a problem than the number of automobiles going to the skating rink, perhaps it would be less. How much activity would there be during the night time - None. Frye read the memo from the D.P.W. stating their concern of the storage of diesel fuel or hazardous material that might be injurious to the watershed. Spear asked if a plastic tank would be better than a steel tank. Burnham felt the question of the fuel tanks came under the jurisdiction of the Selectmen. Frye said if Spear was really dependent on that to run his business the way he wanted to run it, it was something he would want to see if he could do and how costly it would be. Spear said storing his own fuel could mean a savings of about 50¢ a gallon. Muise said Spear would have to abide by the State Firemaster's laws and have a site inspection.

Fred Fawcett of the Conservation Commission questioned Spear; The motorised portion of the vehicle would be inside? - Yes; they will not run all night? - No; There will be no washing of vehicles? - No; do you plan to upgrade or widen the road going in? - No; are you going to do anything to the parking area? - Spear said he might, it depended on how dusty it was in the summer. Fawcett told Spear that if he is going to do anything whatsoever within 100 feet of the wetlands, which didn't mean just the pond but the bordering vegetative wetlands, then he must file a Notice of Intent. Spear said that they planned on cutting a couple of holes in the building for a loading dock. He might have to grade it level to allow trucks to back in. Fawcett felt a plan should be seen before Spear does any grading or anything similar. Frye then asked for comments from the public. Joe Wakeman, Board of Directors of The Kingdom, asked to see a plot plan

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of the general area in relation to the abutting properties. A plot plan was reviewed. A discussion followed on what constitutes an abutter. Frye mentioned that on the list of abutters given to them, Mike Davis was missing, but he was notified verbally. Mrs. Fawcett asked if trailers were to be parked outside the building, would they be screened by a wooden fence. Spear said they would have to put up a 14' fence because the trucks are that high. By-law 6-5.6b was read regarding vehicle and machinery storage. A discussion on this by-law followed. Frye felt it was something to think about when the Board makes their decision. Joseph Brown said although he was not an abutter he is a close neighbor. He said that anyone who lives on Route 22 cannot be too concerned about the quality of life, that it is not exactly a quiet neighborhood. He is worried about further deterioration as he already has to put up with trucks delivering wood at 4 a.m. and 11 p.m. to the wood business next to him, plus chainsaws going 6 hours a day. He was not opposed to trucking terminals or wood lots or anybody making a living, but felt it would be a bit more towards the heavy industrialization of Essex and more away from the residential community, so he personally would be opposed as an increase in traffic and noise pollution. David Hidden said he did not think it was detrimental to the area to have the trucking terminal there. He thinks Western Avenue is going to be industrialized all the way up. He felt it was away from view and the trucks are legally registered. When asked his definition of a trucking terminal, Spear said it was traffic coming and going and where freight is picked up and dropped off. He added they don't do that, that it was all their own materials. Mrs. Fawcett said it had been said earlier in the meeting that there wouldn't be as much traffic as there was when it was a hockey rink, but she just wanted to point out that those were automobiles and not heavy trucks; will the driveway to the rink in its present state support the weight of the kind of trucks Spear will be using. Fawcett reiterated that if Spear has any plans for grading he should come before the Conservation Commission. Spear said the only thing they are going to be doing is to make an opening for the trucks to get into the garage.

Frye closed the Public Hearing at 8.30 p.m.

Frye said a suggestion would be to give the Conservation Commission a chance to meet as they were one of the Boards we notified. Also Spear might want to talk to the Selectmen about the storage of diesel fuel so he would have an idea of what he's getting into.

Scott Dunsmore, 38 Eastern Avenue - Story gave the Board a building application for the addition of a sundeck. The dimensions are length 10', width 10', no. of stories, one.

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Ginn motioned that we accept the plans before us of Scott Dunsmore, 38 Eastern Avenue, that the plans before us be approved based on the By-law 6-4.2 deeming that the proposed addition be substantially no more detrimental to the neighborhood than the existing non-conforming use, subject to Conservation Commission approval. The motion was seconded by Wilson and the Board voted unanimously to approve.

Ed Story gave the Board a building application for Howard Lane, John Wise Avenue, for a single family dwelling with garage. The garage was not shown on the plan and it was felt that with the Board's previous problems with Lane a definite place should be shown.

Holton motioned that we disapprove the plan because of incompleteness. The motion was seconded by Cataldo; Wilson, Ginn and Madsen approved, Burnham opposed. Cataldo said he would like the Minutes to reflect that the plan was turned down because the location of the garage was not shown.

Richard and Robin Kanter, Hill Road, Gregory Island, appeared before the Board, with neighbors and abutters David and Linda Foss, Philip Court and Gloria Galli. Robin Kanter stated they were here with evidence that a business was being conducted out of a residential property, that does not meet any of the requirements set by the Town Zoning By-laws of a home occupation. The business is Howie Lane Trucking, Inc., 9 Hill Road, Essex. Up until now the Town has not taken any action against him because he says he is not running a business from this property. She provided the Board and Building Inspector with statements from the Registry of Motor Vehicles, State Statutes and notarized accounts from Lane's abutters that document her claims that Lane is. Pictures and slides were also provided. Upon their attorney's advice, George Atkins of Salem, they had to collect the evidence when they left but said it would be sent to the Board at a later date.

Lane's activities include two 10-wheel diesel trucks, a highway sander, a race car, a professional garage and various accessories and equipment. No attempt has been made to screen or store the trucks and equipment. Most of Lane's activities are conducted in full view of the abutters. On a daily basis the two 10-wheel trucks are driven over a right-of-way which is gradually deteriorating. There is no off-street parking for his employees. The abutters feel this business has taken priority over the residential nature of this neighborhood. They also feel their property values are being considerably lowered because of the manner in which he is conducting his business activities. They strongly feel that Howie Lane, Inc., should relocate to a more suitable location and the garage activities, including the race car, should be controlled by the

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Town's Zoning By-laws governing a home occupation. They are concerned that unless the Town acts on this now, if Lane should ever sell his property, the garage that was permitted by the Building Inspector and built for personal use will be considered a business operation because that is how it is being used. The Kanters said they are not against the concept of home occupations, but when a home business such as this can dominate people's daily existence then the Town must exercise its control. Fawcett asked if this operation was going on within 100' of wetlands. Kanter said no. A slide presentation followed, showing what they felt were violations of the home occupation by-law. The Kanters expressed concern that if Lane sells the property he will try to sell it as a business. Cataldo asked, "Does a home occupation have to be run by a person living in the home?" Frye said yes, it must also be screened. Holton said he had been up there and had found total disregard for the home occupation regulation. Ed Story, the Board's enforcing agent, has also been up there. The Board can no longer hide behind this home occupation situation. Lane claims it's just a hobby.

Kanter said that in the by-law it states that no more than two unrelated people can be working on this home occupation, that there are also five other guidelines which Lane has broken. It is not their problem anymore, it's the Town's problem. There is also a \$20 fine for everyday of the violation. Cataldo stated that a home occupation cannot generate any more traffic than what would be normal for a residence. Frye requested a copy of the information provided by the Kanters. Madsen asked if Lane had said it was a home occupation when he was before the Board before. Frye said he told the Selectmen he wasn't running a business up there. Kanter said Lane doesn't even drive the trucks, he has employees driving them. Holton asked if they were concerned there would be a continuation of the business. Kanter said Lane's brother is buying the property and they are afraid of what is going to happen to the garage. Fawcett asked if they received a building permit for the addition to the barn? - Yes. Kanter said there is a deed restriction on all properties on Gregory Island that there should be no businesses. Holton feels we should get the information back from the Kanters and then sit down with Town Counsel to review what action the Board can take.

Burnham feels someone has to go to court and file a complaint, but who? Do the neighbors, the Building Inspector? Frye said the Kanters are going that route themselves because they think the Town has been derelict. There is no sense the Board going to court with the Kanters if we feel we are upholding the Town by-laws, and we are supposed to. Maybe we will have to make that decision, whether we are or not.

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Holton said, "We aren't upholding the by-laws. Madsen then said, "At our previous meeting with the Kanters we asked them to come back to us with proof that Lane was actually conducting a business in that location.. I don't think anyone can say there's not some type of business being done there. I think it's apparent that it's not a home occupation and if that's what he calls it then he is in violation of the bylaws. We have to act on this, and if we don't, we are remiss in our own duties." Frye feels we should list the violations. Wilson felt a letter should be sent through Town Counsel or the Building Inspector and tell Lane to get the trucks out of there, giving him thirty days in which to do it. Ginn asked, "What about the repair business?" Frye said we should list each violation specifically. Burnham felt the Board should tell Lane that he must curtail his business down to the home occupation specifications of our by-laws. Kanter told the Board, "That's what we are asking, and by getting the trucks out of there, the traffic problem will improve; if he wants to keep his race car and repair shop up there he has to follow the Zoning by-laws. We are not saying to get out the whole operation, just to control it." Kanter then asked who was responsible for noise pollution, other than the Police, and was told the Board of Health. Frye said, "Get all the documents to us and we'll get a letter off to him. It will help to make things more specific." Madsen told her that the Board can't write a letter until the evidence that was presented to us has been formally given to us.

Dr. Timothy Isabel, Pickering Street, appeared before the Board with a sketch of the parking area, size 24' x 48'. He said most of his patients park on the street, and do not use the parking area very often. Frye told him that by law he must provide parking. Isabel said he could provide parking for six cars. He could even extend his driveway, which would not affect his septic system as it is at the back of the house. Frye asked him if he had been to the Board of Health about his plan for the apartment. Isabel said he had talked to a couple of members, but they didn't say anything. It would only be a one-bedroom apartment and feels there would not be much of an increase in water usage. Gin said on his last visit to Dr. Isabel, he paid closer attention to the parking area adjacent to the building and there was more parking there than he originally thought. Holton said he doesn't feel this plan is good land use. Mixed use in an area like this is definitely not good planning, but there are others along the causeway that have the same kind of situation; whether or not Isabels case will add more fuel to the fire, he doesn't know. Right from the beginning the parking has not bothered him as much as the density.

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Ginn felt a mixed use is a good use of the available land. Holton said in light of the shortage of apartments in Essex and the North Shore. Ginn felt it created another living space which the Town desperately needs. Frye said, "on a non-conforming small lot." Ginn said he felt the sewage was a great concern and that he would be 100% behind the Board of Health but that was not the jurisdiction of the Board. Holton said that part of planning has to do with anticipated loads on municipal services. Holton then said the only questions he was asking was, is it beneficial to the Town, is it in the best interests of the Town and is it good land use. Ginn said he was in favor, that they had seen letters from the abutters who obviously don't object to the density; they are aware of what's going on. He thought it a good use of the land and it is increasing the use of the land without causing any detriment to the neighborhood. The total area of land is 17,900 square feet.

Ginn motioned that the plan presented before us of Dr. Timothy Isabel, 9 Pickering Street, is not more substantially detrimental than the existing non-conforming use to the neighborhood, pending approval from the Board of Health. Wilson seconded the motion; Holton, Cataldo, Burnham and Madsen voted in favor, Frye voted against.

Scott Dewitt, Brookside Apartments, met with the Board to discuss preliminary plans for 15 more units. He also gave the Board a landscape plan. Dewitt stated that this is a preliminary plan; they have quite a bit of land and therefore would be open to moving things around. The total land area is 4.1 acres. He will be adding the majority of units on the second building. There have been septic system problems. The new units would be 2 bedrooms. Holton asked him if he would be able to meet the parking requirements. Dewitt said they will have parking for 55 cars. Cataldo asked if both access roads are 44' wide. Dewitt said the smaller one is 20', the easement is for Clayton Brooks' daughter and the Electric Company. Ginn said the Board would have to look at the numbers, as far as bedrooms per building, etc. Dewitt said he has a date to perc but wanted to hear any objections from the Board before they went ahead. Holton told him he felt the Board could not give him an answer or their objections at the moment. He also felt Dewitt might bear in mind about sprinkler systems, and for him to check with the Fire Department, as he felt the Department had submitted an article concerning them.

Conomo Drive - Frye read a letter to the Board from John Dick of Hancock Survey. She said that Dick is working with the Conservation Commission on a plan for drainage of Conomo Drive, but that the Board has not seen a plan of the grades and drainage which was, as the Minutes show, requested from them.

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Regarding the Clerk of the Works for the Planning Board, Frye said she called a former Superintendent of the Hamilton D.P.W., who was busy at this time, but who recommended Thomas Lafoe. Lafoe checks all the subdivision roads for the Town of Ipswich. Both men said they would work for \$25 per hour. Lafoe asked for a plan he could study and to be notified when he should go over to Conomo Drive to begin work. Lafoe said he would bill the owner through the Planning Board. Burnham asked if Lafoe was an engineer. Holton said he just wanted to get someone who was impartial and knows what the Board's standards are all about. If Lafoe has the experience as described, then he would have no problem hiring him. Ginn agreed with Holton. Burnham said he just wanted someone impartial, but hiring an engineer had been discussed at the last meeting. He added that he felt the Board could not get involved with the financial aspects of this, this payment must come from Richardson. Cataldo suggested the Board write to Glovsky stating we require the services of Lafoe to act as the Board's agent in monitoring this project. It was definitely felt the Board should not get involved in paying the bill in any way. It was felt Lafoe should bill Richardson or Glovsky, and until he gets his payment he could hold up final certification of the road. Cataldo suggested the Board tell Lafoe that they will not approve a plan until he has given final approval of it.

Wesley Ward - Frye said she spoke with Town Counsel and he said the Board should not concern themselves with a lot of things that do not have anything to do with the law, but just go by the statutes and go by the by-laws. All we have to do is to see they provide an adequate road to our standards. You can't demand the easement on the whole length of his property. This is not a subdivision, this is an existing lot on an existing road, and all he has to do is build an access road to his driveway. That's all we have any control over. Ward had to get easements from other people up there, therefore if the next person down the line wants to use their existing lot then it's up ^{to} to show the Planning Board he's going to build this road and let him get his easements. All we are concerned with is that we get a 44' easement every time a piece of road is built. Wilson said, "We asked him to go to the end of his property with the road, but all he has to do is go to his driveway with that." It was felt a turn-around should be put in

Mark Glovsky, attorney for Frederick Richardson, appeared before the Board. He told them that when they went ahead with the roadway it was on the understanding that it was going to be built 24' wide, 16' paved surface, 12" gravel, etc. and that it would meet the approval of the D.P.W. Fryw told Glovsky that the Board had asked him to come back

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with plans of the grade; Cataldo also asked for specifications for bidding the job. Frye then told him the Board felt Lafoe would be their choice as Clerk of the Works. Glovsky told the Board to have the bill for Lafoe's services sent to him. Frye said the Clerk will be told when we have the plan and we'll give it to him. It is our understanding that Lafoe will be coming in when it's subgraded. Glovsky told her that it has been subgraded and so the Clerk can go anytime. Burnham said he felt there should be an easement for Emerson Lane to protect the rights of other people in Town. Glovsky told him that they had negotiated with Marino and that if anyone wanted to build up there then they could come to him for an easement just as he went to Marino. Glovsky said he will guarantee the payment and to send it to Richardson through him.

Dredging contract - Frye said she found out that a contract had been signed, but which Town Counsel did not sign. Frye then updated the Board on this situation. Holton said the Selectmen are now looking for co-operation from all the Boards. Frye then asked that since this has happened does the Board agree that it should ride until we get Exhibit A and B. The Board agreed to this.

Cataldo told the Board, "As a point of order he would like to see the agenda closed on Friday afternoon and having it typed so that Board members can get a copy to read, and therefore be prepared with the relevant information for the upcoming meeting.

Cataldo motioned that all Planning Board agendas be closed Friday at noon before the Wednesday meeting. No further business will be accepted after that, for that meeting. Wilson seconded and the Board voted unanimously to approve.

Ginn motioned that the Board adjourn the meeting; seconded by Burnham. The Board voted unanimously to approve.

Meeting adjourned 10.45 p.m.

Gillian B. Palumbo

Essex Planning Board

March 20, 1985

Present : Elisabeth Frye, Chairman; William Holton;
Alden Wilson; Michael Ginn; Michael Cataldo;
Rolf Madsen; Everett Burnham.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of March 6, 1985 were read. Wilson said the Minutes did not show his opposition to the trucking terminal, so he restated his opposition to the Public Hearing for Spear Trucking saying he feels it should not be termed a trucking terminal and that Frye went against the Board's decision in scheduling a Public Hearing for this. Frye gave her rebuttal to this statement saying that upon looking through the by-laws she found that this situation required a public hearing and rather than hold Spear up any longer as there was a deadline involved, she ~~scheduled a public hearing,~~ after having spoken to some members of the Board. Holton defended Frye's decision, stating that a Chairman is required, on occasion, to make a determination. Wilson said that he wants to see all Planning Board business conducted at the Board meetings.

The Board received a memorandum from the Selectmen outlining what they would like to see asked at the Public Hearing.

Frye read a letter to the Board from the Registry of Deeds stating how they would like plans to be signed.

David Sabatini - appeared before the Board about a parcel of land for sale on John Wise Avenue, belonging to John Rooney. The size of the parcel is 6.2 acres and Sabatini was wondering if it required a Form A and if it could also be divided into four lots, as it has the frontage. He wasn't sure whether to have a common driveway or a separate one for each lot. Burnham said he felt the division of the wetlands should definitely be defined. Cataldo suggested to Sabatini that he might look at maps that the Conservation Commission has which show the delineation of the wetlands.

Jerome French appeared before the Board with a plan dated October 19, 1984, asking that they sign it, as the Registry will not record it unless its signed off. He said all the Appeals Board did is to approve Parcel B, but the Planning Board now has to approve the rest of the parcel.

Madsen moved that we approve the plan of Jerome and Abbie French presented to us on March 20, 1985, finding its approval under the subdivision control law not required. Wilson seconded the motion and the Board voted unanimously

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to approve. The Board signed the plan and Form A.

Frye told the Board she had received a telephone call from an abutter of Andy Stahre, Wood Drive. Stahre's wife has a business there and there seem to be signs everywhere, and numerous UPS trucks going there. Story said Stahre's lot is conforming. It was suggested that Stahre's abutter send their complaint to the Board in writing.

Belcher Street - is being built to the Board's standards for ten houses or less. Frye asked the Board, before the D.P.W. goes ahead and asks for money for it, if they were satisfied with these standards. There will be more than ten houses there so the Board should look ahead on this. There followed an informal discussion on roads, public and private, and their adequacy. Frye asked the Board if they were happy with the 16'. Ginn said he felt that maybe the Board should look at their limits for subdivision roads.

Wesley Ward, Mass. Farm and Conservation Lands, appeared before the Board concerning their parcel of land on the Old Manchester Road and Conomo Drive. Ward said the situation now is that he took the Board's Standards to the Conservation Commission, together with a plan and profile showing the road improvements which Hancock Survey produced for a road that met Planning Board standards, but the Conservation Commission has given them an Order of Conditions which state they must seek Planning Board approval along with the D.P.W., Police Department and Fire Department. He felt the Board had approved the Standards when he came to them. Ward showed the Board the plan and profile. He said Chuck Johnson of Hancock Survey felt the existing culvert in Andrews Street and Conomo Drive was inadequate and that a double culvert would be better on Old Manchester Road, so he recommended two 15" culverts and an energy dissipator to prevent erosion. Also recommended was a rip-rap ditch for the culvert all the way to the driveway, the driveway being about 780 feet. Ward added that this is what the engineer recommended and so they have gone along with it. The Conservation Commission now have said they should also replace the existing 12" culvert with another 15" culvert which they did not like, as the engineer felt the 12" culvert was adequate with the other two 15" culverts. Cataldo said the D.P.W. never maintained the Old Manchester Road only up to his driveway, that that corner does flood. Ward said the reason he is here is that the Conservation Commission required him to come back to the Planning Board for their approval. He added he has been to the Police Department, Fire Department and the D.P.W. Ward was asked if there was room for a hammerhead. He said, "Are you asking for it or the D.P.W.? I went to them a week ago, showed them the plans and they did not want to discuss it.

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They said it was not their problem and they were not going to set any standards. We will make enough of an area for a car to turn around. The grade will be 8%."

Burnham motioned that we approve the plan showing the construction and drainage as shown on the plan filed by Mass. Farm and Conservation Lands Trust dated November 20, 1984.

The motion was seconded by Holton; Ginn, Madsen and Wilson approved, Cataldo voted present.

Ward said that this road is costing \$12,000 to build according to the plans and as there may be additional houses being built along there in time, it seems unfair to the buyers to have to bear the cost for others to use later. Once they grant a public easement they have no control of this road, so the buyers would like to be in a position that when others are ready to build they go to the owners for an easement as the Mass. Farm have had to get an easement from George Beale. He added that a solution is for them to will the Town an easement on request, for a dollar. Cataldo said he felt this is a burden that the developers have to take. Ward said, "You are only hurting the buyers, not Mass. Farm as we are just passing the cost onto the buyers. The only way the buyers can get help is to have others assist with the cost. A second alternative would be to grant the easement within 3' of the driveway and go no further than 3' beyond the driveway." Ginn wondered if the Board should be a party to this. Frye said she would like to get some advice on this from Town Counsel. Ward said he would not be holding up the next buyer, but would like to negotiate a fair settlement for part of the cost. Frye asked, "Is it the consensus of the Board to ask Town Counsel for advice on this?" Ginn and Madsen both said they felt Town Counsel's advice should be sought. Ward then said, "We would grant the remaining portion of the public way easement at such time as the next lot on the road obtains approval from the Planning Board." Wilson said he was not comfortable with this. He felt Mass. Farm was holding people for ransom. Ginn also wondered if the Board could legally make him put a 44' easement the length of his property line. Burnham felt they needed a driveway but they should not be allowed to hold leverage over somebody else.

Holton told the Board they have been talking about the ten houses or less standards, that this was going to be the standards for all ways, public and private, but that the Board has never voted to officially accept these standards and therefore they should be voted on now to either accept or reject them.

Holton motioned that we accept the 10 houses or less standards as specified on the draft of January 3, 1984 and appearing under the title of "Standards for Ways Serving fewer than 10 Houses (Country Lanes)" with the following exception that the width of the way be not less than 44 feet.

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 44 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

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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.

The motion was seconded by Cataldo and the Board voted unanimously to approve.

Ed Story gave the Board a Building Application for Richard B. Durant, 76 Western Avenue, to build a single-family dwelling with garage on Lot 4, Belcher Street. The size of the building is length 35', height 28', width 29', with two stories. The distance from the street line is 44', right side line 113', left side line 60', rear line 35'. The lot size is 30,000 square feet. A breezeway will attach the garage to the house making it one unit.

Ginn motioned that we approve the plans of Richard B. Durant for Lot 4 on Belcher Street. The motion was seconded by Holton and the Board voted unanimously to approve.

Conome Drive - Frye told the Board that Mark Glovsky, attorney for Frederick Richardson, said he would be happy to pay \$100 a day for a Clerk of the Works. The concern is the trenches which are channelling water down to the work area. Frye said the Mass. Association of Planning Boards have a list and she would call them. The D.P.W. said they will have nothing to do with it. Burnham felt that the Board ought to have a Clerk of the Works. Frye said the Board needs someone impartial and we should check with Glovsky. Wilson said the Board also should ask him when he feels we should have Clerk of the Works. Burnham said we should also tell Glovsky we would like an engineer, someone impartial, to check over what has been done and to certify it up to that point.

There will be a public hearing with Phil Herr at the Elementary School on April 10 at 7.30 p.m. and Frye asked that Board members call their coveners. She reviewed the list with the Board.

Frye then asked the Board for their views on keeping signs the sizes they are in the village and larger outside that area. The Board did not agree with that concept. Wilson felt the Board should clarify it by saying what the total area would be - Page 611.

Frye said she had a telephone call from Scott DeWitt, Story Street, who would like to add 15 more units to the Brookside Apartment complex.

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Frye then read to the Board two articles that will be submitted to the Town Meeting for Frederick Richardson. He wants to buy two parcels of land, one known as Emerson Wood and the other as Goady's Wood. They were taken by the Town as tax title land. They had been put up for auction by the Town but there were no bids. Wilson said nobody bid on the land because they had to bid for all parcels en masse, and could not pick which parcel they wanted. Burnham said, "It is not a concern of this Board; it is up to the Selectmen."

Story gave the Board a building application for Fred Richardson, 10 Winthrop Street, for an addition to the second floor, 11'2" x 20'2". The area of land is 10,000 square feet.

Ginn motioned that we accept the plans presented by Fred Richardson, 10 Winthrop Street, based on 6-6.4 2, that we find the proposed extension or alteration substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson; Madsen, Burnham and Cataldo approve, Holton abstained.

Holton brought to the Board's attention the definitions of special permits. He said Herr does not seem to think it a problem, but he feels there should be some definitions. Frye said to let Herr know about this. Holton said he feels we are going to get definitions from Herr which are so strict that nobody will agree. Cataldo suggested that each member take one definition and give it some thought. Holton thought that the Board should take one and have each member come in with their own definition. Frye asked, "Is it the consensus that it's a good idea." It was agreed the Board should do this and to consider the first three definitions.

The Minutes of the meeting of March 6, 1985 were approved.

Ginn motioned to adjourn the meeting. The motion was seconded by Cataldo and the Board voted to approve.

Meeting adjourned 10.05 p.m.

Gillian B. Palumbo

Essex Planning Board

March 6, 1985

Present : Elisabeth Frye, Chairman; William Holton;
Michael Cataldo; Michael Ginn; Alden Wilson;
Everett Burnham; Rolf Madsen.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of February 20, 1985 were read to the Board. Cataldo motioned to accept the Minutes as read. The motion was seconded by Ginn and the Board voted unanimously to approve.

Ed Story gave the Board a Building Application for William Holton, 2 Maple Street, for an addition to the back of his cabinet shop. The size of the building will be length 20', height 28', width 15' with 1½ stories. The area of land is 11,400 square feet. Distance from the street line is 70', right-side line 40', left-side line 95', rear line 8'.

Burnham motioned that we approve the application of William Holton, 2 Maple Street, for an addition to the back of the shop, providing he receives approval from the Conservation Commission, the Board finding it substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Ginn; Cataldo, Wilson and Madsen voted in favor, Holton abstained.

There was a general discussion of Spear Trucking, if a special permit would be required and the interpretation of a trucking terminal.

Dan and Jody Harris appeared before the Board. Harris give the Board a map showing in red the property they would like to purchase, owned by Gerald Parker. The property consists of Lots 3 and 10, with lot 3 carrying two barns, Harris said she would like to take Lot 10, 2.4 acres in size, but with no frontage, and divide it into two lots by way of a deeded easement to Lots 3 and 10. The easement, marked in green on the map, is 20' wide. Marked on the map in blue was a second way of egress consisting of two easements. Harris said she had been granted permission to use one of the easements but not as yet the other. The blue easement was put in for access to Lots 11 and 12. Harris asked the Board, if she were granted permission to use the other part of the blue easement, what would she have to do. She was given the Standards for ten houses or less, and was also advised that she would have to put in a turn-around. Burnham also suggested she could go to the Appeals Board for a variance on the 20' easement.

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Edwin Bjork met with the Board concerning the Old Manchester Road. He said he has a client interested in the parcel of land next to that of the Trustees of Reservations and was wondering if they would have to hot top and if the standards would be the same. Bjork said his clients were interested in sharing the cost of the road and extending it through to their property. Frye said she felt it was the consensus of the Board that gravel for one more house would be adequate but that it cannot exceed an 8% grade. The 44' easement is standard.

Spear Trucking - Frye asked the Board if they wanted to proceed with the Special Permit. Wilson said it would be opening up a can of worms if we give them a permit for a trucking terminal. Holton said he felt that some definitions ought to be addressed on this in the by-laws. Wilson said he didn't feel this came under what he thinks is a trucking terminal.

Burnham motioned that a private trucking business is not considered a trucking terminal. The motion was seconded by Wilson; Madsen, Ginn, Cataldo and Holton opposed the motion.

Holton motioned that the Planning Board go forward with the application for a special permit as submitted by Spear Trucking Co. on March 1, 1985, under 6-6.9, Paragraph F. The motion was seconded by Burnham; Cataldo, Ginn and Madsen voted in favor, Wilson voted present.

Frye then discussed with the Board the procedure for a public hearing to obtain the special permit.

Conomo Drive - How far should they go before a Clerk of the Works is hired.

Dr. Timothy Isabel - Frye feels this situation should go to the Appeals Board (Minutes of February 20, 1985). Holton asked, "What makes this more non-conforming." Story told him that anything you do to a non-conforming lot makes it more non-conforming.

Ginn asked Story if Quinn Brothers had applied to him for an occupancy permit. He felt that in one of the buildings they were making an apartment on the second floor.

Mrs. Kanter - she was aware that Howard Lane, an abutter to her property, will perhaps be moving. She feels there is a deed restriction on the property which says there be no businesses and before the new owner moves in she would like this to be made quite clear to him.

March 6, 1985

There was a general discussion about the Board's meeting with Phil Herr. Herr would like to know the line of the village area. Holton said he sees no point in a demarcation line for the village area. Ginn said he felt that with the density of the village area comes a sewage problem. The next meeting with Herr is scheduled for March 11.

Sewer Study - Mary Mears suggested that Board members ought to read the Minutes of the meetings.

Cataldo motioned to adjourn the meeting. The motion was seconded by Madsen and the Board voted unanimously to approve.

Meeting adjourned 10 p.m.

Gillian B. Palumbo

BUILDING PERMITS FOR THE MONTH OF FEBRUARY

James Prentiss and Eugene Reed 147 Main Street	....	removal of a swimming pool
Robert Edwards Western Avenue	....	Installation of solar panels
Marjorie Grinnell 87 Western Avenue	....	conversion of schoolhouse to apartment and studio, \$4,000
John Dunn Story Street	....	reconstruct kitchen after fire \$6,500
Gerry Hull 20 Addison Street	....	garage, \$6,000
Philip Budrose Eastern Avenue	....	storage building, \$30,000
Lawrence Doyle Southern Avenue	....	utility building
Jerry Simpson 86 Conomo Point Road	....	garden shed
John Clemenzi 11 Gregory Island Road	....	repair roof and replace windows

Essex Planning Board

February 20, 1985

Present : Elisabeth Frye, Chairman; William Holton;
Michael Cataldo; Michael Ginn; Everett Burnham;
Alden Wilson.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of January 16, 1985 and February 6, 1985 were read to the Board. Cataldo motioned that the Minutes be accepted as read. The motion was seconded by Burnham and the Board voted unanimously in favor.

Frye gave the figures to the Board for next year's budget. Upon discussion it was felt the expenses should be increased from \$720 to \$1200 and to check that the \$600 allotted for the secretary's salary is sufficient.

Frye told the Board that the Selectmen have asked for a representative from them to be on the sewer study committee. Holton suggested that he convey to the Board of Selectmen that someone be taken from the general populace as opposed to being taken from any other elected Board.

Ed Story gave the Board a Building Application from Timothy D. Isabel, 9 Pickering Street, to add a second floor, one-bedroom apartment above his dental office. Letters were given to the Board from some of the abutters stating they had no objection to the proposal. A letter was not received from the Congregational Church who is also an abutter. The Board adjourned this discussion until after the appointment of Mr. Charles Symonds. Charles Symonds, owner of the Chaval Ice Rink, met with the Board because he wants to sell the rink to Gene and Bill Spear of the Spear Trucking Company of Beverly. He wanted to know whether the Board had to make a ruling on the change of use of the property. Holton asked whether the property, located off Western Avenue, is conforming or non-conforming. Burnham said he felt the property was conforming, due to the action of the Appeals Board when they allowed the driveway into the property to be used for frontage. He added that even though it won't be a skating rink, it will just be changing a business to another business. Symonds said that the building sits on three acres of land. Symonds was asked whether the road was public or private, to which he replied, "Private".

Spear told the Board they will operate the business from the property and that the building will be used for a warehouse for mostly machinery. The company is involved in riggers and heavy haulers. There will be nothing hazardous stored there.

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Spear said he has no plans to expand the facility, the only work to be done will be inside the building. Holton said that it will still have to follow the zoning by-laws for businesses. Spear then asked the Board about fuel storage and was told he would have to see the Board of Selectmen about that.

The Board continued their discussion on the building application of Timothy Isabel. Story said he felt that with the apartment Isabel would be creating another use. Ginn said he wasn't sure if a mixed use is allowed. The Board said that apartments have been allowed in the center of Town over businesses, for example Carbone Antiques Shop on Main Street, but these have already existed. The proposal before them would be a completely new construction of a second floor onto a one-story house, just for rental. Burnham felt that the by-laws at present do not address a mixed use. Ginn then questions the amount of parking that would be available.

Cataldo motioned that we table the plan of Timothy Isabel until we clarify there is sufficient parking area under 6-5.8-8. The motion was seconded by Burnham and the Board voted unanimously to approve.

Ralph Pino appeared before the Board as joint owner of approximately 18 acres of land on Eastern Avenue. Pino owns the land with Philip Budrose, Links Road, Gloucester. He told the Board they had approved a subdivision plan of this land and he was present to have a building application approved for Budrose to construct a one-story metal building for the storage, display and sale of classic and antique automobiles. The size of the building is 90' length, 16' height, 60' width. The distance from the street line is 244', right side line 250', left side line 190', rear line 35'. Ginn motioned that based on the plan presented to us by Edwin Story we accept the building permit of Philip Budrose. The motion was seconded by Wilson, Holton and Burnham approved, Cataldo abstained.

Story presented the Board with a building permit of James B. and Kay Buhrendorf, 66 Atlantic Street, Gloucester, to construct a single-family residence on John Wise Avenue. The area of land is 30,300 square feet. The Board voted unanimously to approve the application.

Peter Van Wyck - His drainage plan was shown to the Board, showing the location of catch basins and drainage to correct the problem of water in front of Browning's property. The D.P.W. has tentatively approved the plan. Holton asked if there would be any strings attached if the Board allows Van Wyck to put in the catch basins. A letter dated January 18,

February 20, 1985

1985 was read to the Board. Frye also read a letter from Evans and Evans, Van Wyck's lawyer, dated January 21, 1985, which was sent to Town Counsel. Burnham then asked where the water would flow from the catch basins. Frye told him that this plan was drawn using the pond, but that the pond had been turned down by the Conservation Commission. Burnham felt that the Board ought to come up with a solution of where the water will go. Holton said, "Van Wyck submitted a plan to us which we asked for. All we are approving is the drainage part. The only concern is where the water will go from it, which is a Conservation Commission problem. We are only concerned with the drainage problem."

Burnham motioned that we approve the plan of Peter VanWyck dated January 8, 1985, showing the location of catch basins and drainage on Town property only as a solution of the water problem created by his access to Low Land Farm. The motion was seconded by Ginn and the Board voted unanimously to approve.

Frye asked the Board how they felt about an Article on the Town Warrant about the enforcement of by-laws. She said Town Counsel had said that violations will keep occurring as long as the Board keeps fines ridiculously low. Ginn suggested that they talk to Town Counsel about how much to increase the fines. The Board approved the idea and it will be presented at the special Town Meeting for the Planning Board.

Flood Plain Insurance - Will represented the Planning Board at the meeting. He said it came that you either accept it or face the consequences. Ginn asked if it encourage or discouraged building near a flood plain. Wilson said it will be going to the Town Meeting. A general discussion of the Flood Plain Insurance followed.

Glen warren - Belcher Street - Frye said she spoke to Town Counsel about this situation, who told her that if they build a road up to the lots then this is a subdivision.

Ginn motioned to adjourn the meeting. The motion was seconded by Wilson and the Board voted unanimously to approve.

Meeting adjourned 9.50 p.m.

Gillian B. Palumbo

Essex Planning Board

February 11, 1985

Present : Elisabeth Frye, Chairman; Rolf Madsen;
William Holton; Everett Burnham; Alden Wilson.

Meeting called to order 8.15 p.m.

Phil Herr, Consultant, was present and there was a general discussion on access roads.

The Board was presented with a Form A for Philip D. Budrose and Ralph C. Pino for Hawthorne Realty Trust, c/o 46 Middle Street, Gloucester, Mass. 01930.

The location and description of the property - Eastern Avenue, Essex, Mass.

Date of Submission - January 28, 1985

Book No. 7598; Page No. 448

Plan date - November 5, 1984

Reason plan does not constitute a subdivision - sufficient frontage and lot size.

Burnham, Madsen, Frye and Holton signed the plan.

Meeting adjourned 11 p.m.

Gillian B. Palumbo

Essex Planning Board

January 16, 1985

Present : Elisabeth Frye, Chairman; Rolf Madsen;
Michael Ginn; Everett Burnham; Alden Wilson;
William Holton.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of January 2, 1985 were read. Ginn motioned that the Board accept the Minutes as read. The motion was seconded by Burnham and the Board voted unanimously to accept it.

Frye told the Board regarding the Mugford situation that she had asked Town Counsel if the Board makes a decision and then additional information comes in, do we reopen the case for another decision. Town Counsel told her that the assessors should not have asked the Board to make a decision and the Board should not have voted on it. If the assessors deem it a camp, then the owner can go and appeal the decision. Frye added that the assessors are concerned about this problem and are asking input from the Planning Board on this.

There was a general discussion between the Board and the Building Inspector on the issuing of building permits and occupancy permits.

A plan was presented to the Board showing a portion of land of Augustus Means that was being sold to Daniel and Dolores Doyle to be added to their property. Burnham motioned that we sign the plan of Augustus Means dated January 4, 1984, conveying parcel B to Daniel R. and Dolores Doyle. The motion was seconded by Holton and the Board voted unanimously to approve.

Glen Warren appeared before the Board with a plan to subdivide the former Crocker land on Belcher Street into five lots. He told the Board that from his last meeting with them (Minutes of November 20, 1984) he has modified the lot that the Board had felt was not conforming. Warren said the lay-out of the driveway to the easement is to allow the least amount of tree removal. Warren was asked if he was proposing a common driveway for the five lots, to which he said that he was, and that he could not see any difference between a long driveway serving one house and one serving multiple houses. He said the driveway will be approximately 900 feet. Under 3.05 Belcher Street is deemed a public way, but at present there is no access for public safety so he is creating frontage on an adequate road. He has a deed restriction that says he cannot put in a road based on a subdivision

January 16, 1985

as the road can only be paved to 15 feet and the lots cannot be less than 3 acres. Warren asked about the possibility of a 15 foot width and a 3 foot shoulder which would be seeded and grassed, and with the underlay being gravel. He said it is intention to submit a formal Form A in March or April. Warren was asked his intention for the last lot, 7.6 acres in size, if he planned to put in a hammerhead or turn-around. He said he felt something like that should go in. Frye told him that there will have to be some outside opinions on this.

It was noted that Phil Herr will attend the next Planning Board meeting on February 6. There was an informal discussion on the January 14 meeting with Herr.

Ed Story gave the Board two building applications.

(1) Lawrence E. Doyle, Summer Street, Saugus has a house lot on the corner of Southern Avenue and Forest Street. He wants to build a one-story house, length 42', width 24'. The lot size is 17,600 square feet and is a grandfathered lot.

Ginn motioned that we accept this permit before us of Lawrence E. Doyle, Summer Street, Saugus, based on the fact that it is a grandfathered lot and we see no problems with it. The motion was seconded by Madsen and the Board voted unanimously to approve.

(2) Armand Ricci, Village Restaurant - building application for the addition of a glass enclosure 36' in length to the existing 4' overhang. The glass extends 8' beyond overhang down to a 2' wood and shingle wall. Size of the building is 36' height, 8'8" - 6'9" width. (4' existing, 8' new). The material is aluminium and glass. Distance from street line is 100'+, right side line 40', left side line 65', and rear line 125'+.

Burnham made a motion that we approve the Building application for Armand Ricci, Village Restaurant, for a greenhouse to the side of the Village Restaurant.

The motion was seconded by Holton and the Board voted unanimously to approve.

Ginn motioned to adjourn the meeting. The motion was seconded by Madsen and the Board voted unanimously to approve. The meeting was adjourned at 9.20 p.m.

Gillian B. Palumbo

Essex Planning Board

January 2, 1985

Present : Elisabeth Frye, Chairman; Alden Wilson;
Everett Burnham; Michael Ginn.

Meeting called to order 7.35 p.m.

Wilson moved to accept the Minutes of the Meeting of December 19, 1984 as read. The motion was seconded by Burnham and the Board voted unanimously to approve.

Frye said that with regard to the Mugford situation she will be meeting with Town Counsel and wants to ask him, (i) if we should want to change the decision of the Mugford case, can we, and (ii) does it or do we have to go through an appeal. Angelo Zakas of Gloucester, previous owner of the Mugford property said he came to the meeting because he had heard there was to be a discussion about this. He said he owned this property and had lived there before it burnt down. He knows there was a house there, with a well and toilet, and that Capel, the Health Agent, had been in it before it burnt.

William Mugford, who said he was a relative of the present owner of the property, told the Board that the Mugfords have been harassed and had even had some of their trees vandalised, plus damage to the property. Mugford showed the Board photographs he had taken of this on December 22. He added that he feels these people should not have the Board do their dirty work for them, that the Mugfords rights are being violated by them with their constant complaints. Ginn said he felt the Board had had enough discussion on this and that it should be taken to the Appeals Board by the people who have a grievance. Also if there is any more dissension they should address their complaints to the Board in writing, or in person, and not in telephone conversations to the Chairman.

Wilson motioned that the Board move onto new business. The Motion was seconded by Burnham and the Board voted unanimously to approve.

The Board received a letter from the D.P.W., Frye said, stating that it had given tentative approval to a proposed plan of Peter Van Wyck to correct a water drainage problem on Apple Street. The Board tabled the discussion on the plans as Van Wyck was not present at the meeting.

Flood Insurance Study - There was a general discussion on the Federal Emergency Management Agency's flood plans for flood insurance.

January 2, 1985

Story, the Building Inspector, presented the Board with a Building Application for Lowell and Lorraine Peabody, 22 Winthrop Street, for a one story addition. The size of the addition will be 18' height and 14' width.

Burnham motioned to approve the plan of Lowell and Lorraine Peabody, 22 Winthrop Street, for a proposed addition to the rear of the house as shown on the plan presented dated December 26, 1984, finding that the addition is not substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson and the Board voted unanimously to approve.

Ginn motioned to adjourn the meeting. The motion was seconded by Wilson and the Board voted to approve.

Meeting adjourned 8.50 p.m.

Gillian B. Palumbo

Essex Planning Board

BUILDING PERMITS FOR DECEMBER 1986

Skipper's Galley Main Street	... New windows, \$1,500
Wayne Russell 31 County Road	... Storage shed
Maine Post and Beam Patriot's Landing, Western Avenue	... Duplex dwelling, \$220,000
William Holton Maple Street	... Woodworking Shop, \$10,000
James Bordinardo 27 John Wise Avenue	... Roofing, \$2,000
Trescott Dewitt 23 Story Street	... Roofing, \$2,000
John Bediz 119 Western Avenue	... New dwelling, Conomo Drive, \$195,000
N. Nelson and M. Sullivan Off Spring Street	... New dwelling, \$75,000
John Morgan 105 Conomo Point	... New foundation, \$12,500
Mark Minkin 84 West St., Beverly Farms	... New dwelling, Conomo Drive, \$165,000

It is the intention of the
of record and agreed that this
constitute a covenant running
the above subdivision
upon sale of the

It is understood and agreed
division shall, respectively,
regarding conditions upon
the performance executed by
board and immediately thereafter
clear

Essex Planning Board

BUILDING PERMITS FOR NOVEMBER 1986

Bonnie Stafford & Cary Simmons 99 Southern Avenue	...	Remodelling, \$1,500
Philip Cummings, 112 Pond Street	...	Addition, \$2,000
Lorraine Hardy-Wyeth John Wise Avenue	...	Remodel Chicken barn, \$5,000
Richard Mello 6 Cogswell Court	...	New garage, \$11,000
Walter and Evelyn Mears 101 Conomo Point Road	...	Remodelling, \$30,000
Quincy and Natalie Bent LeBaron Road	...	Addition, \$25,000
William Hickey Lakeview Road	...	Carport, \$3,795
Brook Pasture Realty 57 Martin Street	...	New chimney, \$200
Carleton Carter 1 John Wise Avenue	...	Remodelling, \$2,500
John and Marilyn Heath Wood Drive	...	New Home, \$120,000
Peter and Ellen Neily 157 Main Street	...	New fence, \$2,208
James Blaisdell 6 Essex Park Road	...	Deck with storage space, \$1,100
Donald Enos 81 Eastern Avenue	...	New garage, \$4,495
Charles Woodard 6 John Wise Lane	...	Wood stove

Essex Planning Board

BUILDING PERMITS FOR OCTOBER 1986

October 6	- Kerry Kaplan Robbins Island	- Remodelling, \$41,500
October 6	- Russell Harding Maple Street	- Remodelling, \$12,000
October 6	- Gar Hamlyn Western Avenue	- Garage, \$6,500
October 6	- Gordon Wright Winthrop Street	- Reshingle, \$500
October 10	- Terminal Garage Martin Street	- Storage Room, \$5,000
October 14	- Richard Mello Cogswell Court	- Demolition
October 20	- Emmual Psladakris Conomo Point Road	- Porch, \$1,500
October 20	- Frederick Hawkins Belcher Street	- New Dwelling, \$80,000
October 20	- Delacy, Harlow Str.	- Addition, \$20,000
October 20	- Lovell Parsons Pond Street	- Greenhouse, \$5,500
October 20	- Carol Burke Choate Street	- Remodel, \$4,000
October 20	- Maine Post and Beam	- Construction trailer, (Western Ave)
October 27	- Paul Grant Southern Avenue	- Pole building, \$38,000
October 27	- Thomas Ellis Sagamore Circle	- New dwelling, \$175,000
October 27	- John Dunn Western Avenue	- Reshingle, \$1,500
October 27	- Kenneth Collins Forest Avenue	- Reshingle, \$1,400
October 27	- Josephine Perrotti	- Fence, \$1,000 (Main Street)
October 27	- Timothy Lane	- Storage Shed, \$1,500 (Homans Drive)
October 27	- Philip Budrose	- Foundations and new dwelling, Eastern Ave. \$350,000.

Essex Planning Board

BUILDING PERMITS FOR OCTOBER 1985

Paul Kelly, Conomo Point Road	...	Reshingle roof
John Szaryc, 2 Conomo Lane	...	Concrete cellar floor
Amory & Deborah Aldrich Coral Hill Drive	...	Addition to cottage, \$100,000
John & Bonnie McKay 17 Addison Street	...	Replace existing porch
Martin Stone, 5 John Wise Ave.	...	12 by 16 storage shed
Michael Green, Main Street	...	Reshingle roof
Alice Gray, Grove Street	...	Reshingle roof
Allan Guminski, 219 John Wise Ave.	...	Replace windows and reshingle, \$10,000
Wayne Gabaree, Indian Rock Lane	...	New home, \$105,000
August and Henrietta Mayer Lufkin Street	...	New home, \$65,000
James Prentiss, 36 Spring Street	...	Cold entry for rear door
Ivan Muise, Cogswell Court	...	Reshingle roof
Ronald and Barbara Hemeon Conomo Drive	...	Horse barn, \$1,500
Leland Aspesi, 233 Western Avenue	...	General repairs
Norbett Benotti, 94 John Wise Ave.	...	Remodel utility building
Trescott DeWitt, 23 Story Street	...	21 x 30 garage
Woodman's, Inc., Main Street	...	Interior renovations
Charles Moore, Jr., 23 Spring Street	...	Second floor over garage, \$10,000
Joseph Giglio, 26 Southern Avenue	...	Install 30 x 47 picture window
Percy Parisi, Addison Street	...	Reshingle roof
Peter Kopanon, Western Avenue	...	Reshingle roof, new vinyl siding, \$9,000
Perkins Realty Trust 197 Western Avenue	...	Remodel skating rink into industrial space \$200,000

Essex Planning Board

December 30, 1986

Present : Rolf Madsen, Chairman; Westley Burnham; Michael Cataldo;
Elisabeth Frye; Frances Dunn; Alden Wilson; Everett
Burnham.

Meeting called to order 7:40 p.m.

John Serafini, representing Peter Baughn, met with the Board for discussion of the presentation of an approval not required plan at the Board's meeting on December 17, 1986.

Frye - "Why is this a Form A?"

Serafini - "Several provisions use the subdivision approval not required law. You will see the definition of a subdivision is the division of land into two or more lots. Baughn is not dividing the land, so that approval comes under the subdivision approval not required. I feel the issue is whether this plan constitutes a subdivision or not. If it doesn't, then the Board should sign the plan. The plan does not show a division of lots and automatically comes under the subdivision approval not required. The Form A is the closest thing you have for this type of issue. Section 81L gives the definition of a subdivision."

Frye - "Which this is not."

Serafini - "81P gives the definition of the category that this comes under."

Cataldo - "Wasn't there a subdivision at one time to create this lot?"

Serafini - "Not that we are aware of."

Madsen - "You really do not need our signatures on this plan. This could be certified by your engineer."

Serafini - "That's correct. The way the plan was drawn up, we felt it should be signed by the Planning Board."

Madsen - "Our endorsement deems it has adequate access."

Serafini - "You are not making any endorsement that this has adequate access or meeting all zoning by-laws, but that it is a division land."

Madsen - "Our endorsement on this plan would deem that there is adequate access because that has been our procedure in the past. This has always been addressed at the time of presentation. Why are you choosing this route? Because John Dick made a mistake drawing up the plan?"

Serafini - "Dick did not make a mistake."

Madsen - "Board members have said there was a walk through and it should be addressed, but you have said it should be cleared through the courts and not be an issue of the Board."

Serafini - "There is plenty of frontage on Southern Avenue, and in spite of questions about Coolidge Trust frontage, it just is not there. The stones on the boundary show the limit of the Coolidge Trust. There is no question in the mind of the engineer that there is no Coolidge Trust on this property."

W. Burnham - "There has got to be some reason for having us sign it."

Serafini - "No. Dick is a busy person, and it would take some time to have this drawn again when there really isn't any need."

December 30, 1986

Madsen then read Paragraph (2) of Town Counsel's letter dated December 27, 1986 (attached to these Minutes) regarding the Coolidge Trust.

W. Burnham - "I interpret that as there being no Coolidge Trust land on this property."

Frederick Fawcett - "In the past when this piece of property came into being, the Foss property overlapped into this property. I don't know how the small overlapping piece came to be moved. We also do not know what right-of-way the Department of Environmental Management has to the fire tower."

Fawcett also said that the abutters on Baughn's map differed from the assessor's map.

Serafini - "The assessor's maps are a joke. I feel when an engineer has stamped a plan, that indicates a lot of research has been done."

Fawcett asked the Board if their regulations require that all abutters be shown on a plan.

Madsen - "Yes."

Fawcett - "Then I submit that all abutters are not shown."

Serafini - "That's a guess."

Cataldo then read paragraph 3 from Town Counsel's letter regarding the Planning Board's inquiry into title, which Cataldo said he agrees with.

Serafini - "An old deed reads 'near Southern Avenue'. The County made two separate land takings. In 1957 and 1963 the County widened the road to the point where it is and the lot now has frontage."

Mark Hall - "You referenced the County widened the road. Does the plan reference the County engineers plan?"

Serafini - "Yes."

Hall - "So it moved enough to give you the frontage?"

Serafini - "I have no doubt that this is where it is."

Fawcett - "How did this surveyor arrive at his first mark? Where is the bench mark?"

Serafini - "The bench mark is all of the stones on the Coolidge Trust. There are three granite bounds which have been there since the Coolidge Trust was set up. There are marks like this all over Southern Avenue."

Fawcett - "I submit there is no way the surveyor could have known that this is where the property begins and not at this point, as there is no benchmark. There are no old bounds out there."

Serafini - "How do you know that? Our engineer has gone over all the property."

Madsen then asked for comments from the Board.

Frye - "I just wish it wasn't an approval not required."

E. Burnham - "When it comes to issuing a building permit then we deem whether there is frontage. I don't really see where frontage comes into it at this time. This is not a subdivision of land in any way."

Frye - "I feel there must be some reason for Baughn to go this way."

W. Burnham moved that we sign the plan dated August 29, 1986, plan of land of Peter G. Baughn, located off Southern Avenue, finding

December 30, 1986

it an approval not required under the Town of Essex By-laws.
The motion was seconded by Wilson. The voting was as follows:-
Approve - Alden Wilson, Frances Dunn, Everett Burnham, Westley
Burnham.
Opposed - Rolf Madsen, Michael Cataldo, Elizabeth Frye.

Cataldo moved to adjourn the meeting, seconded by Wilson, with
the Board voting unanimously in favor.

Meeting adjourned 8:30 p.m.

Gillian B. Palumbo



Office of Town Counsel
TOWN HALL
ESSEX, MASSACHUSETTS 01929

John F. Tierney, Esq.

MEMORANDUM

TO: Planning Board
Board of Selectmen

DATE: December 27, 1986

FROM: Town Counsel

RE: Form A Application For Endorsement of Planning Board
Not To Require Approval Submitted 12/14/86 or 12/17/86
(My copy not legible on this issue) By Peter G. Baughn
For Land at Southern Avenue, 6.55 Acres Woodland

By telephone call on the evening of December 22, 1986, and subsequent delivery of copies of materials represented as being those before the Planning Board with regard to the above application, the Planning Board, through the Selectmen, has asked for my review of the application. As I understand it, there is a question as to whether or not the Coolidge Trust is in any way involved with the lot in question as concerns frontage.

Initially, allow me to be adamant in stating that this letter does not represent a title opinion with regard to the Applicant's lot or the Coolidge Trust property, as neither the time nor the information in my possession were necessarily adequate to enable such determinations. Nevertheless, I do note the following:

(1) The application apparently seeks relief under Massachusetts General Laws, Chapter 41 §81P (see the attached copy of the Applicant's attorney's December 26, 1986 Memorandum to Town Counsel). While I may agree with some of the assertions made therein by Mr. Serafini, not all of his claims were adopted. [Note, specifically, that my letter of 9/17/83 did not, "in essence", agree with their contention that Mr. Baughn had full frontage, but rather stated that he was correct in his claim that the Coolidge Trust property does not extend the entire length of Southern Avenue - copy of my 9/17/81 letter also enclosed herewith].

(2) Through the good offices of a town resident, certain title work affecting land adjacent to the parcel in question and the Coolidge Trust property has been made available for my review. Again, without representing this comment as conclusive, or binding, I can state in good faith that the Coolidge Trust property appears to terminate either at the border of the Applicant's northerly bound (according to deed descriptions believed by me to be relevant), or approximately one half way into the lot abutting the applicant's to the north (according to plans on record which are contradictory to the deed description). Regardless, I have no reliable indication that the trust property interferes with or is upon or over the Applicant's subject parcel.

(3) I disagree with Mr. Serafini's assertion that §81P somehow precludes the Planning Board's inquiry into title. It is my opinion, until shown otherwise (and I note that an exhaustive research effort on this issue was precluded by time constraints because this report was required to be submitted by December 29, 1986), that the Board may inquire so as to satisfy itself that the Applicant can reasonably be determined to be the actual owner of the land subject to Board review. Also, whenever sources deemed reliable to the Board raise the question of whether or not a parcel actually has frontage on an allowable way, it would seem that inquiry into this matter is justified at least to the extent to satisfy the Board's threshold questions.

From the information before me, there appears to be no claim that the Applicant is not the owner of record. Some members of the Board may have acquired information pertaining to the fact that an early deed (Essex South District Registry of Deeds, Book 1696, Page 96) describes the property as being "near Southern Avenue" as opposed to along or at Southern Avenue. To the extent that this might raise an issue of frontage, it is my opinion that the Board may make at least a threshold inquiry.

Earlier road taking plans of the County were deemed inconclusive by my office with regard to the issue of frontage. [The Board should know that the issue arose in a year past in the context of our representation of a private client in a non-Town related matter not involving Town Boards or business]. When I raised this point to Mr. Serafini as being within my personal knowledge, he assured me that he believed the issue had been precluded insofar as a "new" plan had been prepared and submitted to the Board. This new plan is represented by Mr. Serafini as being far more exhaustive and detailed than previous plans (reference is made to PLAN OF LAND IN ESSEX, MASS., SCALE: 1' = 50", AUGUST 29, 1986 HANCOCK SURVEY ASSOCIATES, INC.). Mr. Serafini represents that, by virtue of subsequent road takings as shown on this plan, an enlargement of the way has occurred bringing it to the lot, if, in fact, it might not previously had been found to be adjacent.

With regard then to frontage, the Board should note that I believe they may address the issue if they have reason to believe it is in

Issue (my information on this particular application is that only the Solidge Trust issue had been raised by the Board and it should not be conceived as being my intent to raise further issues than those that were addressed). If the Board should deem it an issue, however, it may consider whatever evidence it has before it in determining same (e.g. engineering plans, etc.). If there exists no competent, conclusive evidence indicating that the Applicant's plan is inaccurate, the Board will be within its duties and authorization in accepting Applicant's properly certified plan, drawn by a qualified, certified engineer, in taking its action.

Should any individual thereafter deem his or her self aggrieved by the Board's action, an appeal by such person is provided by law. Should any subsequent prospective purchasers of the land question involved issues, they will undoubtedly rely on their expert's (title examiner's and engineer's) opinions as to title and access.

In conclusion, under Massachusetts General Laws, Chapter 41, §81P, the Planning Board should act upon the reliable evidence which may be presented to it in determining, without public hearing, whether or not the plan submitted requires approval under the subdivision control law. If it determines approval is required, it shall, within 14 days of submittal of the plan, give written notice of its determination to the Town Clerk and the person submitting the plan, and such person may submit the plan pursuant to the laws and rules and regulations of the Board, or he may appeal. If the Board determines that the Plan does not require approval, it shall forthwith endorse thereon the words "approval under subdivision control law not required" or like words, and sign same. Failure to act timely will result in the plan being deemed to have been determined as not requiring approval under the subdivision control law.

I note that no division of the tract of land in question is being sought, and thus, except to the limited extent cited above, the considerations contained in the definition of "Subdivision" found in Chapter 41, Section 81L may not be applicable in this instance.

I trust that the foregoing will be of some assistance and remain available should there be any comments or questions concerning this matter. A copy of this opinion has, as a courtesy, been forwarded to the Applicant's attorney.

Very truly yours,

John F. Tierney

JFT/ms

cc: John Serafini

M E M O R A N D U M

TO : John Tierney
Town Counsel
Town of Essex

FROM : John R. Serafini, Jr.

DATE : December 26, 1986

I represent Peter Baughn, the owner of a parcel of land on Southern Avenue in Essex. Mr. Baughn has obtained a high quality survey by Hancock Survey Service of land he owns along Southern Avenue. As a prelude to a sale of that land scheduled for December 31, 1986, Mr. Baughn took the plan to the Essex Planning Board for endorsement as an approval not required plan under G.L. 41, Section 81 P. On December 17, 1986, several members of the board were abusive to Mr. Baughn and suggested that he did not own all of the land shown on the plan. Those members contended that the Town owned a front portion of his lot, along Southern Avenue which was "Coolidge Trust Land". I believe the Board referred the matter to you for an opinion.

As you may remember, this same issue was raised in 1981 when the former Chairman of the Board of Assessors, Mr. Charles Mulcahy alleged before the Selectmen of the Town in essence that Coolidge Trust property now owned by the town lay between Mr. Baughn's land and Southern Avenue, see copy of newspaper article enclosed. On September 14, 1981, I wrote to the Board of Selectmen indicating that the town records and Mr. Mulcahy's analysis were simply in error and that Baughn indeed had full frontage along Southern Avenue. (Copy enclosed.) On September 17, 1981, you replied as Town Counsel by letter dated September 17, 1981 in essence agreeing with our contention. On August 14, 1981, Mr. Baughn had a plan of his land prepared by Mr. Henry Lasley filed in the Registry of Deeds (copy enclosed). This plan became the basis of a letter written by the Essex Board of Assessors January 25, 1983 (copy enclosed) in which the Board indicated that it would revise its incorrect assessors' plans to reflect the filing of Mr. Baughn's plan, which again clearly showed frontage for its entire length along Southern Avenue.

Since that time, Mr. Baughn has entered into an agreement for the sale of his land. He has also had a more detailed plan of his land prepared by Hancock Survey Associates, dated August 29, 1986, which is the plan now before the Planning Board, which plan is dated August 29, 1986. That plan also shows full frontage along Southern Avenue and indicates that the Town of Essex appears to own land to the north of Baughn's parcel along Southern Avenue. This adjacent parcel is presumably now or formerly Coolidge Trust property.

Title research has convinced us that the Coolidge Trust property does not extend along both sides of Southern Avenue for its entire length in Essex to the Manchester border. Rather it appears that the Trust property ends as one proceeds southerly along the Avenue on its westerly side at land which appears on Trust property plans to have belonged to Andrew Story. Plans showing the Trust property are recorded in the Essex South District Registry of Deeds in Book 35, Plan 21, Sections A and B. Baughn's land is adjacent to the land marked Andrew Story on that plan. For convenience I have outlined it in red on the copies enclosed. Our surveyors have located Baughn's land as adjacent to that Story piece marked on the plan because of the existence of the

three stone bounds marking the corners of the Storey land, which are laid out in roughly a triangular pattern not found in any other piece on that side of the road. You will note that the same three stone bounds appear adjacent to the northeasterly boundary of Baughn's land as described on the Hancock plan. It is clear from Hancock's plan and other title research that the Town simply does not own any Coolidge Trust property to the south of the Storey piece until one proceeds very far down Southern Avenue - far distant from Baughn's piece. If my memory serves me, I believe a large scale version of the same plan recorded in the Registry of Deeds is on file in the Assessor's Office because I have seen it there.

While Baughn is convinced that title to his piece is as shown on the Hancock plan and has always been sound, the title status to the parcel should be of no concern to the Planning Board. Nowhere in Section 81 P does the statute suggest that the Planning Board is to inquire into matters of title when considering whether to endorse a plan as approval not required under the subdivision control law. Title is an issue left to courts for obvious reasons. The Board is required to provide its endorsement unless the plan shows a subdivision. Subdivision is defined in Section 81 L of Chapter 41 as "division of a tract of land into two or more lots. . .". "Lot" means an area of land in one ownership with definite boundaries used or available for use as the site of one or more buildings. Simply observing the plan makes it clear that there is only one lot on the plan, that Baughn owns no other adjacent land, and that this lot fronts upon a public way. It is also clear that the lot more than meets the minimum frontage requirements in the Town Zoning Bylaw. Since the plan falls outside of the definition of subdivision, the Board has no power to withhold its endorsement, as Section 81 P makes clear.

I would also note that this is the second series of episodes where the Town through its various boards has attempted to suggest that Mr. Baughn does not own his land. Statements apparently have been made with reckless disregard of the truth and have been repeated by the newspapers, as in the first series of episodes. Given the collective knowledge of the Selectmen and the Assessors concerning this land which should be imputed to the Planning Board, especially since Baughn recounted to them the Assessors' actions in ordering revisions to the Assessors' maps, we would consider the refusal of the Planning Board to sign this plan evidence of acting in bad faith and maliciously, particularly if the pending sale to the property is jeopardized. Please note that the sale has been timed for that date of December 31, 1986 to take advantage of certain tax laws, which if not utilized would cause Mr. Baughn increased taxes and thus enhance damages, in addition to those for interference with his contract.

If I can supply you with any additional information, please let me know.



Office of Town Counsel
TOWN HALL
ESSEX, MASSACHUSETTS 01929

September 17, 1981

John R. Serafini, Jr., Esquire
65 Federal Street
Salem, MA 01970

Re: Mr. Peter Brughn
Your Letter of September 14, 1981

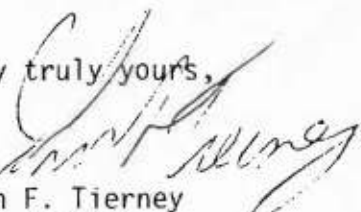
Dear Mr. Serafini:

The Board of Selectmen, Mr. Charles Mulcahy and I have all had the opportunity to review your letter as noted above. It would appear that any references made at or inferred from, a Selectmen's meeting regarding land of your client were inadvertent and not intended to evoke the impression that apparently was communicated.

While the Registry of Deeds has not yet notified the Assessors Office of Mr. Baughn's purchase, it would appear that he is not the owner of lands intended to be under discussion on the night in question. You are certainly correct in maintaining that the Coolidge Trust property does not extend the entire length of Southern Avenue. It would appear that it traverses the properties which the Board and Mr. Mulcahy sought primarily to discuss, but which did not include what we now believe to be Mr. Baughn's land.

The parties involved asked that I express to you and your client their hopes that Mr. Baughn was not inconvenienced by any misunderstanding, however occasioned. If I can be of assistance in clarifying such matters in the future, please feel free to contact me.

Very truly yours,


John F. Tierney
Town Counsel
9 Main Street
Peabody, MA 01960

JFT/clm
cc C. Mulcahy, Chairman, Assessors Office
Essex Board of Selectmen, c/o H. Addison, Chairman

AGENDA

- 8:00 p.m. Jeff Allsop - Lot configuration
- 8:15 p.m. Richard Taomiello - Form A - Peter Baughn
- 8:30 p.m. Peter Baughn - Site plan review - Attorney Serafini or Stephen Demeter
- 8:45 p.m. Dennis DiMore, Clay Morin - review of preliminary plan of Story Street subdivision
- 9:15 p.m. Peter Van Wyck - Changes in road layout of Turtleback Road

Business :

Wording for legal ad for Scott DeWitt's special permit application.

A letter to the bank on Patriots Landing?

Essex Planning Board

December 17, 1986

Present : Rolf Madsen, Chairman; Michael Cataldo; Frances Dunn;
Westley Burnham; Everett Burnham; Alden Wilson.

Meeting called to order at 7:30 p.m.

The Minutes of the meeting of December 3, 1986 were read. A correction was made regarding the presentation of a plan by Stanley Wood to the Board for their signatures. It should have been noted in the Minutes that no action was taken, so Wood withdrew his plans.

The Board discussed whether it was their jurisdiction to check if a subdivision comes under Chapter 61A.

Wilson moved to accept the Minutes as corrected. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

A letter to Charles Mulcahey from the Board of Appeals was read into the meeting.

A building application was received for John Morgan, 105 Conomo Point Road for the installation of a poured concrete foundation and half floor, and to raise the house.

W. Burnham moved we approve the building permit application of Mr. John Morgan, 105 Conomo Point Road, for the improvements to the cottage as shown on the plan and application. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Mark Minkin, Lot 4, Conomo Drive, for the construction of a single family residence. Area of land 10.1 acres. Distance from street line 150', right side line 200', left side line 200'. Size of building, length 99', height 30' approximately, width 34', no. of stories 2 + attic.

Wilson moved that the Building Inspector issue a permit to Mark J. Minkin, 84 West Street, Beverly Farms, for construction of a single family residence on Lot 4, Conomo Drive. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

A building permit application was received for Dennis Outwater, for a single family residence on Lot #6, Belcher Street. Distance from street line 150', right side line 60', left side line 48', rear line 45'. Size of building length 50, height 18/21', width 30', no. of stories 1½. Area of land 30,000 square feet. Cataldo asked Outwater whether he had a permit for a curb cut. Outwater said he went before the D.P.W. last Tuesday. He had filed a permit initially for Lots 6 and 7. He had applied originally before Belcher Street was made a scenic way, and they had given it

December 17, 1986

to him when they finally settled where it was going to be. Madsen asked Outwater if he had the original permit. Outwater said, "No. The D.P.W. said they did not know if I needed to go through the scenic way public hearing, and to speak to the Planning Board about it." Cataldo said, "When we act on a building application, we have to have access to a lot, but as you do not have a curb cut, then you do not have access." Outwater wanted to know if the Board could act on this this evening, apart from the curb cut, as he has a purchaser who would like to buy it this year. Madsen said, "We can only act on this if we have an access, but you do not." Outwater wanted a letter from the Board stating that the lot meets all the requirements except for the curb cut, and he wanted to get a building permit just to prove that it is a buildable lot. It was the feeling of the Board that Lots 6 and 7 were approved lots with adequate frontage, adequate square footage and with septic system approval from the Board of Health.

Peter Baughn filed a Form A with the Board for property on Southern Avenue. Area of land is 6.55 acres. Frederick Fawcett said the Coolidge Land Trust runs across this land. Baughn disagreed. The State does have an easement to the fire tower. Cataldo said, "I have no intention of signing this plan until it has been seen by our Town Counsel." "If you sign this plan you are stating that the land has no frontage on the Coolidge Trust," Fawcett said, "and Baughn is forcing you to say he has a legitimate easement." Wilson felt it should be ignored, and it will be up to Baughn to prove that he has the right of access to it when he wants a subdivision or a building permit. Baughn would have to come back to us for approval of a subdivision road.

Cataldo moved we hold a special meeting on December 30, 1986, to make a decision on the application of a Form A of Peter Baughn for land on Southern Avenue. The motion was seconded by W. Burnham, with the Board voting as follows:- in favor, Dunn, E. Burnham, W. Burnham, Madsen, Cataldo; opposed, Wilson.

Clay Morin, Dennis DiMore, Michael Stroman, Robert Klopotoski, met with the Board for a preliminary site plan review. Morin said the drain manholes were moved so they were out of the way of the water main. 325'-350' is a 10% grade. They will be accessing Lots 1 and 2 at a 10% grade. The hammer head is on a 4% grade, with a 3% grade near Story Street. Madsen said he had a problem with a 10% grade, and that approximately half the road is 10%. Dimore said, "We can bring it down to an 8% grade, but it means more fill will have to go in the wetland area." Cataldo - "How do you propose addressing sight distances at Story Street?" Morin - "As far as the street layout, there is more than enough visibility. There is brush there, but we can control that. We are proposing a discharge in the brook, but we are also discussing pulling it back with a longer area of discharge and a dissipator. Madsen said he would have to have some justification for going with

the .8% waiver. When asked about the right-of-way with regard to the abutters, Morin said Frances Low has the title of the right of way. Mr. Perkins has the right to use the cart path. We can do what we like with the right-of-way as long as he still has the right to use the cart path. Perkins has a buildable lot which will be accessing in the 10% area. Madsen said he felt the Board should make their recommendations and have Morin act on those.

Peter Van Wyck met with the Board with changes to his subdivision plan of Turtleback Road. Van Wyck said, "Because of the Conservation Commission, at their request, we pulled out of a wetland area, and also there is a slight error in the linen which we are correcting. The Conservation Commission has not approved these plans, and there are slight changes that should be made. Where Turtleback Road has its cul-de-sac with a radius of 60', the new regulations call for a 200' radius. I would now like to make a through road but give a 100' radius. I would like to go by the present regulations instead of the past ones." Madsen said, "If we are dealing with the plan under the old regulations, you will have to refile to come under the new ones." Van Wyck said he would like to go through the whole process. Robert Klopotoski said he would like to start from scratch with a new plan with the changes or modify the old plan and smooth out the old layout. Madsen said this would be a significant change. Klopotoski said he would like to take out a hump and give it a smoother grade, which would involve about 1100 feet. Madsen asked if he would change the drainage. Klopotoski said the drainage patten would not change, except to eliminate a pocket in the road where the hump was. Madsen said he felt if the road is moved a new filing would be required under the new regulations. Van Wyck said, "One of the changes is because of the Conservation Commission's request. Even now, I don't know if the Conservation Commission will accept it." Cataldo wondered if Van Wyck was still bound by the 51 hourses or if he would have to start all over again. Klopotoski - "I would like to go through a new publication, a new hearing, but call it a re-subdivision and just modify those sections that are necessary. Most of the changes, apart from 100', are found on Section 8. I feel we should not have to file for the whole of Turtleback Road, just for the section that we want to modify." Frederick Fawcett said there is no such thing as a 51 house approval. The court never ordered the Planning Board to approve 51 houses and the Planning Board did not give Van Wyck a 51 house approval. Madsen asked if the subdivision plan had been registered. Van Wyck said yes.

Cataldo moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10.15 p.m.

Gillian B. Palumbo

AGENDA

7:50 p.m. Shea Bros. - John Wise Ave.

8:00 p.m. George Bragdon - preliminary
subdivision plan - Apple St.

8:15 p.m. Patriots Landing, Western Ave.

8:45 p.m. Stanley Wood

9:00 p.m. James Prentiss - property on
Main Street

9:15 p.m. Michael Davis - property at
rear of skating rink

9:30 p.m. Scott DeWitt - submission of
special permit application

9:45 p.m. John Dick - revision of front-
age on Lots 5A, 5B, Conomo
Drive

10:00 p.m. Dennis DiMore, Story Street -
submission of preliminary plan

Essex Planning Board

December 3, 1986

Present : Rolf Madsen, Chairman; Alden Wilson; Elizabeth Frye;
Francis Dunn; Michael Cataldo; Everett Burnham.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of November 19 were read. Wilson moved to accept the Minutes as read; seconded by Cataldo, with the Board voting unanimously in favor.

Tom and Mark Shea, John Wise Avenue, met with the Board to discuss a proposal for the construction of an addition to an existing building, which they presently use as an upholstery business. Shea said they would like to have two offices with toilet and sink. The Board of Health said their septic system was adequate for this. Cataldo felt because the building was illegally constructed the Board could not look at it as a pre-existing building. There is a statute of limitations regarding this.

George and Diane Bragdon, Apple Street, met with the Board for an informal discussion on a preliminary plan for a subdivision of land on their property.

Patriots Landing - Attorney Stuart Abrams, together with David Schwartz, engineer John Decoulas and Clerk of the Works Thomas Lafoe met with the Board. The Board was given a copy of the covenant. Abrams felt the entire road should be put in before the release of funds. The bank was just to guarantee the funds in total to the Board. Lafoe said that 20% of the work has been done with the road. Madsen asked if it was meeting his satisfaction. Decoulas said it was, except for the drainage. Lafoe then said that the water and drainage should be in in the next two or three week. Decoulas said they had had a drainage problem. They went to put in two culverts but hit high water, so they are proposing a catch basin at the end of the cul-de-sac and another two thirds of the way down the road. Lafoe felt that what was proposed by Decoulas for the drainage was adequate. Decoulas said they will put a pipe under the road to Tulloch's to eliminate any problems. Lafoe said he would like to see rip-rap where the discharge is. Lafoe recommended the corrections. Madsen asked at what point would they want to come back to the Board. Abrams said the final release will be made when the road is complete. Cataldo said he would feel more comfortable with a letter, exhibit A, stating that monies will not be given until the road is complete. He would also like a definition of how the Clerk of the Works will work, the number of hours, schedule, etc. Cataldo asked how far along would the road have to be before the will release a building permit. Abrams said that was the point of the covenant. The covenant is cash, which releases the building permits.

December 3, 1986

Stanley Wood gave the Board a plan showing the existing land being transferred from his mother, Margaret Foss Wood to himself. Madsen asked if this part of land was part of another. Wood said it was at one time. Wood said the plan needed the Board's signatures so that it could be recorded. On the plan it was stated that this was an approval not required under the subdivision control law, but the Board felt it should have non-buildable lot written on the plan, as the road was not adequate.

A building permit application was received for Lot 1 on Patriot's Lane for the construction of a two-family town house. Distance from street line 25', right side line 21', left side line 135', rear line 58'. Size of building, length 72', height 28', width 34', no. of stories 2 + basement. Area of land 41,145 square feet.

Wilson moved that the Building Inspector issue a permit to build to Maine Post and Beam Development Corporation for construction of a two-family town house on Patriots Lane as it meets all setback requirements and lot dimensions. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

James Prentiss met with the Board to discuss a change of use of property owned by him and Gene Reed at 147 Main Street. Prentiss gave the Board a plan for 9 parking spots at the rear of the building. An existing garage will be removed to make the parking area. Prentiss said there will be an antique shop or business on the first floor and an apartment on the second floor, so the change of use will be to the retail space. The driveway will be lyn-pac.

Cataldo moved that we approve the application by James Prentiss and Gene Reed for a change of use at 147 Main Street, from residential to retail space on the lower level and residential on the second floor, finding that the parking plan for nine spaces presented December 3, 1986 adequately addressed the Board's concern and also finding that it is not substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Frye, with the Board voting unanimously in favor.

Michael Davis gave the Board a plan of land he wants to subdivide, approximately 51.02 acres in size, on Western Avenue. Davis wants to retain Lot 1, approximately 12 acres; Lot 2 will be transferred to Davis' sister, as it will be land-locked, and it will be combined with adjacent land of Boutchie (daughter) for contiguous use. Lot 3, 38 acres in size, will be sold. Frontage is serving Lot 3 and an easement for David Perkins, of Glass Dimensions.

E. Burnham moved that we approve the Form A application for the division of land of Natalina Davis, plan of land on Western Avenue dated December 1, 1986. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Scott DeWitt gave the Board plans for a proposal of additional units for Brookside Apartments under a special permit application. The Board will review the plans on January 7, 1987 and the public

December 3, 1986

hearing will be held on January 21, 1987 at 8:00 p.m. DeWitt said according to his attorney he needs no variance at all.

John Dick, representing Frederick Richardson, Conomo Drive, met with the Board to present a Form A for Lots 5A1, 5B and 5C. Cataldo and Madsen abstained from this discussion. Dick said the boundary lines have been changed on these lots. This plan was prepared to redivide Lots 5A1, 5B and 5C that was originally shown on a plan dated February 14, 1986.

Wilson moved we approve the Form A application of Frederick L.W. Richardson for the changing of the lot lines 5A1, 5B and 5C, and easements of Lots 5A and 5B, plan of land of Frederick L.W. Richardson, Conomo Drive, dated December 3, 1986. The motion was seconded by Frye with Frye, Dunn, Wilson and E. Burnham voting in favor, and Cataldo and Madsen voting present.

Dennis DiMore and Robert Klopotoski made a formal submission of a preliminary plan for a subdivision of land on Story Street. The plans will be reviewed at the next Planning Board meeting on December 17, 1986.

Wilson moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10:10 p.m.

Gillian B. Palumbo

AGENDA

- 7:50 p.m. John and Joanne McCarthy -
Land on Candlewood Drive - a
little juts into Essex - ANR
needs to be signed.
- 8:00 p.m. Valerie Langhden - subdivision
- 8:15 p.m. Signatures on Patriots Landing
plan.
- 8:30 p.m. Preliminary subdivision plan -
Francis Low land, Story Street
Dennis Dimore
- 8:45 p.m. August Meyer - signature on ANR
- 9:00 p.m. Scott DeWitt, Brookside Apartments
Special Permit
- 9:20 p.m. Clay Morin - Robert Wolfe/plan
for signatures

Essex Planning Board

November 19, 1986

Present : Rolf Madsen, Chairman; Michael Cataldo; Westley Burnham; Everett Burnham; Frances Dunn; Elizabeth Frye; Alden Wilson.

Meeting called to order at 7:35 p.m.

The Minutes of the meeting of November 5, 1986 were read. Wilson moved to accept the Minutes as read; seconded by E. Burnham, with W. Burnham, E. Burnham, Dunn, Wilson, Frye and Madsen voting in favor, and Cataldo voting present.

A plan of a subdivision was given to the Board for their signatures of John and Ginette McCarthy, 48 Candlewood Road, Ipswich. The frontage is in Ipswich, but part of the land is in Essex.

Wilson moved we sign the plan of land dated October 30, 1986, of John and Ginette McCarthy on Candlewood Road. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

The Board received a building permit application for Donald Enos, 81 Eastern Avenue for the remodelling of a garage, length 24', width 24'. The remodelling will be on the existing foundation with no change in dimensions. The lot is non-conforming.

A building permit application was received for John Bediz, 119 Western Avenue, for a residential single dwelling on Lot 5B of Conomo Drive. Bediz said there was a provision in the deed to allow a guest house. Cataldo said the Planning Board approved lots for a single family dwelling only. There was no intent to allow a guest house. Bediz said it was his understanding that there could be a small house near the principal dwelling that looked like part of the main house. Cataldo said we are only giving permission for a single family dwelling.

W. Burnham moved we approve the building application of John Bediz for a single family dwelling located on Lot 5B, off Conomo Drive, as shown on the plan of land, property of F.L.W. Richardson, dated April 14, 1986. The motion was seconded by Frye, with Frye, Dunn, E. Burnham, W. Burnham and Wilson voting in favor, and Madsen and Cataldo voting present.

James Decoulas, representing John Decoulas, engineer for the Patriots Landing subdivision gave the Board an amended plan of the subdivision for their signatures. Madsen said, "We haven't had any bonding arrangements finalised so I feel we should not sign the plan." Decoulas said the road is being staked out and being built. Madsen said, "We can sign the plan, but hold it until we have the following answers: we want to know the payment schedule, where the money is deposited, and the Clerk of the Works has to appear before the Board to be instructed on what we are looking for."

November 19, 1986

Valerie Langhden, County Road, met with the Board to discuss a division of land. Her father, Augustus Means, wants to transfer a parcel of land to her, parcel A, 1.11 acres in size. At this point, W. Burnham said he would not participate in this discussion as he is an abutter. Frontage is on the driveway, but Langhden said she did not know the measurement. She was told to come back to the Board with proof that the driveway meets the Board's adequacy requirements. It was felt, also, that the Board should see a plan of the whole division of land.

Peter Meyer, Lufkin Street, showed the Board a plan that was approved by them last year. He said he lives on Lot C. He is proposing to extend the boundary line to enlarge it. Lot 2 on the plan is to be conveyed to Meyer, owner of Lot C, to form one lot.

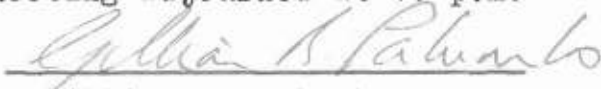
W. Burnham moved we approve the subdivision of land shown on a plan of land of Augustus R. and Henrietta W. Meyer dated September 1986, the plan showing a transfer of land from Lot D to Lot C. The motion was seconded by Wilson with the Board voting unanimously in favor.

Scott DeWitt, Brookside Apartments, met with the Board to discuss with them a proposal for nine additional units to Brookside Apartments. There are five buildings on site. The new units will be Town House style. DeWitt said, "According to Town by-laws, for parking we need 96 spots. With what I propose, we have 86 spots. I can add parking in another area if necessary. There are 30 units there right now, with 75 existing parking spaces, so I will be adding 11 spaces. With regard to joining an existing building, on one side we will meet the requirements, but on the other side we won't. One side will be 11', the other 29'. We have no problems with water pressure according to the D.P.W." DeWitt was given a special permit application to file.

Dennis DiMore and engineer Clay Morin met with the Board to discuss a preliminary subdivision plan for property on Story Street. The Board was told there are four lots with official perc tests. They would like to ask for a waiver from the 8% grade to a 10% grade on a small part of the property. Morin was told he should try to stay with the 8% grade. Morin said, "To keep the 8% grade they would have to fill the brook. Cataldo also said that DiMore and Morin should bear in mind the visibility coming on to Story Street.

Clay Morin gave the Board a plan of Robert Wolfe, with the modifications that had been requested by the Board. It showed the hammerhead and road extension. The Board signed the plan.

Cataldo moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor. Meeting adjourned at 10 p.m.


Gillian B. Palumbo

AGENDA

- 7:45 p.m. Charles Mulcahey, subdivision
- 8:00 p.m. James Prentiss - property on
Main Street
- 8:30 p.m. Nicholas Athans, subdivision
Choate Street - represented
by John Amato or Don Desmond
- 9:00 p.m. Louis Jocelyn - subdivision
Essex/Ipswich line
- 9:15 p.m. Robert Coviello
- 9:30 p.m. John and Marilyn Heath - building
application for land on Wood Drive

Clay Morin will be in to report on Richard Means
subdivision road and with amended plan of Robert
Wolfe.

Essex Planning Board

November 5, 1986

Present : Rolf Madsen, Chairman; Elisabeth Frye; Francis Dunn;
Alden Wilson; Everett Burnham.

Meeting called to order 7:30 p.m.

Howards Antiques Shop, Eastern Avenue - Mrs. Howard, together with Floyd Grace, builder, met with the Board on the recommendation of the Conservation Commission, to ask for their determination on the number of parking spaces they will require for the barn they are building. The barn will be storage and showroom space. It was the consensus of the Board that at least 17 spaces would be required.

Building Inspector Richard Carter showed the Board plans of a retail business with an apartment over and alongside. The apartment has three bedrooms. They want to take downstairs to make more retail space and just keep upstairs as an apartment. The felt there was no problem as there was no change.

Carter showed the Board the revised building permits for the Town.

Charles Mulcahey, Milk Street, met with the Board asking for a subdivision approval not required for property off Milk Street. The land was divided into parcels A1 and A2. A1 - 32,450 square feet and A2 - 28,680 square feet. Parcel A1 has frontage on a new road, Indian Rock Lane, and Kent Bowker, who has Lot D on the new road questioned Mulcahey's use of the right of way over Indian Rock Lane. Bowker said the owners of lots B, C, and D share the cost of maintenance of the road, but not Parcel A. Mulcahey said he still owns a right of way across the road. Mulcahey was told that Lot A2 is an undersized lot, does not have adequate frontage for the creation of that lot as there is a principal dwelling on that lot now. Both lots are non-conforming.

Wilson moved we reject the application of Charles M. and Virginia^o M. Mulcahey, dated November 5, 1986, for a subdivision of property on Milk and Grove Street, and Indian Rock Lane, because of lack of footage and insufficient frontage on Lot A2. The motion was seconded by Frye, with the Board voting unanimously in favor.

James Prentiss met with the Board to discuss property he owns with Gene Reed at 147 Main Street. He wanted to know what was the procedure for a change of use. He was told that in order to make it a retail space he would have to create off street parking in the rear.

John Amato, of Hancock Survey, met with the Board for an informal discussion regarding the subdivision of property of Nicholas Athans on Choate Street. Amato said Athans would like to subdivide the property into two lots, Lot A - 1.33 acres and Lot B - 1.65 acres. The frontage for the rear lot would be eliminated unless Athans built a new road to subdivision regulations providing that frontage.

November 5, 1986

There is a lot of ledge so it would make it impossible to construct a road to the Town's standards, so we would like to waive the road construction and create a paper road. Mary Ann Provost, an abutter, said there have been three new houses built in that area and we have noticed a decline in water pressure. Across from us they have had to drill for new wells. We would like you to consider this before you approve anymore subdivisions in this area. Madsen told Amato that if he is going to create a road, then it should meet most of the Board's standards for ten houses or less.

The Minutes of October 15, 1986 were read. Wilson moved we accept the Minutes as read; seconded by E. Burnham, with the Board voting unanimously in favor.

The Board discussed the approval of the soil removal permit for Peter Van Wyck, and the amendment to the motion made at the meeting of October 15, that the soil removal permit shall be granted upon review and approval of the Conservation Commission.

Wilson moved that we rescind our requirement for the Conservation Commission approval for the soil removal permit for Peter Van Wyck as per advice of Town Counsel. The motion was seconded by E. Burnham. Frye said 15,000 cubic yards will be taken from that land and nobody seems to care where it's going to go. The vote on the motion was as follows: In favor - E. Burnham, Dunn, Wilson, Madsen; opposed - Frye.

Robert Coviello met with the Board to discuss the Perrotti property at 155 Main Street, for a change of use to an antique shop on the first floor, with an apartment above. Coviello said he has the property under a purchase and sales agreement. He said he went to the Board of Health regarding the septic system. David Hidden was granted permission to repair the septic system, based on approval by the Conservation Commission. With regard to the parking, all abutters received letters from him, with some approving and others not. Coviello provided the Board with a plan of parking, the shaded area on the plan being the easement he had signed with the Perrottis. At this time Chief Platt had not seen the plan. Wilson felt it would be more non-conforming as there was not enough parking area. Bruce Fortier said he would like to speak in favor of this, as he felt Coviello had as much space as the Score's had, and with the same kind of business as the Scores. Madsen said, "One thing that Chief Platt does not want happening is people backing out onto the Main road and I would like to have a letter from the Chief stating his approval.

Wilson moved that we accept the change of use of Robert Coviello, 155 Main Street, based on By-law 6-4.2, that it is not substantially more detrimental than the existing nonconforming use to the neighborhood, and By-law 6-3.31 - Variance, a relaxation of the requirements of this chapter where such a variance will not be contrary

November 5, 1986

to the public interest and owing to conditions peculiar to the property and not the result of the actions of the applicant, and where a literal enforcement of this chapter would result in unnecessary and undue hardship. The motion was seconded by Dunn, with E. Burnham, Dunn and Wilson voting in favor; Frye and Madsen were opposed.

John and Marilyn Heath gave the Board a building permit application for the construction of a 1½ story single family residence and a 30' x 30' barn, at 74 Wood Drive. Area of land 29,600 square feet. Distance from street line 38', right side line 143'+, left side line 85', rear line 35'. Size of building - length 72', height 25', width 27', no. of stories 1½.


E. Burnham moved we approve the application for a building permit of John and Marilyn Heath, 74 Wood Drive. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Madsen said the Selectmen have been talking about a moratorium on building around Chebacco Lake. Phil Herr has talked about making this a water conservation area. He felt the Selectmen should be invited to meet with the Planning Board in the near future to hear what the Board has to say. It was felt material from Phil Herr should be sent to the Selectmen and have them review it.

Clay Morin, as Clerk of the Works for Sagamore Circle subdivision, gave the Board an update. He said the Water Department dug a sample from the base and had questions on the soil quality. Some of the base, when tested, did not meet the specifications. The contractor removed the gravel he had put down. He instructed him to excavate down to 12" and then the contractor put back the material. There will be a compact test done. Morin said the Board has to discuss with him whether to put on a binder coat then the top coat. The compaction looks good where the trenches are. Morin said it would be nice to see the road finished, but felt perhaps we should wait a period of time. Morin said he was here to ask whether the road should be paved or not. It was the general consensus of the Board that if the contractor chose to pave the road, the Board retain 10% in escrow until the following Spring, and 5% until it's seeded.

Dunn moved to adjourn the meeting, seconded by Frye, with the Board voting unanimously in favor.

Meeting adjourned at 10:10 p.m.


Gillian B. Palumbo

AGENDA

- | | | |
|-----------|------|--|
| 7:30 p.m. | | Read Minutes
Building Inspector |
| 7:45 p.m. | | Walter Mears, Conomo Point
Building application |
| 8:00 p.m. | | Peter Van Wyck - discussion
of soil removal permit |
| 8:30 p.m. | | Charles Mulcahey -
discussion of land on
Milk Street |
| 8:45 p.m. | | James Monahan - restriction
on property on Addison
Street - prelim. layout |

Discussion :

Changing status of Planning Board secretary
from Junior Clerk to Administrative Clerk.

(Note to Michael - Have you completed all the
things the Town Clerk asked you to do for the
by-law change.)

Board Planning Board

October 10, 1966

Present: Bill Hansen, Chairman; H. Inshelb Innes; Francis Burns;
Byron G. Burnham; Westley Burnham; Richard Wilton;
Alden Wilson.

Meeting called to order at 7:30 p.m.

Minutes of the meeting of October 1, 1966 were read. Wilson moved we accept the minutes as read; seconded by H. Inshelb, with the Board voting unanimously in favor.

Wilton told the Board that as the Board did not accept permits as on the Conservation Commission, and funds we should have received from the Planning Board to be of the Commission as a liaison.

A building permit application was received for Richard No. 6, 6 Cogswell Court, to demolish existing garage and install a new block foundation and concrete floor of which a gabled garage will be erected. Distance from street line 10', right side line 100', left side line 40', rear line 30'. Side of building, length 26', width 24'. As the lot was conforming, no vote by the Board was necessary.

A building permit application was received for Fred Markman, at 1, Bolcher Street, for the construction of a new three-bedroom single family residence. Size of building, length 47', height 24', width 16', no. of stories - 2. Distance from street line 200', right side line 10', left side line 25', rear line 200'. Area of land 3.9 acres.

A motion moved to approve the building application of Fred Markman, 15 Addison Street, Melrose, Mass., for a three-bedroom single family residence on lot 8, Bolcher Street, area of and dated January 21, 1966. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received from the Building Center, Inc., Harbor Dept, Gloucester, to connect store area with storage building at their store on Eastern Avenue and Lund Street. Land area is 1.28 acres. As no set back dimensions were listed on the application, it was withdrawn. Before a decision could be made, the applicant so submitted again listing these requirements.

Edith Kelly, Main Street, gave the Board a list of signatures of people expressing their concern about the adequacy of parking on Main Street. They felt the conversion of the Main Street to three and a half lanes will have a detrimental impact on the neighborhood and they urged the Board to examine this issue.

A building permit application was received for Walter Moore, 10000 East. Hansen said he called Peggy Fisher of the State

October 15, 1986

Point Commissioners for a copy of the Minutes pertaining to this issue, but she would not release the Minutes taken by William Holton and Roger Hardy as they had not been accepted and approved by the Commissioners. Frye said that was the last meeting that Holton and Hardy attended as Conomo Point Commissioners, so they would not be there for the reading of the Minutes so as to approve or disapprove them. E. Burnham said he would like to see the motion that was made from the landlords, which is the Town of Essex. When he receives this, then he will act on the application. Mears has met Board of Health requirements and gave the Board a letter signed by abutters stating their approval. Photographs were shown to the Board of the residence. Madsen said it was his understanding that Mears had been asked to appear before the Conomo Point Commissioners which he had not responded to. Mears said they never received a letter asking them to attend. Madsen then said, "It has been our procedure in the past to have a letter from the Conomo Point Commissioners regarding any building at Conomo Point." E. Burnham said he wanted to see something in writing. Madsen then asked that they take a poll of the Board on whether to act on this this evening without the Minutes from the Conomo Point Commissioners. Dunn said she did not feel comfortable acting on this without the Minutes, but would go with what information had been given to the Board. E. Burnham would like to see the Conomo Point Commissioner's Minutes, but as they refused to give us anything, pro or con, he would listened to those who had replied. W. Burnham said he would prefer to see the Minutes and would like to hear from the Conomo Point Commissioners. Wilson said as the Board cannot seem to get the Minutes, he will have to go with what we have. Frye said she would go with the signatures given to the Board at this time. Madsen said he would like to go with what has been given to us. W. Burnham then read to the Board a letter from the Attorney General regarding Article 46.

E. Burnham moved to approve the building application for modifications to the building of Walter and Evelyn Mears, 101 Conomo Point Road, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood, and subject to Conservation Commission approval that this is not within the new flood plain area adopted by the Town of Essex. The motion was seconded by Dunn.

Wilson moved to amend the motion to add that we accept the signatures of the letter dated August 23, 1986, and approval dated September 15, 1986 by L. William Holton and Roger Hardy as evidence of Conomo Point Commission approval. The amendment to the motion was seconded by Cataldo, with the Board voting unanimously in favor.

The voting on the motion with the amendment was as follows:-
Dunn, E. Burnham, Wilson, Frye, Madsen and Cataldo approved;
W. Burnham opposed.

October 15, 1986'

Peter Van Wyck met with the Board to discuss his request for a soil removal permit. Van Wyck was asked the days and times when soil will be removed. He said he would work from 8 a.m. to 5 p.m., six days per week. He was asked what steps he would take to avoid undue dust upon the actual digging site and transport. Wilson said he felt that that should also include mud. Van Wyck said he felt dust would not be a problem, but mud would be as it gets on the tyres.

Madsen - "Are the loads going to be covered?"

Van Wyck - "Yes".

Frye - "Will this be staked by Vollmer before you start?"

Van Wyck - "I will be 100' from wetlands."

Frye - "Are you preparing the site for river dredgings?"

Van Wyck - "No."

Frye - "Is the area where you plan to work the same as the area shown on the Vollmer map for the proposed dredging disposal?"

Van Wyck - "No."

Frye - "The only map we have been shown is the Vollmer map. When you made a request to the Selectmen and the Planning Board you mentioned 4.5 acres would be involved. You spoke of the pond which has been turned. Your work should not encompass D.E.Q.E. File No. 21-85 or the pond. We should have a map showing the area. How many cubic yards is involved?"

Van Wyck - "It will be roughly 12,000 cubic yards."

Frye - "I for one would like to see where you are going to take it from as there is a Coastal Restriction put on that property."

Van Wyck - "The coastal restriction is on the wetland area. I will be away from any wetlands area that is under restrictions. I will stay away from any property line. I can supply you with a plan where the digging will go if it will cover a larger area. I will selectively take it to grade. I will show you an area of 5-10 acres where I will selectively take out fill."

Frye - "In what condition will your land be left?"

Van Wyck - "I'm trying to grade off an area for a field. I have no intention of leaving holes or an unsightly mess. That's not my style. I will put it back to a field. I will draw on a plan an area of 10 acres that I plan to level. I do not plan to dig much more than 6 feet in depth, the maximum will be 6 feet. If I dig further than six feet, I will put material back into the hole. There is one area where there are some stones that I need to rip-rap the pond with, with a bucket loader. If the road becomes muddy, I will see it is cleaned up by the end of the day."

E. Burnham wondered if Van Wyck would object to a restriction on a very wet day.

Van Wyck - "I have no intention of operating a gravel pit."

Frye - "Who will determine whether there are wetlands on the map you show us. Are you planning on showing it to the Conservation Commission?"

Van Wyck - "No, I'm not. I have had a botanist go out. We know the areas pretty much that are wet."

Frye - "Do you feel this is a project that the Conservation Commission should see?"

Cataldo said he felt it was in Van Wyck's best interest to show the Conservation Commission what he intends to do.

Van Wyck - "I would like to point out that the soil permit is

October 15, 1986

the Selectmen's and Planning Board's jurisdiction."
Frye - "Van Wyck went to court about the soil removal permit. A restraining order was placed on the Town, but denied by the court. I feel he should withdraw the suit."

Wilson moved that we notify the Board of Selectmen to issue a soil moving permit at Low Land Farm to Turtleback Road, with the list of stipulations, 8 a.m. to 5 p.m., 6-day operation, proper cover on leaking loads and a cease and desist operation in excessively wet weather. The motion was seconded by E. Burnham.

Cataldo - "I think it is in the Board's best interest to see where soil is being moved from and for the Conservation Commission to see it prior to the start of the project."
Frye - "Van Wyck should show the Board where the coastal restrictions are on his property."
E. Burnham - "I feel the Conservation Commission should be notified on all soil removal permits. This procedure should probably be followed on all permits."

Cataldo moved to amend the motion to add the permit shall be granted upon review and approval of the project by the Essex Conservation Commission. The motion was seconded by W. Burnham, with the voting as follows: Dunn, E. Burnham, W. Burnham, Wilson, Madsen and Cataldo in favor; Frye opposed.

The voting on the motion with amendment was as follows: Dunn, E. Burnham, W. Burnham, Wilson, Madsen and Cataldo in favor; Frye opposed.

Frye said she has a letter from M.A.P.C.C. which suggests a soil removal permit committee with representatives from all Boards.

Charles Mulcahey, Milk Street met with the Board for an informal discussion on a subdivision plan. Parcel A1 - 32,450 square feet, Parcel A2 - 28,680 square feet, frontage 107.83'. Parcel A1 must have 40,000 square feet as it is on a new road; parcel A2 would have to have 30,000 square feet. Mulcahey was told he could submit a Form A, but the lots would not be buildable lots.

William Tyler, together with David Rosen of Landvest, met with the Board to discuss his property located off Addison Street. Tyler presented the Board with a study plan of a possible subdivision for a portion of his land, which totals approximately 25 acres. Tyler said this is not a subdivision for the purpose of development, but would like to leave it for open space use, but in order to obtain a tax advantage the land has to proven to be developable under the Town by-laws and regulations. The plan showed eleven lots located along a roadway which commenced on Addison Street, running circumferentially around the property about 3000 feet and terminating at the entrance to a short right-of-way 30 feet wide leading back to Addison Street. Tyler said Mr. Rosen must know that this is a developable piece of land and

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assign a value to it. Tyler asked the Board, "If this plan was acutally presented to you in the future, would the Board consider the proposed road arrangement with the 30' right-of-way, rather than a cul-de-sac, in order for emergency vehicles to enter the property and exit without having to turn around. The road can be 44' until it reaches the right-of-way, which is 30'. This is an ancient right-of-way and will have to be 30 feet." After some discussion, Tyler said all he wanted from the Board was an indication that if this plan were presented as a subdivision plan for formal approval and that such a plan met the Board's specifications and regulations that the Board would approve it.

Madsen - "Why not".

Cataldo - "In my opinion it is a feasible plan. The general layout is acceptable."

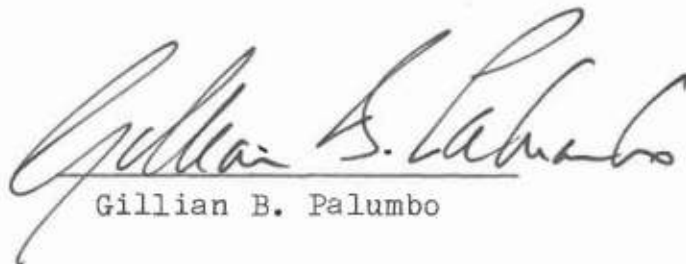
It was the general feeling of the Board that they would look favorably on the plan.

Gillian Palumbo, secretary to the Planning Board asked that her classification of Junior Clerk be changed to Administrative Clerk.

Wilson moved that we write to the Personnel Board changing the classification of Planning Board secretary Gillian Palumbo to Administrative Clerk. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.

W. Burnham moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned 9:50 p.m.



Gillian B. Palumbo

AGENDA

- 7:30 p.m. Richard Means - needs release of another \$20,000.
- 7:40 p.m. Sterling Hard - property on Laurel Lane.
- 8:00 p.m. Stuart Abrams, George Fallon - Public Hearing - Patriots Landing subdivision
- 8:30 p.m. Peder and Jill Knott - Antiques shop 147 Main Street
- 8:45 p.m. Robert Coviello - Perrotti property
- 9:00 p.m. Walter Mears, Conomo Point
- 9:15 p.m. Charles Mulcahey - land on Milk St. (Cancelled)
- 9:30 p.m. David Hidden - Plan approved by Board in 1972, never registered.

Business :

Sign pay voucher

Sign voucher for certified mail

Read Minutes of July 16, September 3, and September 17.

Essex Planning Board

October 1, 1986

Present : Rolf Madsen, Chairman; Westley Burnham; Alden Wilson;
Elisabeth Frye; Patricia Dunn; Michael Cataldo.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of September 17, 1986 were read. Cataldo moved that the Minutes be accepted as read. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Richard Means, together with Clay Morin, met with the Board. Means said the road has been brought to subbase and would now like to have the next \$20,000 payment released. Morin gave the Board a time schedule for the road and said the roadway layout has been checked; drainage has been installed, underground utilities installed and inspected and the road brought to subbase. Morin found areas where root structures has been left, so the contractor had to return to remove these. The contractor would like to place the finish and binder in the next two weeks, but Morin felt they should wait at least ninety days. Morin said they had slight problems with the drainage into the brook. It appeared the brook was a little higher than the plan said, so new calculations were made.

Wilson moved we release the amount of \$20,000 as requested by Richard Means. The motion was seconded by Cataldo with the Board voting unanimously in favor.

Sterling Hard met with the Board to discuss property belonging to David Foss on Laurel Lane. Cataldo explained that the Board needs a 44' right of way created, then requires that Laurel Lane be built up to the Board's standards at his expense as it's a private road, unless it can be proved it is a Town road.

A public hearing was held at 8.05 p.m. for Patriots Landing Realty Trust for a subdivision on Western Avenue. The Board reviewed the plans.

W. Burnham moved we approve the subdivision of land owned by Patriots Landing Realty Trust located on Western Avenue, plans of land dated August 6, 1986, as it meets all the requirements set forth by the Board. The motion was seconded by Wilson, with the vote as follows:- In favor - Dunn, Cataldo, W. Burnham, Wilson and Frye.

Jill Knott gave the Board a parking plan and a letter from the Board of Health for property at 147 Main Street. A letter was received from an abutter, Evelyn MacIntyre, stating her opposition to the antique shop because of the safety factor. At this time, Knott had not obtained letters from all abutters. Madsen felt there was adequate space for parking according to the plan given.

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Cataldo asked how the rear area would be treated as a parking area. Knott said that it was fairly level, that there may be one area that would have to be brought up. They were thinking of using gravel. Police Chief Platt had said verbally that if a turn around was used so people will not have to back out onto the street, he could see no problem. Knott was advised to get a letter from the Police Department.

A building permit application was received for Kerry Kaplan, 29 Robbins Island, for complete renovation of the first floor, with extension of the existing open porch. The lot is non-conforming. Size of building, length 28', height 21', width 24', no. of stories - 2.

Cataldo moved we issue a building permit to Kerry Kaplan, 29 Robbins Island, pending approval from the Conservation Commission for the deck structure. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received from Frank and Amelia Hamlen, 204^{1/2} Western Avenue for a 2-car garage.

Wilson moved that the Building Inspector issue a building permit to Frank and Amelia Hamlen, 204^{1/2} Western Avenue, for the erection of a 2-car garage on the site of a former building finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by W. Burnham.

Frye amended the motion to add the building permit be issued upon letters of approval from the abutters. The amendment was seconded by Cataldo. The vote on the amendment was as follows: Dunn, Madsen, Cataldo, Frye, in favor; opposed - W. Burnham and Wilson.

A vote was taken on the motion with the amendment and the Board unanimously voted in favor.

The Minutes of September 3, 1986 were read. It was felt a correction should be made in the paragraph pertaining to Francis Englehardt, from "Madsen said he spoke to Town Counsel who said the Board can approve a plan without adequate frontage on an approval not required, but when someone applies for a building permit then we must make sure all the by-law requirements are met" to read "Madsen said he spoke to Town Counsel who said the Board can approve a plan without adequate frontage on an approval not required, but when someone applies for a building permit we must make sure all by-law requirements pertaining to that building application are met."

Cataldo moved that we accept the Minutes of September 3, 1986, with the correction. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

Walter Mears, Conomo Point, met with the Board. Madsen read a letter to the Board from the Conomo Point Commissioners regarding

October 1, 1986

the moratorium on any further outside construction or building. Mears said approval was given by the Conomo Point Commissioners. Frye said she would like to see the Selectmen's Minutes from Monday night when this was discussed. Mears said he felt the letter about the moratorium was overruled by the approval received from William Holton and Roger Hardy. W. Burnham felt the Building Inspector, ought to check to see what flood plain zone Mears is in, as building requirements will be vastly different.

Wilson moved that the Building Inspector issue a building permit to Walter and Evelyn Mears for renovation of a residence at 101 Conomo Point Road, Essex, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. There was no second to the motion.

Cataldo moved we table this until we received recommendations from Town Counsel and the Conomo Point Commissioners regarding this issue. The motion was seconded by Dunn. Cataldo, W. Burnham, Frye and Dunn voted in favor; Wilson and Madsen were opposed.

Cataldo felt it should be noted that action is not taken when things are discussed on the street. Issues are only acted upon at the scheduled or posted meetings of the Boards.

David Hidden met with the Board for a discussion of a subdivision plan at 204R Western Avenue. Hidden said he has an approved building permit, but has found that the plan approved by the Board on November 1, 1972 was never registered. Hidden filed a Form A and subdivision plan with the Board. Parcel A is 32,841 square feet; Parcel B is 3.856 acres. There is an easement on Parcel A, creating a street width of 55'. Lawrence Shanks owns the road and Hidden has a right of way. It was felt the easement size should be printed on the plan.

W. Burnham moved we approve the Form A application of a subdivision of land dated September 29, 1986, by David Hidden, located at 204R Western Avenue, finding approval under the subdivision control law not required. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Thomas Ellis, Lot 4, Sagamore Circle, for construction of a single family home. Size of building, length 88', height 34', width 31', no. of stories - 2. Distance from street line 45', right side line 32', left side line 112', rear line 142'; Area of land 58,187 square feet.

Wilson moved the Building Inspector issue a building permit to Thomas Ellis for a single family residence for Lot No. 4, Sagamore Circle, as it meets all our setback requirements. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Cataldo said the Conservation Commission needs a representative

October 1, 1986


from the Planning Board. Frye said she would consider it.

Two letters were received, one from the Essex County Greenbelt Association and the other from Mr. and Mrs. Hodges of Apple Street, concerning the improvements Frederick Richardson wishes to make on Conomo Drive. Madsen said, "In my opinion, we have treated Conomo Drive as a private way. If we are treating it as such, any improvements should be with the approval of the abutters along the private way, and it is therefore a civil matter between Richardson and the abutters.

Peter Van Wyck - soil removal permit. Madsen said all we are concerned with is the removal of earth from the site for the river dredging. It was felt Van Wyck should be asked to meet with the Board at their next meeting to discuss (1) the days and times during which he requests to remove soil; (2) the steps which he intends to take to avoid undue dust upon the actual digging and the transport; (3) information concerning the depth and location and means of digging; (4) cautions taken to avoid strippage or other damage detrimental to the property of the applicant and surrounding property of others which will be affected.

W. Burnham moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.



Gillian B. Palumbo

AGENDA

- | | | |
|-----------|------|--|
| 8:00 p.m. | | Peder and Jill Knott
Change of use of house on
Main Street |
| 8:15 p.m. | | Robert Coviello - Perrotti
house on Main Street |
| 8:30 p.m. | | Tom Ellis - White Elephant
Alteration of 2nd floor apt.
to make more space for storage |
| 8:40 p.m. | | Stuart Abrams (I think)
Discussion of Patriots Landing |
| 9:00 p.m. | | Michael Stroman, Dennis Demore
Francis Lowe land, Story St. |
| 9:15 p.m. | | Work schedule from Clay Marin
for Richard Means subdivision |
| 9:30 p.m. | | Discussion of Phil Herr - Town
By-laws |

Essex Planning Board

September 17, 1986

Present : Rolf Madsen, Chairman; Elisabeth Frye; Alden Wilson;
Everett Burnham; Patricia Dunn;

Meeting called to order at 7:30 p.m.

A building application was received for Richard and Julia Means, 7 County Road, for a single family house. Size of building, length 36', height 28', width 36', no. of stories 2. Distance from street line 350', right side line 150', left side line 50', rear line 250'.

Wilson moved that the building inspector issue a building permit to Richard and Julia Means, located on Lot #5, Sagamore Circle, as it meets all the building requirements for a single family home. The motion was seconded by Frye, with the Board voting unanimously in favor.

The Board received a building application from Walter Mears, Conomo Point. The lot is a non-conforming lot. Madsen read Article 46 of the Town Meeting of 1982 regarding conversion of seasonal homes to all year homes. A letter was also required with the application from the Conomo Point Commissioners.

Wilson moved that we take this under advisement until we receive more information on this. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.

Madsen told the Board he signed the partial release for the Essex River Dredging at the Selectmen's meeting.

The Minutes of the August 20 meeting were read. Wilson moved we accept the Minutes as read; seconded by E. Burnham, with the Board voting unanimously in favor.

Peder and Jill Knott met with the Board to discuss a proposed purchase of property at 147 Main Street. It is a non-conforming lot, size 26,000 square feet. It was a rooming house, and the Knott's would like the option of living upstairs, or to have the whole thing as an antiques shop. Parking can be obtained in the rear by taking down the garage for ten spaces. The Board reviewed the parking area. The Knott's were told to get approval from the Board of Health and approval from their abutters.

Robert Coviello met with the Board to discuss his proposal for an antiques shop and apartment at 155 Main Street. Coviello said, "The Town Health Inspector checked the system. David Hidden brought his plan of repair of the system to the Board of Health which was approved by them pending Conservation Commission approval. Mr. and Mrs. Perrotti circulated a letter of approval to their neighbors. Not all the abutters signatures were obtained; omitted

September 17, 1986

non-conforming structure, finding it to be in compliance with 6-4.2. The motion was seconded by Frye, with the Board voting unanimously in favor.

Walter Mears, Conomo Point, met with the Board for a discussion on his building permit application. E. Burnham said he would like a letter or a copy of the Minutes from the Conomo Point Commissioners stating their motion, and to also know the legal question of the moratorium, is it in effect or not. Wilson asked Mears if he was fixing his home up for year round use. Mears said it is not my immediate intent to stay year round. E. Burnham asked Mears how Article 46 affected him. Mears said I'm not asking for year round conversion.

Phil Herr - Madsen asked where we should go on the by-laws.

E. Burnham moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10.15 p.m.


William B. Palumbo

September 17, 1986

were Ellen Neely and Stephen Score. I checked with my lawyer who saw no reason why one lot could not be sold. They were purchased at two different times and are two different pieces of property." Coviello gave a plan of parking to the Board. The Board felt they should have an opinion from Town Counsel regarding the issue of common ownership.

Tom Ellis, White Elephant, Main Street. Ellis said he has a 4-bedroom apartment over his antiques shop and wants to eliminate a parking problem by reducing it to a 1-bedroom apartment on the third floor and using the second floor to show larger pieces of furniture. He wants to put in two windows on the second floor and an exit from the third floor. He has letters of approval from the abutters. The lot is non-conforming. Ellis was given a building permit application to fill out.

Stuart Abrams, Patriots Landing, told the Board that Thomas Lafoe will be their Clerk of the Works for the subdivision. A Form A was filed with the Board for an approval not required for land of Vincent and Jimmie Tulloch. Parcel B will be going to Patriots Landing and Parcel A will be going to the Tullochs.

E. Burnham moved we approve the plan of land of Vincent Tulloch and Jimmie Tulloch, 218 Western Avenue, as shown on plan of land dated September 17, 1986, under subdivision approval not required. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Abrams gave the Board a copy of the covenant.

Michael Stroman and Dennis DiMare, together with engineer Clay Morin, met with the Board to discuss property formerly owned by Miss Frances Lowe, Story Street. They showed the Board an informal pre-preliminary subdivision plan. The proposal is for six lots, but as yet there is no perc on Lot 5. Lot 6 did not meet the front yard requirements. Also 10% grades should be reduced to 8%.

Clay Morin, Clerk of Works for Sagamore Circle subdivision told the Board the road has been cut, graded up to subbase and ready for road base. Most of the drainage is in. The culverts has to be restaked. The water main is in and is acceptable by the Town. The Town has asked for a 20' easement for water until accepted by the Town.

Thomas Ellis, 32 Main Street, White Elephant, gave the Board a building permit application to reduce the apartment from a 4-bedroom to a 1-bedroom, install an exterior stairway from the third floor, install two windows, 4' x 5', on the second floor, front. Distance from street line 7', right side line 15', left side line 8', rear line 2'. Size of building, length 60', height 40', width 40', no. of stories 3.

E. Burnham moved that we have the Building Inspector issue a permit to the White Elephant Trust at 32 Main Street for alterations to an

AGENDA

- 7:40 p.m. Philip Budrose - Old Essex
Village
- 8:00 p.m. Public Hearing - Robert Wolfe -
Subdivision - Eastern Ave.
- 8:30 p.m. Francis Englehardt - sub-
division - Western Ave.
- 8:45 p.m. Review of subdivision plan -
Patriots Landing Realty Trust
- 9:15 p.m. Review of Peter Van Wyck's
covenant
- 9:30 p.m. Robert Coviello - purchase of
Perrotti building - Main St.
for antiques
- 9:45 p.m. Mark Glovsky - Richardson -
Conomo Drive (repairs?)

Business :

Sign stipulation

Essex Package Store - Do they need a Site Plan
Review?

George Patch said he must have one name to sign
vouchers for Essex County Newspapers.

Essex Planning Board

September 3, 1986

Present : Rolf Madsen, Chairman; Alden Wilson; Westley Burnham; Everett Burnham; Patricia Dunn; Elisabeth Frye; Michael Cataldo.

The meeting was called to order at 7:35 p.m.

A building application was submitted to the Board for Paul and Judy Doucette, 132 Eastern Avenue, for Lot 3, Sagamore Circle, for the construction of a two-family dwelling, size - length 44', height 24', width 26', no. of stories 1½.

Wilson moved that the Building Inspector issue a permit to build a house to Paul and Judy Doucette, for Lot 3, Sagamore Circle, for a residential 2-family dwelling, which meets all by-law requirements; seconded by Cataldo, with the Board voting unanimously in favor.

Attorney Michael Shea, representing Olde Essex Realty Trust, filed with the Board a building permit application and amended plan for renovations to the Olde Essex Village. Shea said the only change would be to turn one of the stair towers so the view from the second floor of Burnham's Olde Essex House Restaurant would not be blocked. In order to meet all the proposed parking requirements we have commercial leases stating that tenants and employees will park at the rear of the village. There will be an extended turn at the rear of the Olde Essex House to make it easier for a fire truck to turn. We felt the old 10' right-of-way was inadequate for parking and fire vehicles. None of the proposed additions are closer to the property lines than the existing buildings. A copy of the commercial lease was given to the Board. There will be a 20 car lot and 30 car lot at the rear. Both lots will be leased from Hawthorne Realty Trust. Mr. and Mrs. Benjamin Dudley questioned where the rear lots would be and were told it would be to the other side of their barn. They asked if the lots would be hot-topped. Architect David Jacquith said he wasn't sure at this time, that it could be lypac or gravel. The Dudleys were also concerned with drainage. Cataldo asked when they proposed building the parking lots. Jacquith said in conjunction with the renovation of the building. Cataldo - "Have you been to the Conservation Commission as there was concern about water or wetlands." Jacquith - "We had a botanist check it and it is not wetlands." A discussion followed as to what area the water drains to. Shea then said, "There are earlier written agreements for the right-of-way access. The parking has been agreed upon and is just waiting to be written. We are not doubling up the area as was suggested, the existing parking on site meets the parking requirements." Cataldo - "How many spaces are being created?" Shea - "30". Mrs. Dudley - "Does that mean you may be expanding the parking at the rear?" Budrose - "If we need perhaps 5 additional parking spaces." The Dudleys were also concerned if lights would be

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installed in the rear that would shine onto their property. Jacquith said they had no plans for lights, but if installed would protect it from shining onto the Dudley's property. Cataldo asked if the building would have a sprinkler system. Budrose - "I said before I will check with my Insurance company. W. Burnham - "I would like to see a sprinkler system. I would also like to see the side lines increased even though it is existing, so a fire truck could be taken to that side. I feel the sidelines are correctable." Cataldo said aesthetically what is going up is far better than what is existing and that he had not heard a lot of objections. Gordon Thompson, an abutter, said he did not object to the proposed renovations, but would like to have a stockade fence approximately 80' in length between the two properties. As he will lose 20 to 30% of tree growth, he would like to see them replaced. He also felt that Budrose should arrange to have the stairwell lighted and that proper lighting on the front of the building would be 'a must'. Cataldo asked Budrose if he had had a chance to talk with Robert Wolfe who has a proposal for a subdivision in the area. Budrose said he hadn't. The Dudleys asked if Budrose decided to change their plans and increase the parking if they as an abutter would have any say in this. It was felt they wouldn't have to be notified.

Cataldo moved that we grant the permit to build to Olde Essex Realty Trust to construct an addition and to remodel existing stores as per the plan submitted dated August 29, 1986, finding that with construction of the additional parking as proposed, all appropriate Town by-laws are addressed. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A public hearing was held at 8:35 p.m. for Robert S. Wolfe, Essex Heritage Development, for a subdivision of land on Eastern Avenue. Joseph Geller, of Geller Landscape Architects was the representative. The Board and public reviewed the plans. The proposal is for a division of land into two 4-acre lots, containing two buildings, a duplex and a single family home, on each lot, to be handled as condominium units. The lots would be reached by a road that will lead to a private drive for the two parcels. Geller told the Board that they have modified the hydrant that the D.P.W. had had concerns about. Approval was received from the Police Department, Conservation Commission and the Board of Health. The Fire Department said the plans did not show the fire hydrant or water mains. Barry O'Brien, an abutter, said he was concerned about drainage and that any change in vegetation might cause runoff on his property on School Street as there was a lot of ledge in the area. Geller said they are trying to leave as much of the existing vegetation as is possible. Wolfe said he could put in a condominium by-law about not cutting down the vegetation. Some of the abutters stated their concerns about drainage. Frye questioned the front yard requirements of Lot 2. E. Burnham felt they should ask for a waiver for the angle of the lot line with the street. O'Brien asked, "Who is liable for the water that comes off this property?" Wolfe - "The State Law says we are." Wolfe said that each lot has a legal right to the driveway recorded in the

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Registry of Deeds. Frye asked for an extension to the 60-day time period to ask for legal consultation on the frontage. Wolfe said he has a couple of concerns if he goes much longer. There will be (i) a business impact and (ii) a legal impact. Madsen asked how the Board felt about extending the time period. Wilson, W. Burnham, E. Burnham and Dunn felt there was no need for an extension. Frye then asked if anybody had any concerns about applying the Wetlands By-law and Raytheon Maps to this. The consensus of the Board was no. W. Burnham asked how much blasting would occur. Geller said they are keeping the floor grades at existing levels. Any blasting would be for trenches which would be minimal. Mr. Dudley stated his concern with their water supply if there was any blasting. Madsen asked Wolfe if they could pull back the hammerhead to create the frontage. Wolfe said he could. It was felt another 20' would correct the situation.

E. Burnham moved that we approve the subdivision plan of Essex Heritage Development dated July 11, 1986, with the modifications of the hammerhead to provide a 25' front yard on Lot 2. The motion was seconded by W. Burnham, with the Board voting as follows: P. Dunn - in favor; E. Burnham - in favor; W. Burnham - in favor; A. Wilson - in favor; E. Frye - in favor; M. Cataldo - in favor; R. Madsen - in favor;

Francis Englehardt, Western Avenue - Madsen said he spoke to Town Counsel who said the Board can approve a plan without adequate frontage on an approval not required, but when someone applies for a building permit then we must make sure all the by-law requirements are met.

Wilson moved that we approve the subdivision plan of Englehardt Realty Trust of Western Avenue dated August 15, 1986, Parcel B being in non-compliance with zoning by-laws in effect on September 3, 1986, approval under subdivision control law not required. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

Stuart Abrams, Patriots Landing, said there is a new filing on an amended plan with the moving of the road. Mr. Tulloch has entered into an agreement to move the road. W. Burnham felt there two subdivisions going on at the same time, the present subdivision and an approval not required with Tulloch. Cataldo asked where the covenant stands at the moment. Abrams said that George Fallon was supposed to have delivered it back to the Board. Abrams then said that their Clerk of the Works will be Hancock Survey. A public hearing is scheduled for October 1, at 8 p.m.

Robert Coviello met with the Board to discuss the proposed purchase of the Perrotti property at 155 Main Street, Lot No. 39. He said the building is under a purchase and sales agreement and wants permission to have an antiques shop and apartment. W. Burnham said Mrs. Perrotti's house is next door and if they are in common owner-

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ship it becomes one building. Coviello said this is a single family house and I want to change it to a business and residence. It is a non-conforming lot. It has not been lived in for 8-10 years. Mrs. Perrotti used it for storage. Ellen Neely, owner of the property next doot, said there is a conflict of lot lines and would like the Board to hold off making their decision because Coviello does not know how much land he has. Concerns the Board must address are (i) common ownership, (ii) issue of abandonment, (iii) parking, (iv) Residential and business use, mixed use. Wilson said he concern his is the congestion. Stephen Score, an abutter, said he is concerned because of the parking. Ellen Neely said she also has concerns about the parking and would not like to see it as a 3 or 4 dealer shop. Coviello said he was thinking of just two dealers. Cataldo said he felt that if people cannot make a turn in the parking lot, he would not be happy to see them backing out onto the main road. At this time, Coviello was asked to draw a plan of parking and the Board would address their concerns,


Mark Glovsky, attorney for Frederick Richardson, Conomo Drive, told the Board he is here "to advise them what Richardson is planning to do on Conomo Drive. The roadway lay out to Michael Cataldo's property needs improving. We have talked to the Greenbelt who are acquiring property from Weld. They feel the property will now be more accessible to people who may want to dump. They have talked about putting in a gate. We anticipate doing nothing more than gravel work which will make the road passable beyond the four lot to Andrews Street. We have found that you can upgrade a private road as long as you do not interfere with a persons right to use it. Richardson and the Greenbelt felt the Board should know what they plan to do."

Peter Van Wyck covenant - Van Wyck does have the right to change his covenant to a bonding arrangement if he chooses as long as the change in arrangements meets the approval of the Planning Board. Madsen then read the stipulation to release that part of Van Wyck's property to place the Essex River Dredging material.

E Burnham moved the Board will sign the partial release of the stipulation when the Board is in receipt of all documentation; seconded by W. Burnham, with the Board voting unanimously in favor.

Cataldo moved to adjourn the meeting; seconded by E. Burnham, with the Board voting unanimously in favor.

Meeting adjourned 11.15 p.m.


Gillian B. Palumbo

AGENDA

7:30 p.m.	.....	Phillip Budrose - Old Essex Village - POSTPONED - approval was not given at Bd. of Health meeting to septic system plans.
8:00 p.m.	.....	Mr. Onthank - subdivision plan
8:30 p.m.	.....	Stephen Woodman - revised plan for Woodman's, Inc.
8:45 p.m.	.....	Tom Griffith - subdivision of property on Western Avenue
9:00 p.m.	.....	David Davis - Old Yankee Fuel office at house on Eastern Ave.
9:10 p.m.	.....	Mr. Fitts - Lufkin Point
9:20 p.m.	.....	Scott DeWitt - Brookside Apts.

Essex Planning Board

August 20, 1986

Present : Rolf Madsen, Chairman; Michael Cataldo; Elisabeth Frye; Alden Wilson; Patricia Dunn; Westley Burnham; Everett Burnham.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of August 6, 1986 were read. Wilson moved that we accept the Minutes; seconded by Frye, with the Board voting unanimously in favor.

A building permit application was received for Roman Borysthen-Tkacz and Joseph and Marcia Borysthen-Tkacz for a single family residence on Lot #2, Sagamore Circle. Size of the building - length 64', width 52', height 30'. Distance from street line 30', right side line 40', left side line 65', rear line 73'.

Cataldo moved that we approve the application for a permit to build a single family dwelling of Roman Borysthen-Tkacz and Joseph and Marcia Borysthen-Tkacz for Lot #2 on Sagamore Circle, finding it meets all the requirements; seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Russell and Constance Harding, 18 Maple Street, for the addition of a deck, to the rear of the home, maximum width 12', maximum length 34'.

Wilson moved that we issue a building permit to Russell and Constance Harding, 18 Maple Street, for construction of a deck to the rear of their house on an existing non-conforming lot, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood; seconded W. Burnham, with the Board voting unanimously in favor.

A building permit application was received for Lakeview Road Realty, Trust, Daniel Cogan, Trustee, to demolish and remove 2-story structure on east side of existing home; to demolish and remove 2-story structure on the west side of the existing house; to build new 1-story bedroom on the east side, build new 2-story garage with bedroom above; to rehabilitate the center structure (kitchen, living on 1st floor, 2 bedrooms on 2nd floor), including new siding, new roof, new windows and doors, and re-side barn.

E. Burnham moved that we approve the building application of Lakeview Road Realty Trust for the modification of the existing dwelling, as shown by the plans, subject to the approval of the Conservation Commission, finding that the changes are not substantially more detrimental than the existing nonconforming use to the neighborhood; seconded Wilson, with the Board voting unanimously in favor.

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Terry Onthank met with the Board to discuss a piece of property off Laurel Lane that he wishes to purchase. The lot is approximately 7 acres in size. Onthank said at this time he would like to build a camp with no utilities, but in the future would like to subdivide. He wanted to know if he purchased the land what improvements he would have to make to the access, as he did not wish to be made to comply with the subdivision specifications for a road. Madsen said, "We have to be sure there is adequate access for fire vehicles. Laurel Lane would have to be deemed adequate before you can have an approved subdivision." Onthank said, "I would like to ask the Town of Essex to declare Laurel Lane a public way so it will provide adequate access to the property." Frye said, "It is a private way so you will have to deal with all the people on Laurel Lane to upgrade the road." Cataldo said, "We would still require certain amenities, for example, water, for fire protection. The Town of Essex cannot declare it a public way unless it goes to a Town Meeting. You would also have to clear it with every lot owner on Laurel Lane." Onthank was given a copy of the regulations for road adequacy.

Francis Englehardt met with the Board to discuss his subdivision on Western Avenue. He gave the Board a plan. The frontage of Lot B was 105.00 feet. Frye felt that 'unbuildable' should be written on the plan. E. Burnham felt the plan should state that lot was 'non-conforming'. Madsen said he would check with Town Counsel regarding this. Englehardt was scheduled to meet with Board at their next meeting.

Stephen Woodman met with the Board to present his plans for a subdivision at 125R Main Street. Lot A has a 2-family dwelling, plus one other dwelling, with the size of the lot being 30,010 square feet. At this time Woodman did not have a Form A to file with the Board, so his appointment was postponed.

Tom Griffith met with the Board to discuss a subdivision at 211 Western Avenue. The lot size is 2 acres. Griffith said that Leonard Woodman, an abutter, has verbally agreed he could use the right-of-way to put in a road. As Griffith did not have a plot plan with him, he was advised to bring one in for the Board to review, and also to get together with Woodman to prepare a preliminary plan for the Board.

David Davis, Old Yankee Fuel, met with the Board to further discuss his proposed purchase of property at 132 Eastern Avenue. Tudor Leland, an abutter, wrote a letter to the Board stating that he approves of the proposal providing a fence is erected to obscure the oil trucks from his property. Davis said the business will operate from the one-car garage. He then gave the Board a plan of the parking, which they had asked for. There is a 2-family house, where Davis said he will be living. He will have two other employees, and is therefore going under the concept of a home occupation. Davis said no special permits are required for storage of oil under 10,000 gallons. The Board felt Davis had addressed

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all of their concerns.

William Fitts, Lufkin Point, met with the Board to discuss his proposal to change his 3-bedroom summer cottage to a winter home. He wanted to find out if any restrictions would be imposed for the re-building of the home, as he wants to tear down the existing house. The lot is a non-conforming lot. There is ledge so he cannot have a basement. The question the Board felt should be checked was if Fitts should tear down his property, will there still be an existing building. There was a discussion on by-law 6-4.2

Scott DeWitt, Brookside Apartments. Frye reviewed the multi-family by-law and the reason it has to be by special permit application. DeWitt said he would like to file a new plan, but wanted to know what procedure to follow, as according to Town Counsel the correct procedure had not been followed. There was a discussion on the special permit application and the reasons for the denial of DeWitt's previous plan. Cataldo said he would prefer to see it go the special permit route.

Stephen Woodman gave the Board a Form A, for a subdivision at 125R Main Street.


W. Burnham moved that we deny the subdivision plan of Stephen Woodman, located at 125R Main Street, Essex, under the approval notrequired control law for the following reasons for the following reasons: 6-6.3(a) (i) Lot area minimum 40,000 square feet. Lot area for land on street in existence on June 7, 1972, minimum 30,000 square feet; (ii) Lot frontage minimum 150 feet; (v) Front yard, minimum 25 feet; The motion was seconded by Cataldo, with the Board voting unanimously in favor.

The Board reviewed the plans of Robert Wolfe for his subdivision on Eastern Avenue. Frye questioned the front yard requirements on Lot 2.

George Patch, Town Accountant, requested that the Board name one member to sign vouchers for the Essex County Newspaper. Cataldo moved that Essex County Newspaper invoices only be approved by any member of the Board; seconded Frye, with the Board voting in favor.

W. Burnham moved we adjourn the meeting, seconded by Cataldo, with the Board voting unanimously in favor.

Meeting adjourned 10.30 p.m.


Gillian B. Palumbo

AGENDA

- 7:40 p.m.
- Gerald Parady - 1 Prospect St.
Building application
- 7:50 p.m.
- David Davis - Old Yankee Fuel -
Business on Eastern Avenue
- 8:00 p.m.
- Robert Wolfe - subdivision on
Eastern Avenue
- 8:30 p.m.
- Richard Means - Sagamore Circle
subdivision
- 8:45 p.m.
- Mark Glovsky - Henderson
property - Apple/Andrews Street
- 9:15 p.m.
- Michael Shea - building appli-
cation - Old Essex Village
- 9:30 p.m.
- Scott DeWitt - Brookside Apts.
Application process

N.B. I was not sure whether John Decoulas, Chebacco
Estates was on the agenda, so I omitted him,
but he will be in to drop off his definitive plan.

Business - Articles for the Town meeting in September -
Flood Plain and by-law change.

Essex Planning Board

August 6, 1986

Present : Michael Cataldo, acting Chairman; Elisabeth Frye;
Alden Wilson; Patricia Dunn.

Meeting called to order 7:30 p.m.

A building permit application was received for Gerald Parady, 17 Prospect Street, for an in-law apartment. The size of the addition is length 24', height 17';, width 24', no. of stories 1½. Distance from street line 55', right side line 40', left side line 174', rear line 39'. The lot is non-conforming as the front yard is 20'. There is 265' of frontage, the lot size is 32,000 square feet. Parady said he wants to tie into the building from the deck. He was told he will need to have a foundation under the deck. The addition will have a bathroom and kitchen. Parady said he has approval from the Board of Health dated August 6, 1986. He also gave the Board letters of approval from all abutters.

Wilson moved to issue a building permit to Gerald and Paula Parady, 17 Prospect Street, for an addition for use as an in-law apartment to be attached with a foundation to the existing dwelling at the above address, finding it to be substantially no more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Frye, with the Board voting unanimously in favor.

A building permit application was received from Ronald and Kathleen Feener, 70 Southern Avenue, for a 2-story addition, consisting of a 2-car garage with bedrooms and bathroom above. The lot is non-conforming, but the Feener's were granted a variance by the Board of Appeals on February 3, 1976 for the addition. The Feener's said they are not increasing the number of bedrooms or bathrooms, but are just moving them to the addition from the existing house.

Wilson moved that the Building Inspector issue a building permit to Ronald and Kathleen Feener, 70 Southern Avenue, for a 2-story addition of bedrooms and bathroom, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood, and that the parcel of land is covered by a favorable decision by the Board of Appeals dated February 3, 1976. The motion was seconded by Dunn, with the Board voting unanimously in favor.

It was mentioned to the Building Inspector that the Board must be sure of the adequacy of the roadways and driveways before a building permit is issued, to be sure they are accessible for the fire trucks. There must be a mechanism to be sure that this is checked.

A building permit application was received for Jack Schyelling, Belcher Street for a new single family residence. There is an existing driveway. Size of the building, length 99', height 30', width 20', no. of stories 2.

August 6, 1986

Wilson moved that the Building Inspector issue a building permit to Jack Schylling, to construct a single family dwelling on Belcher Street as it meets lot requirements. The motion was seconded by Dunn, with the Board voting unanimously in favor.

David Davis, Old Yankee Fuel, met with the Board to discuss his proposal to purchase property at 132 Eastern Avenue to use as an office and to park his trucks there. The house is a 2-family with an attached garage. Davis gave the Board a letter of approval from one of the abutters. He was told the Board's primary concern were letters from all abutters and a plan for parking.

Joseph Geller, landscape architect, representing Robert Wolfe, met with the Board for a discussion of the proposed subdivision off Eastern Avenue. Geller said they will be going to the Conservation Commission, but felt the area that would concern the Commission was a wet area subject to flooding and may not be a wetland. Furthermore, if the proposed culvert is constructed correctly it should take of that problem. Cataldo felt that Wolfe and Phillip Budrose, who has a project proposal for the Old Essex Village, should discuss both of their projects together, and that he would feel very uncomfortable if this were not done. Geller said the septic system plans have been approved by the Board of Health. Cataldo said the Board of Health had made contingencies which must be met before the plan is approve, those being (i) a perimeter or french drain installed across the back of the building construction site. (ii) re-building and modification of the culvert and drain on Burnham's (Old Essex House Restaurant) side of the parking lot to create a flow for drainage in the area. If need be, a pipe to be changed under Route 133. The Conservation Commission and Police Department had no concerns. The Fire Department did not approve, because the plans did not show the water main and hydrant location. It was shown on the preliminary plan, but not on the definitive plan. Bylaw 6-3.33 was reviewed at this time. Cataldo - "Do you propose putting in fire walls between buildings?" Geller - "Yes." Cataldo - "Do you intend putting sprinklers in buildings?" Geller - "I doubt it."

A public hearing is scheduled for September 3, 1986 at 8 p.m.

Richard Means, Sagamore Circle Subdivision, met with the Board to inform them he has chosen Clay Morin to serve as his Clerk of the Works for the road construction of his subdivision. Cataldo asked Morin if Joseph Ginn was doing any work for him at this time. Morin said no. Morin's invoices will be submitted through the Board to Means. Means said the binder coat will be on before this winter. All three houses will have the shells up. All site work will be done then. All road sides will be seeded this fall. Cataldo requested that Morin write his schedule up in a more formal way and submit it the the Board

Stuart Abrams and John Decoulas, Chebacco Estates, met with the Board. Abrams gave the Board copies of the agreement, which they reviewed.

August 6, 1986

Cataldo said he was somewhat irritated by the use of a pamphlet that was distributed presenting the duplexes as condominiums. Abrams said it is designed to be six duplexes with rights to the water. He didn't feel he had withheld information, that it is condominiums. The intention is to sell the units to individual owners. Cataldo asked if this agreement was being put up for construction of the road on the first plan. Decoulas felt that either road would cost about the same. The amount for road construction was set at \$85,800. The work will be subcontracted by Maine Post and Beam. Abrams said he will use Hancock Survey for his Clerk of the Works.

Cataldo moved that the Town of Essex Planning Board, as agents acting on behalf of the Town of Essex, enter into a covenant with Stuart Abrams and George Fallon, as Trustees of Patriots Landing Realty Trust, for the purpose of securing the construction of the subdivision road as presented in the plan dated September 18, 1985 and approved . The developer agrees to deposit the sum of \$85,800 to be returned by the Essex Planning Board in increments over the project. The developer further agrees to further secure as payment for a Clerk of the Works to be approved by and employed by the Essex Planning Board. The motion was seconded by Wilson with the Board voting unanimously in favor.

The Board then signed the agreement, which was notarised by attorney Michael Shea. The Board was told the amended plan is the same, in that there are still six lots, but the road has changed a little.

Michael Shea, attorney, and Phillip Budrose, Old Essex Village, gave the Board a building permit application. A letter was read to the Board from the Board of Health which stated that it would not make its decision until their meeting of August 19. The building application is for remodelling of existing stores, shops, and offices located at the Old Essex Village. The proposed plans are for offices on the second floor and retail space on the first floor. There is 7,000 square feet of existing rental space; the application is for an additional 10,000 square feet, making a total of 17,000 square feet of retail and commercial space. The area of land is 55,000 square feet. Distance from the street line is 64', right side line 40', left side line 16', rear line 20'. Shea said Budrose plans to construct a new parking lot at the rear of the shopping area and one entrance will be eliminated, so traffic will ingress and egress at one site. Cataldo said he was favorable to the proposal, but feared the increase of traffic. He asked that Budrose meet with Robert Wolfe for a discussion on the traffic situation. He added that he felt uneasy about voting on something this large this evening, with half of the Board missing, and felt that the public should be present as well. Cataldo asked if the building was going to have a sprinkler system. Budrose said he didn't know, that he would have to check with his insurance company. Budrose was also advised to check with the Fire Department for their

August 6, 1986

codes.

Scott DeWitt met with the Board to discuss his application for nine apartments at the Brookside Apartment complex on Story Street. He said there was a question of hearing procedure, that the Board turned him down on new construction instead of a non-conforming use. Cataldo felt the Board should check with Town Counsel regarding the procedure. DeWitt asked the Board how he should proceed.

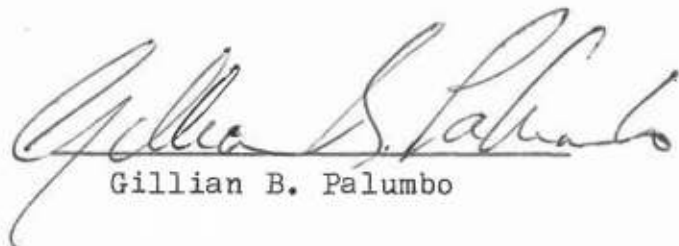
There was a discussion on the articles for the Town Meeting. Cataldo said he feels the Flood Plain article should be there.

Frye moved that we put the articles for the Flood Plain Bylaw, Site Plan Review and Roads article on the Town Warrant. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Peter Van Wyck's permit for the taking of top soil, re. letter to the Planning Board dated July 23, 1986, Frye said she checked the Minutes and found nothing to indicate he applied for a permit.

Frye moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10.15 p.m.



Gillian B. Palumbo

BayBank

Middlesex

July 8, 1986

Mr. Richard L. Means
Mrs. Julia C. Means
7 County Road
Essex, Mass. 01929

Dear Mr. and Mrs. Means:

I am pleased to inform you that BayBank Middlesex has approved a secured non-revolving Line of Credit for the amount of \$66,522.50. This money will be used only to construct roadway and all utilities for the subdivision "Sagamore Circle" per plan of Field Services, Inc. #384. It is our understanding this price includes all labor and materials to complete roadway as per plan #384.

We welcome your acceptance of this Line of Credit subject to the following terms and conditions:

1. Rate of interest to be floating rate of BayBank's Prime Rate plus 2.50%.
2. The Line of Credit will be secured by real estate mortgage on 7.3 acres of land known as Parcel "A" located in Essex, Mass. and recorded at the South District Registry of Deeds, Book #6731, Page 619 thru 621.
3. The loan will be signed by Richard L. Means and Julia C Means.
4. No monies will be advanced until the Town of Essex provides a Certified Approved Plot Plan for the subdivision "Sagamore Circle" to BayBank Middlesex.
5. The Bank has committed \$66,522.50 which represents 10% over the estimated cost for the construction of the roadway and all the utilities for the subdivision "Sagamore Circle" in Essex, Mass. The monies will be disbursed by the Bank upon written notice from the Planning Board of Essex as the following phases are completed:
 - a) \$20,000.00 to start job.
 - b) \$20,000.00 when brought to subgrade, utilities complete.
 - c) \$10,000 when basecoat of asphalt is in place.
 - d) \$16,522.50 upon completion
6. The First Mortgage on the above mentioned property is held by BayBank Middlesex and recorded with Essex County South District Registry of Deeds on Sept. 24, 1979, Book #6635, Page #726. A copy of said mortgage is attached.

7. The construction of the road and the installation of services should be completed one year from the date the commitment is signed. If the project is not completed by that date and in compliance with the terms of the agreement, the remaining undisbursed funds will be available by the Bank for the completion of the project.

Please indicate your acceptance by signing and returning the enclosed copy of this letter.

Sincerely,

Grace Ahearn

Grace T. Ahearn
Assistant Vice President

Above terms and conditions accepted:

By *Richard J. Means*

Date *7/14/86*

By *Julia CMeans*

Date *7/14/86*

Essex Planning Board

July 16, 1986

Present : Rolf Madsen, Chairman; Elisabeth Frye; Michael Cataldo;
Patricia Dunn; Everett Burnham; Alden Wilson.

Meeting called to order at 7:30 p.m.

A building permit application was received for Prime Realty Trust, 56 Terrace Road, Medford, for Lot No. 4, Belcher Street, for a residential single family dwelling. Distance from street line - 435', right side line - 60', left side line - 195', rear line - 130'. Size of building, length 68', 34' average height, width 30', no. of stories 2½ plus basement. Area of land 3.0442 acres.

E. Burnham moved that we approve the building permit application of Prime Realty Trust, for Lot No. 4, Belcher Street, as shown on plan of land of Glen Warren dated May 15, 1985, as it conforms to all regulations of the Essex By-laws. The motion was seconded by Wilson. Cataldo asked if you could get to that lot now with the roadway as it is. Warren said, "Yes, it has been roughed in to that lot, but the final gravel surface has not been done." The voting is as follows: Wilson, E. Burnham, Dunn approved, Frye opposed, Cataldo voted present, Madsen did not vote.

A building permit application was received for Prime Realty Trust, for Lot No. 5, Belcher Street.

Wilson moved that we approve the building permit application of Prime Realty Trust, for Lot No. 5, Belcher Street, as shown on plan of land of Glen Warren dated May 15, 1985, as it conforms to all regulations of the Essex By-laws. The motion was seconded by E. Burnham, with Dunn, E. Burnham, Wilson voting to approve, Frye opposing, and Madsen and Cataldo voting present.

Kevin Moran and Leo Correa met with the Board for a discussion on a preliminary plan for a subdivision for Ponderosa Pines, Pond Street, the discussion being strictly an informal discussion. The road will be approximately 2100'. Madsen felt there should be a fire consideration. Wilson also felt the subdivision should have Town water. Twelve lots are being considered, the Board was told, but it could be less. Burnham also recommended they see the Conservation Commission to determine where there may be wetlands. Wilson felt they should look at the road drainage system, as it is higher than the areas around it. Madsen said he felt the first step for them would be to get the location of the percs.

A discussion was held with the Building Inspector on changes of the building permit application and procedure. Cataldo said he felt that Carter should supply the Planning Board with a list of building applications for each month. Carter said a letter should be attached to the existing building application for signatures from each of the Town Boards. The Board of Assessors had already requested they would like to see the map and parcel number listed.

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Frye said she thought it should all be on one sheet. Madsen suggested that the Board members think about what they would like to see on the new building application.

There was also a discussion on how the Building Inspector decides on the cost of houses listed by the applicant on the building permit.

A building permit application was received from Jeffrey Brewer, 24 Pond Street, for an accessory building, a 4-stall horse barn for livestock. Length of building 32', height 20', width 26', no. of stories - 1. Distance from the street line 130', right side line 106', left side line, 20', rear line 275' approx.

E. Burnham moved that we approve the building permit application for an accessory building for Jeffrey Brewer, 24 Pond Street, as shown on the application dated July 14, 1986. The motion was seconded by Frye, with the Board voting unanimously in favor.

A building permit application was received from Margaret Story, off Winthrop Street for a 12' extension of an addition. The lot is a non-conforming lot. Story gave the Board letters of approval from all abutters except Myrtle Nowe. Madsen felt the Board, in keeping with the building permit request, require a response, so it was suggested the letter be mailed certified mail, return receipt requested, just to be sure she has received it.

E. Burnham moved we approve the building permit application of Dana Story, off Winthrop Street, finding that the proposed alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Wilson.

Cataldo moved to amend the motion that we instruct the building inspector to issue a permit to Margaret Story for the extension of an addition of 12' on a non-conforming lot, upon receipt of a reply from the remaining abutter, finding it to be not substantially more detrimental than the existing nonconforming use to the neighborhood. The amendment was seconded by E. Burnham, with Dunn, Cataldo, Wilson, E. Burnham, Madsen voting in favor, Frye voted present.

Richard Means, Sagamore Circle subdivision, told the Board that a new letter of agreement was sent to John Tierney from the bank. Tierney said it was fine. A letter has been sent to the Planning Board notifying them of this. Means had two estimates for the road, (i) 51,000, (ii) \$60,000. He also said all the septic system and engineering work on this project is going to be done by James O'Day of Field Services. Means was given a list of engineers from which he was to choose one to be his Clerk of the Works. The definitive plan was signed at 9 p.m.

Robert Wolfe presented the Board with his definitive plan for land on Eastern Avenue. There were various concerns from the Town Boards. The Board of Health were concerned with drainage and septic considerations, that it could drain onto abutters property,

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but then decided that any leaching would remain on the property. Copies of the plans have gone to the D.P.W., Fire Department, Police Department and Conservation Commission. The Police Chief was concerned about the field of view from the entrance onto Eastern Avenue. Concerns of the Fire Department were with the turning process. The D.P.W. was concerned with the location of hydrants and water. There will be 2 lots, 2 owners and 2 buildings. Lot 1 is 4.28 acres and Lot 2 is 3.81 acres. A check for \$200.00 was given to the Board this evening with the definitive plan.

Stuart Abrams met with the Board. He said engineer John Decoulas had not completed the new definitive plan yet. He gave the Board an agreement for the road. The total cost will be \$68,000 including lights. Abrams asked to have the chairman of the Board sign and hold it in escrow, so things could begin to get underway. Madsen felt it would be unfair to the Board to hold it in escrow without them having read it first, and also felt it should be done at an open public meeting.

Peter Kopanon, 32 Pond Street, told the Board he is in the process of putting an addition onto his house. The change he is concerned with is that he is making it an in-law studio apartment. The lot size is 2½ acres. There is a new septic system, 1000 gallon tank. There are three bedrooms in the house and one bedroom in the addition making a total of four. The Board could see no problems with it as it met all the requirements, but it was suggested he check with the Board of Health.

Peter Van Wyck, together with attorney William Evans, met with the Board. He said there is a letter the Selectmen wrote to the Planning Board on July 22, 1980, allowing him to take top soil from Low Land Farm. He would now like to bring top soil for his garden. The top soil will not be coming from any areas involved with the D.E.Q.E. Madsen said a letter will be sent to the Board of Selectmen asking them if the permit is still outstanding.

Van Wyck said he had asked William Evans to come in this evening to talk to the Board about the covenant. Evans said they have a covenant now and would like to enter into a 3-party statute. Madsen said, "We have entered into two covenants tonight and in each case the applicant's attorney wrote it with the bank's attorney. It was then sent to Town Counsel for review. Do you want to withdraw this covenant." Evans - "Do we proceed with this arrangement knowing that the end of the road extension has not been approved by the Conservation Commission and D.E.Q.E. How can we arrive at a figure if it will be changed." Madsen - "We requested three bids in the amount of the cost of the total road." Cataldo - "Is the reason for the proposal of withdrawing this covenant so that you can acquire a mortgage with the bank, and so Peter can sell the lots before the road is completed." Evans - "Yes, but this has nothing to do with a three-party arrangement. The applicant can use one or more of these and has a right to

July 16, 1986

change it." Cataldo - "So once the three-party agreement is entered into, you can go ahead and sell the lots." Madsen - "I want anything that we get into to be approved by Town Counsel." Madsen - "You will have to come up with a rough draft for Town Counsel, and the Board also has to sit and discuss whether we want to release you from the existing covenant." We have gone through all the procedures of writing this covenant and now you are asking to withdraw it." Evans - "This is a normal procedure." It was felt there should be a time restraint in the covenant.

Frye brought to the Board's attention work being done on the Henderson property on Apple Street. Cataldo moved that we notify Peter Henderson that prior to doing any more work on his property located between Apple and Andrews Street, he schedule an appointment with the Planning Board to explain his future plans. The motion was seconded by Dunn. The voting was as follows: Dunn, Frye, Cataldo, approved; Wilson and E. Burnham opposed.

Dunn moved to adjourn the meeting, seconded by Cataldo, with the Board voting unanimously to approve.

Meeting adjourned at 10.15 p.m.


Gillian B. Palumbo

Essex Planning Board

July 2, 1986

AGENDA

8:00 p.m.	.....	Trustees of Reservations - ANR plan to be signed.
8:30 p.m.	.....	Richard Means - covenant for subdivision
9:00 p.m.	.....	John Decoulas, Chebacco Estates.

Essex Planning Board

July 2, 1986

Present : Rolf Madsen, Chairman; Everett Burnham; Elisabeth Frye; Patricia Dunn; Alden Wilson; Michael Cataldo.

Meeting called to order 7.35 p.m.

The Minutes of June 18, 1986 were read. Wilson moved to accept the Minutes as read, seconded by Cataldo, with the Board voting unanimously in favor.

A building application was received for Robert and Susan Jaremsek, 58 Western Avenue, Essex, for the construction of a greenhouse addition.

E. Burnham moved to approve the addition of Robert and Susan Jaremsek, 58 Western Avenue, to the rear of their dwelling, finding it to be substantially no more detrimental to the neighborhood than the existing non-conforming use.

A building permit application was received from Robert and Barbara Fraga, 101 Martin Street for construction of a single family dwelling. The area of land is 30,000 square feet, the frontage is 125.40'. The distance from the street line is 62', right side line 25', left side line 25', rear line 135'. Size of building 76'4" length, height 17', width 27'8", no. of stories - 1.

Cataldo moved we deny the building permit application of Robert and Barbara Fraga, 101 Martin Street, under 6-6.2 - dimensional requirements, finding that this particular lot lacks 150' of frontage as required. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Mollie Gerrard, representative for the Trustees of Reservations, met with the Board for their signatures on the plan of the Stavros Reservation on White's Hill. A parcel of land, A1-B, 8,170 square feet in size, was transferred to Stavros. The Board felt that as no new lot was created, it was not technically a subdivision.

E. Burnham moved that we approve the plan of the Trustees of Reservations dated April 25, 1986 of land off John Wise Avenue and Island Street, showing the transfer of parcel A1-B to George, Evelyn, James and Mary Stavros. The motion was seconded by Wilson, with E. Burnham, Frye, Dunn, Madsen and Wilson voting in favor. Cataldo did not vote or participate in any way in the discussion as he has a piece of land under agreement with the Trustees of Reservations and felt it may be considered a conflict.

A building permit application was received for Edward G. Lane, 24 Pickering Street, for Lot #3 on the corner of Wood Drive and Coral Hill for construction of a single family residence. Distance from the street line 118', right side line 70', left side

July 2, 1986

line 69', rear line 110'; size of building, length 38', height 19'6", width 24', no. of stories - 2.

E. Burnham moved we approve the building permit application of Edward Lane, 24 Pickering Street, for the construction of a dwelling on Lot #3, Wood Drive and Coral Hill, because it meets lot size and frontage requirements. The motion was seconded by Cataldo.

Cataldo moved to amend the motion that we accept the building permit application of Edward G. Lane, 24 Pickering Street, for construction of a single family residence on the corner of Coral Hill and Wood Drive, approval granted upon receipt of a plan for parking on this site. E. Burnham seconded the amendment, with the Board voting unanimously in favor.

A building permit application was received for Glen A. and Linda P. Warren, 50 Norwood Avenue, Manchester, for Lot #6, Belcher Street. Area of land 3.6274 acres; size of building, length 64', height 24', width 47', no. of stories - 2 with basement; distance from street line 275', right side line 22', left side line 295', rear line 370'.

E. Burnham moved we approve the building permit application of Glen A. and Linda P. Warren, 50 Norwood Avenue, Manchester, for a single family residence on Lot #6, Belcher Street. The motion was seconded by Wilson. Madsen said he feels it doesn't meet the front yard requirements of 6-3.33 in the siting of the house. There was a discussion on the interpretation of this by-law. The Board then voted as follows: E. Burnham, Dunn, Wilson approved, Cataldo voted present, Madsen and Frye opposed.

Richard Means met with the Board for further discussion on the covenant he will give to the Board for his subdivision on County Road. He gave the Board two estimates of the road and also showed them a copy of the contract which had been given to Town Counsel, who had made some suggestions for what he would like to see in it. Means said he has accepted a contract for the roadwork with Northern Essex. He wants the bank to set up an agreement between the contractor and the Planning Board, with partial payments to be made. The amount of money will be \$60,000. Means suggested that \$40,000 be released when the road is up to subgrade, and then the remaining \$20,000 when the top layer is on and it is felt the road meets the specifications of the plan. There will be about 600' of road. The estimate for the hot-topping is \$15,000. Cataldo felt they should take the \$60,000 with a 10% contingency. Means said his banker should meet with Town Counsel to come up with a contract. The Schedule for the road is one year from the recording of the plan, with the last payment upon completion of the road.

John Decoulas, engineer for Chebacco Estates, and Stu Abrams, owner, met with the Board. Madsen said he spoke to Town Counsel who is working on a covenant with Abrams. Decoulas then gave the Board a new preliminary plan. Madsen said he could submit an amended plan if he filed a plan with the road changes, but that he would still have to go through the public hearing process as if it was a new plan. Abrams said the current intention is that the only change

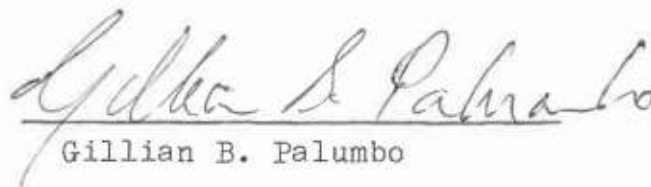
July 2, 1986

will be the road bed. The next plan to be filed with the Board will be a definitive plan with six lots and the road change. The preliminary plan was then withdrawn.

Leo Correa and Kevin Moran met with the Board regarding a subdivision on the Watson Farm on Pond Street. Correa said he wants to get a feeling of what should go in without creating the antagonism of the neighbors. He is thinking of thirteen 2-family condominiums. Correa was told that things to consider would be perc location, traffic, visibility. It was suggested that they first get an idea of the number of percs they could get from the land.

Cataldo moved to adjourn the meeting, seconded by E. Burnham, with the Board voting unanimously in favor.

Meeting adjourned at 10.05 p.m.


Gillian B. Palumbo

AGENDA

7:45 p.m.	.....	Richard Means - Public Hearing - subdivision
8:15 p.m.	.....	Public Hearing - By-law change
8:30 p.m.	.....	Public Hearing - Site Plan Review
9:00 p.m.	.....	Glen Warren
9:15 p.m.	.....	John Decoulas - CANCELLED
9:45 p.m.	.....	Michael Davis - subdivision

Essex Planning Board

June 18, 1986

Present : Rolf Madsen, Chairman; Alden Wilson; Elisabeth Frye;
Patricia Dunn; Everett Burnham; Westley Burnham;
Michael Cataldo.

Meeting called to order 7.35 p.m.

The Minutes of June 4, 1986 were read. Cataldo moved that we accept the Minutes as read, seconded by W. Burnham, with the Board voting unanimously in favor.

A public hearing was held at 7.45 p.m. for Richard Means, 9 County Road, for a subdivision known as Sagamore Circle. E. Burnham said that as he was a direct abutter he would not participate in the public hearing. It was noted that responses had been obtained from all departments except the D.P.W. William Carpenter, 1 County Road, whose land abuts that of Means, said he was concerned with the drainage. The drainage was reviewed. Four houses will be built. The covenant will be referenced on the plan and will be filed with the plan at the Registry, Means said. Means was told that it was his choice as to the way he wants to go to post a covenant. He said he would like to post a security for the cost of the road, but it had to be determined how much the road will cost.

Wilson moved that we accept the definitive subdivision plan, Sagamore Circle, of Richard Means, 9 County Road, dated May 7, 1986. The motion was seconded by Frye, with Wilson, Cataldo, Dunn, W. Burnham, Madsen, Frye, in favor, and E. Burnham withdrawing from voting.

A building application permit was received for David Hidden, 204R Western Avenue, for an addition to the left of an existing dwelling to make it into a duplex dwelling 24' x 36', cape style. Also an addition with deck between the existing dwelling and the new addition. Distance from street line 25', right side line 100', left side line 48', rear line 51'; no. of stories - 2.

As the addition met all the requirements a vote was not necessary. Hidden said he had also received approval from the Board of Health for the septic system. It is a private way so no approval was required from the D.P.W.

A public hearing was held at 8.25 to discuss a motion to amend the Essex by-law relating to lot definition and access. Madsen said the problems the Board has had is determining whether a road is public or private and how good the road is. He would like to eliminate the word street, which is defined as a public way, or described in three different ways. The change will also exclude areas defined by the Raytheon Maps as wetlands. A letter was received from the Board of Health stating that water should also be a determining factor in a subdivision plan. The Raytheon Maps

June 18, 1986

were then reviewed. A general discussion followed on the changes. The public hearing closed at 9 p.m.

A public hearing was held at 9 p.m. to discuss a motion to amend the Essex Zoning by-law for site plan review. Madsen said the Board must set out the guidelines on how we are going to review plans and what is required. Cataldo feels it will be a convenience. He said as chairman people would call him asking what they should do and felt it would be good to be able to give them an outline like this. Those attending the hearing felt that the guideline regarding the volume of trees to be cut e(i) should not be a concern of the Board. They felt this was being too particular. Madsen said one of the things we want to do is to get a feel if this change would be good or not. A site plan review should help the Board to answer the question 'how does this plan best serve the Town.' After further general discussion the public hearing closed at 9.17 p.m.

Glen Warren met with the Board for a discussion on the reasons for the denial of his building application for Lot 3, Belcher Street. Madsen said he had not spoken to Town Counsel regarding this. It was noted that the building application presented this evening was no different to that submitted two meetings ago. The building application was for Glen A. and Linda P. Warren, Lot 3, Belcher Street, for a single family dwelling. Distance from the street line 621', right side line 180', left side line 45', rear line 101'. Building size 42' length, 17' height, 40' width, no. of stories - 2. Area of land 3,0363 acres. Warren told the Board the driveway is driveable, but the side slopes are not finished yet. The D.P.W. has issued a driveway permit.

Wilson moved that we advise the Building Inspector to issue a building permit to Glen and Linda Warren, 50 Norwood Avenue, Manchester, for the construction of a single family dwelling on Lot No. 3, Belcher Street. The motion was seconded by W. Burnham. The voting was as follows :- Approved - Dunn, E. Burnham, W. Burnham, A. Wilson, Madsen; opposed Cataldo and Frye,

Stuart Abrams, Chebacco Estates, met with the Board to discuss a covenant for his subdivision road. Abrams said, "After speaking with Town Counsel, it was felt they should go through the public hearing process on the contingency that someone may say they had not been notified. Their only intent is to move the road. They will submit an amended plan and file the original plan. As we are moving the road Town Counsel discussed a covenant which would not allow anything to be sold until the road is complete. Town Counsel suggested we use a copy of the covenant that was used for Peter Van Wyck's subdivision. Madsen said he will get in touch with Town Counsel regarding this. Abrams said any building will be done on sites that have conformed, not the questionable one.


June 18, 1986

A complaint was received from the Board of Health for an illegal occupancy at 245 Western Avenue, the Teel Machine shop garage. It was felt the building inspector should check this.

Michael Davis met with the Board to discuss a subdivision proposal for his land behind the skating rink, off Western Avenue.

Frye moved to adjourn the meeting, seconded by Madsen, with the Board voting unanimously in favor.

Meeting adjourned at 10 p.m.


Gillian B, Palumbo

AGENDA

7:45 p.m.	.....	Flood Plain Public Hearing
8:45 p.m.	.....	Sally DiGennaro - Conomo Drive
9:00 p.m.	.....	John Decoulas, Chebacco Estates - Review of preliminary plan and bonding of original plan

Essex Planning Board

June 4, 1986

Present : Rolf Madsen, Chairman; Everett Burnham; Westley Burnham; Elisabeth Frye; Patricia Dunn; Alden Wilson. (Michael Cataldo was present for the Flood Plain Hearing).

Meeting called to order 7:30 p.m.

The Minutes of the meeting of May 21, 1986 were read. E. Burnham moved to accept the Minutes as read, seconded by W. Burnham, with the Board voting unanimously in favor.

A Public Hearing was held to discuss a motion to amend the Essex Zoning By-law by inserting a new Section 6-12 relative to the Flood Plain District, at 7.55 p.m.

Cataldo told the Board that the Selectmen had received a telephone call from George Hatch, who was concerned with what was happening in Essex. He reviewed the wording and felt it was fine, but with the following amendment added, which he wanted to include in the hearing:-

Subdivision Standards for the Flood Plain District:

"All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonable safe from flooding. If any part of a subdivision proposal or other new development is located within the Flood Plain District established under the Zoning Bylaw it shall be reviewed to assure that:

1. the proposal is designed consistent with the need to minimize flood damage, and
2. all public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage, and
3. adequate drainage systems shall be provided to reduce exposure to flood hazards, and
4. base flood elevation (the level of the 100-year flood) data shall be provided for proposals greater than 50 lots or 5 acres, whichever is the lesser, for that portion within the Flood Plain District.

Cataldo said he feels we do not have any real choice but to adopt this. There are 31 people who have flood insurance at present. There are two routes to go (i) have a special Town Meeting and vote on this, or (ii) have an emergency building ban which will give us an automatic extension. There would be no cost to the Town, but if we haven't adopted it and there is a flood in Town, we would not get any federal monies. W. Burnham wondered whether this included tornadoes, as it was not specified whether it was just for flooding. Cataldo felt it didn't concern anybody but the 31 people who have the insurance at present or those in the flood plain. Bruce Fortier had said that from his sewer study, if this is not adopted then the Town would not get State funds for sewerage in the flood plain. Wilson said you must

June 4, 1986

comply with state and federal codes, which would be the only minus to it. There also can be no loans from a federal reserve bank without it.

The public hearing was closed at 8.25 p.m.

Attorney Michael Shea met with the Board to obtain approval for a building application for Joseph and Sally DiGennero, Lot 2, Conomo Drive. The building application was withdrawn at the last Planning Board meeting. The application is for a new residential single family dwelling. The area of land is 46,757 square feet.

W. Burnham moved that we deny the building application of Joseph and Sally DiGennero, Lot 2, Conomo Drive, Essex, on the grounds that inadequate information has been provided under Section 6-7.2(b). The motion was seconded by E. Burnham. Madsen said, "We have waived this particular requirement for other applicants." The voting was as follows:- Patricia Dunn and Alden Wilson - present; W. Burnham, E. Burnham, Elisabeth Frye - approved; Rolf Madsen - opposed.

At this time, because of the above motion, the Building Inspector did not present four building applications to the Board.

Jerome French - W. Burnham moved that we deny the preliminary plan for a subdivision of Jerome French, Souther Avenue, based upon his inability to discuss it with the Board at this time. The motion was seconded by Wilson, with E. Burnham, Wilson, Dunn, Frye and Madsen voting to approve; W. Burnham voting present.

Joseph and Sally DiGennero met again with the Board to present their building application permit. Two copies of the plot plan were also given to the Board at this time.

E. Burnham moved to approve the building application of Joseph and Sally DiGennero for construction of a single family residence on Lot 2, Conomo Drive.

The motion was seconded by W. Burnham, with Dunn, W. Burnham, Wilson, Frye and E. Burnham voting to approve, and Madsen voting present.

John Decoulas, engineer for Chebacco Estates, and Stu Abrams, owner, met with the Board. Abrams said a few months ago the Board approved a six-lot subdivision. Mr. Tulloch, an abutter, owns a parcel of land which was the old ice house road. Our road has been moved over about 22' from the original plan. Lot 1 will be Mr. Tulloch's fathers lot in exchange for moving the road on his property. He would like to accommodate the abutter by deeding over a parcel for his father. Town Counsel has said the plan could come under 81W with moving the road, which is an amendment or modification to a subdivision plan, but the creation of the additional lot makes it a new plan. Decoulas asked the Board to consider it as a modification instead of a new submittal. There followed a discussion on the time frame of this submittal. Abrams then said they would like to work

June 4, 1986

out a bonding plan with the Board so they can start on the road. Madsen said he would like to talk with Town Counsel regarding this. Decoulas felt if the road was bonded they could start on their original plan for the road and the construction of the houses.

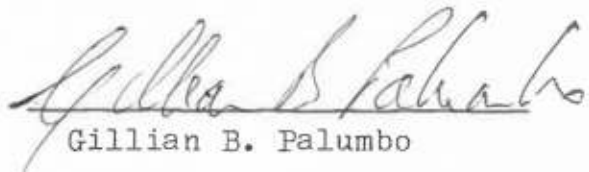
It was noted that at this time the original plan had not be filed. Abrams wondered how much of a change on the road can be made before you have to present an amended definitive plan.

There was a discussion on the by-law change. A public hearing will be held on June 18 for the by-law change and the site plan review.

Glen Warren met with the Board to discuss the reason for the denial of his building permit, for Lot 3 on Belcher Street. Madsen said the reason it was turned down was because the vote was a 3-3 tie, which constitutes a denial. My belief of the by-laws is that your siting of a principal dwelling did not meet the front yard requirements, 6-3.33. Warren requested that Town Counsel be asked for a ruling on this. Frye said, It is because you are accessing the lots to a road that does not meet the requirements of subdivision standards. I feel you withdrew the plan and got it by default. Warren felt it was his right to ask the Board to talk with Town Counsel to have his interpretation of Madsen's and Frye's decision.

E. Burnham moved to adjourn the meeting, seconded by W. Burnham, with the Board voting unanimously in favor.

Meeting adjourned 10.15 p.m.


Gillian B. Palumbo

AGENDA

Welcome to the Planning Board, Mrs. Pat Dunn!

Due to the absence of the Planning Board secretary,
Mose has 'volunteered' to take the Minutes.

Read Minutes of May 7, 1986

Appointments of new Chairman, Clerk

7:45 p.m.	.....	Robert Offenberger - Callahan's Discussion of denial of building permit
8:00 p.m.	.....	Richard Means - subdivision on County Road
8:30 p.m.	.....	Mr. and Mrs. DiGennaro
8.45 p.m.	.....	Ron Stahre - Gregory Island Road Committee
9:00 p.m.	.....	C. Berenger - Addison Street - Changing house from one-family to two-family
9:15 p.m.	.....	Michael Cataldo - Trustees of Reservations

Discussion :

Proposed Town by-law changes

N.B. to Rolf - We still have not received binder for the
Minutes.

Essex Planning Board

May 21, 1986

Present : Rolf Madsen, Chairman; Michael Cataldo; Elisabeth Frye;
Patricia Dunn; Alden Wilson; Everett Burnham.

Meeting called to order 7.40 p.m. Everett Burnham recorded the Minutes.

The Minutes of May 7, 1986 were read. The Minutes were accepted as corrected.

Motion pertaining to Callahans - Unanimous denial.

Motion - Rolf Madsen - Chairman
Motion - Michael Cataldo - Clerk
Motion - Everett Burnham - Vice Chairman
All motions carried.

Robert Offenberger - Discussed Denial and agreed to submit new plans more complete.

8:10 p.m. Richard Means presented definitive plan with covenant. The public hearing is set for June 18, 1986 at 8:00 p.m.

8:45 p.m. Application of Glen Warren - denied with the vote 3 - 3. Alden Wilson, Patricia Dunn, Everett Burnham approved; Michael Cataldo, Elisabeth Frye, Rolf Madsen opposed. The building application permit was denied.

8:46 p.m. Joseph and Sally DiGennaro - Building application - Lot 2, Conomo Drive - Plan of Dana Carter dated July 27, 1984. The application was withdrawn.

9:00 p.m. Pat Flynn - from Gregory Island Association, a civic association of Essex residents. Their concerns are of services and the conditions of the roadway.

9:10 p.m. C. Berenson, Addison Street - discussed with the Board the change of residence at 21 Addison Street from a single family to a two-family. She was advised to file a building permit, with letters of approval from the neighbors. The lot was determined to be non-conforming.

9:15 p.m. Conservation Lands Trust - Form A for division of Parcel C1. Motion by Alden Wilson to approve parcel of land on Conomo Drive designated Parcel C1 of Conservation Lands Trust as shown on plan dated May 7, 1986, subdivision approval not required. The motion was seconded by Frye, with the Board voting unanimously to approve. The motion carried. *CATALDO ABSTAINED*

9:30 p.m. Motion to approve application of 17 Lufkin Street for alteration under Section 6-4.2. The motion was approved unanimously. The motion carried.

May 21, 1986

9:35 p.m. Application of Barbara and Russell Hemeon, 50 Eastern Avenue. Motion to approve application of Barbara and Russell Hemeon for *addition* to house under 6-4.2. The Board unanimously voted in favor; the motion carried.

9:46 p.m. Application of Patrick and Deborah *Wall*, 1 Red Gate Road. Motion to approve permit of Patrick and Deborah *Wall*, 1 Red Gate Road, for remodelling and construction of addition, living room and second story under 6-4.2. The motion was made by Cataldo, seconded by Wilson with the Board voting unanimously in favor. The motion carried.

Motion to hold public hearing on By-law change on June 18, 1986, on Section 6-7.7, Site Plan Review. The motion carried.

Motion to hold public hearing on June 18, 1986, on road article, following public hearing on Section 6-7.7. The motion carried.

The Board agreed that the Grove Street extension is of little use to the public and should be controlled by the abutters.

Everett P. Burnham

Essex Planning Board

May 7, 1986

AGENDA

- | | | |
|-----------|-------|--|
| 8:00 p.m. | | Rick Guarrasi - extend house
on Southern Avenue |
| 8:30 p.m. | | Rick Means - subdivision -
County Road |
| 9:00 p.m. | ..... | Joseph Giglio - Maria Motel |

Essex Planning Board

May 7, 1986

Present : Michael Cataldo, Chairman; Michael Ginn; Westley Burnham; Everett Burnham; Elisabeth Frye; Alden Wilson; Rolf Madsen.

Meeting called to order 7.30 p.m.

The Minutes of the meeting of April 16, 1986 were read. Wilson moved to accept the Minutes as read, seconded by W. Burnham, with the Board voting unanimously to approve.

A building application was given to the Board for Rick Guarrasi, 80 Southern Avenue for an attached addition to a garage from the existing house and to add on to the garage to make it even to the house. Distance from street line, 30'; right side line, 11'; left side line, 56'; rear line, 38'.

E. Burnham moved that we approve the building application of Richard Guarrasi, 80 Southern Avenue, for remodelling and connecting garage to the existing house, the Board finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Wilson, with Wilson, Frye, W. Burnham, E. Burnham, Madsen voting in favor.

A list of abutters stating their approval to the project was given to the Board.

Bruce Fortier spoke to the Board concerning the Flood Insurance Article. Cataldo said the July 17 date will be indefinitely postponed if we have a moratorium on new buildings in the flood plain.

A Public Hearing is scheduled for June 4 at 7.45 p.m. for discussion on the Flood Plain article.

Cataldo said he would like to gather all the information on scenic ways for further discussion.

Richard Means, together with James O'Day of Field Services, met with the Board to submit his definitive plan for a subdivision on County Road, plus Form D and a check for \$500.00. Means said they did not change anything from the preliminary plan to the definitive plan. A covenant was also given to the Board, which was felt should be written on the plan.

The Board reviewed the plans for condominiums on Eastern Avenue, submitted by Robert Wolfe.

Joseph Giglio, Maria Motel, met with the Board and submitted a plot plan indicating the areas of parking he has. Giglio then

May 7, 1986

stated he is now looking to put a studio in the rear, with no office as originally planned, on the concept that whoever rents the studio will take care of the property. He therefore would like to change the house from a one family to a two-family. He added that Mr. Cann, an abutter, has no objections.

Charles Burnham, an abutter, said someone is living in the garage and laundry room, which he doesn't think has been given an occupancy permit. The Board checked with Ed Story who confirmed that no permit had been given. Burnham said he is very upset with people living in the garage and also upset with the changes. It used to be a seasonal thing but now there is something all year round. Also the water usage is up. He felt if someone expands the business they should say what it is that is going on. He is against the change of use because (1) the present owner does not obey the by-laws, (2) he doesn't know what is going on and feels if there are seven apartments, there should be $1\frac{1}{2}$ parking spaces for each apartment, and (3) sewerage. He finds the whole area is overly utilized.

Madsen said, "Our enforcement officer is Ed Story. If he feels there is nothing going on there, then it is a civil suit. If the owner is changing the use then we have to determine if it is more detrimental." Cataldo said, "The decision of the Board is the change of use from a one to a two family." Burnham said, "If he is using the garage as an apartment, then he is violating the by-laws." Giglio said, "The reason we are doing this is we are the first owners who do not live here. Our problem is we need a place for someone to manage the house so we want to change it from a one to a two family. It will then go back as a motel in the summer. On the main house three parking spaces are needed, then on the motel one parking space per unit." A discussion followed concerning the parking.

W. Burnham moved that we approve the building application of Joseph and Mary Giglio concerning the conversion of the house on a lot shown as 26 Southern Avenue, known as the Maria Motel, converting the main house to a two-family house under 6-4.2. The motion was seconded by Wilson. Wilson then said, "I feel we should not approve this because of 6-3.24 - Parking and 6-5.8(b). I am not in favor of the increased use of the lot. I feel it is creating an extreme use which is detrimental to the neighborhood. Also there is an increase in parking."

The voting on the motion was as follows :- W. Burnham, M. Ginn, R. Madsen, A. Wilson, E. Frye, E. Burnham opposed the motion.

The Board received a building permit application from Anthony and Myra Loiacano, 105 Martin Street, to tear down two bedrooms, entire side of house - new foundation, new bedroom with bathroom, 2nd floor added to this part of house with two bedrooms.

May 7, 1986

Ginn moved that we accept the building application of Anthony and Myra Loiacano, 105 Martin Street, finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.


A building application was received from Robert Offenberger, Callahan's Restaurant, to add a 20'x20' addition to the existing deck.

Ginn moved that we deny the building application of Callahan's Riverside Restaurant finding it to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Madsen, with E. Burnham, W. Burnham, M. Ginn, A. Wilson in favor; E. Frye and R. Madsen opposed.

A new plan was submitted to the Board by George Fallon for Chebacco Estates, showing seven lots instead of the original six lots. The Board received the plan and Form B at this meeting.

Ginn moved to adjourn the meeting, seconded by Madsen, with the Board voting unanimously to approve.

Meeting adjourned 9.55 p.m.


Gillian B. Palumbo

AGENDA

- | | | |
|-----------|------|--|
| 7:45 p.m. | | Robert Wolfe - preliminary plan
subdivision - Eastern Avenue |
| 8:15 p.m. | | Tom Griffith - proposal for
single family home, rear of
211 Western Avenue |
| 8:30 p.m. | | Philip Budrose - building appli-
cation - Olde Essex Village. |
| 9:00 p.m. | | Mark Glovsky - Plans for 3 lots,
Conomo Drive. |
| 9:15 p.m. | | Richard Means - subdivision -
County Road. |
| 9:30 p.m. | .... | Joseph Giglio - Maria Motel |

Essex Planning Board

April 16, 1986

Present : Michael Cataldo, Chairman; Alden Wilson; Rolf Madsen;
Michael Ginn; Westley Burnham; Everett Burnham.

Meeting called to order 7.30 p.m.

The Minutes of the meeting of April 2, 1986 were read. Ginn moved that we accept the Minutes as read, seconded by Wilson, with the Board voting unanimously in favor.

Robert Wolfe, together with Joseph Geller, a registered landscaper, met with the Board to present his preliminary plan for a subdivision on Eastern Avenue. He also gave the Board Form B. Wolfe said the scale of the plan was not as set by the subdivision regulations as he felt they wouldn't see the contours with that scale. He has given copies of the plans to the Fire and Police Departments and the D.P.W. The D.P.W. said they would like to see an 8" water main servicing both units from the 12" main on Eastern Avenue. The D.P.W. also specified where the fire hydrants should be located on the road. Chief Platt said he had no objections to the configurations, but did indicate it was a rather dangerous section of Eastern Avenue and advised cutting back all the brush near the road. Wolfe said he could build three duplexes as a matter of right, but felt it would be a bad design and would like to work to get two 3-family units as they can be more easily hidden from the street. The total length of the driveway will be 800 feet, with the slope being 3% at the front going to 8-10%. Cataldo said he felt this proposal would require a special permit. Wolfe said he would like to have approval of the definitive plan before having to go through the special permit process. Minta Hall asked if Wolfe would be blasting. Wolfe said he would have to, but would be willing to photograph the old foundations in the area for the record and provide a bond to cover any damage. Hall asked, "What kind of protection do we have from run-off. Can we have the Board of Health come in regularly to check so that we do not have run-off from their septic system." Nancy Dudley said, "The hill drains into Ebens Creek and our well is next to it. What do we do about blasting and groundwater contamination." Wolfe said, "The system will be designed in accordance with Title V specifications. When it reaches you there would not be any nitrates in the water. We do have to have certification from the Board of Health." Ralph Pino, who owns the property at present, said, "Mr. Wolfe is here because he convinced me that with his plans he would make the best use of the land. I feel it is an outstanding development that is proposed. Essex Realty is here, not by accident, but because they have higher offers for this land, but I feel that Mr. Wolfe has the best proposal for the property. It will also generate more tax revenue for the Town."

Tom Griffith met with the Board to discuss a proposal for a single family house at the rear of 211 Western Avenue, property of Joseph Brown. There is an existing house on the property. The frontage is 157 feet. Griffith said the proposal is for his father-in-law to

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purchase the whole parcel. Griffith was advised that if his father-in-law owned the whole lot they could put two principal dwellings on the property, but that it would have to be sold as a package. Griffith said their preference would be to subdivide. Griffith was told he could improve the driveway to a subdivision road and have frontage on the new road, but there would be standards he would have to conform to.

Philip Budrose, together with architect David Jacquith, met with Board to discuss his building application for the renovation of the Olde Essex Village. The building application is to add wood frame additions and renovate existing wood frame shops, and to add a second floor to portions of the Olde Essex Village. The height will be 35', with variable widths and lengths; no. of stories - 2½. There will be a total of 65,000 square feet of new footage. The area of land is 55,000 square feet. W. Burnham said he was concerned with the fire truck getting to the back of the building, as there is a minimal space between the Olde Essex House Restaurant and the shops. Budrose said he owns the right-of-way and that a dump truck goes through each week. Jacquith said he had done some preliminary calculations of the required parking. Cataldo then asked how they were going to handle the septic system. Budrose gave Cataldo a letter from engineer Clay Morin, who felt the soil will allow for the expansion with little impact on the area. Cataldo asked if they felt the substructure was adequate. Jacquith said that the substructure was adequate, but that some of the foundations were inadequate. Cataldo asked if the building in the rear will be kept to its existing use. Budrose said it would. Jacquith said they were planning small office units for the second floor, and would also like to put in some residential units. They were advised that the zoning by-laws do not permit a mixed use. Karen Gertsch questioned the number of restroom facilities that would go in and its impact. Cataldo asked, "If you are having office space, then there would be one for each office." Jacquith - "Yes." Cataldo said, "I wonder at what point in time you saturate an area. I would like to know what the ground can tolerate." Budrose - "We are not increasing the units." Cataldo - "But there will be more people when you are through. I would prefer Clay Morin to be here for more information on this."

Mark Glovsky, representing Frederick Richardson, presented plans to the Board for the last three lots of Richardson's property on Conomo Drive. The Board reviewed the plans.

W. Burnham moved that we approve the subdivision of land of Frederick L. Richardson, under the subdivision control law not required, for plan of land of Frederick Richardson dated February 14, 1986, showing Lots 1B, 1C and 5A. The lot is subject to a covenant which will be reference on the plan and registered at the Registry of Deeds. Wilson seconded the motion, with Wilson, W. Burnham, E. Burnham and Ginn voting in favor, and Madsen and Cataldo not voting.

April 16, 1986

W. Burnham moved that we approve the subdivision of land of Frederick Richardson, under the subdivision control law not required, for plan of land of Frederick L. Richardson dated April 14, 1986, showing Lot 5B. The lot is subject to a covenant which will be referenced on the plan and registered at the Registry of Deeds. Wilson seconded the motion, with Wilson, W. Burnham, E. Burnham and Ginn voting in favor, and Madsen and Cataldo not voting.

W. Burnham moved that we approve the subdivision of land of Frederick Richardson, under the subdivision control law not required, for plan of land of Frederick L. Richardson dated April 15, 1986, showing Lot 5C. The lot is subject to a covenant which will be referenced on the plan and registered at the Registry of Deeds. Wilson seconded the motion, with Wilson, W. Burnham, E. Burnham and Ginn voting in favor, and Madsen and Cataldo not voting.

W. Burnham moved that we approve the subdivision of land of Frederick Richardson, under the subdivision control law not required, for plan of land of Frederick L. Richardson dated April 16, 1986, showing Lot 5D. The lot is subject to a covenant which will be referenced on the plan and registered at the Registry of Deeds. Wilson seconded the motion, with Wilson, W. Burnham, E. Burnham and Ginn voting in favor, and Madsen and Cataldo not voting.

Glovsky then said, "I have spent hours with the Board debating whether Conomo Drive is public or private. When we proposed to develop the Richardson property, we spoke about it being limited to ten lots. Mr. Richardson, in order to upgrade, was forced to buy the Marino property. It has not been determined whether that is buildable or not, but we needed to develop Conomo Drive. We are going to be asked whether we want to provide an easement or right-of-way to Mr. Carter for his property. Your decision was based on access to Conomo Drive. We need to be sure that this isn't going to prejudice our ability to deal with the Marino property. I think the improvement exceeded the requirements. I suspect that it would be deemed adequate to service eleven lots. If you are able to tell me if that ten lot limitation stands it will help with our ~~restriction~~ ^{determination}." Wilson said, "When we made Mr. Carter's lot a buildable lot it was contingent on his coming to some agreement with Richardson on that." Cataldo said, "We didn't say the lot was buildable, or that it had access, but that the road now is adequate for access. Glovsky said, "We are not necessarily trying to hold up Carter and ask him for money, but we do not want to jeopardize the number of lots we can have. The information given to me tonight will in no way bind the Board at a later date.

Rick Means, subdivision on County Road, told the Board he has decided to stay with a 20' road. As there is a hydrant on County Road, they will stay at an 8" main. There will also be a hydrant in the cul-de-sac. Cataldo asked if the land was under a Chapter 61A or had any conservation restrictions. Means said no.

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It was mentioned to Means that a Clerk of the Works will be hired at the expense of the subdivider.

Maria Motel, Joseph Giglio and Mary Giglio met with the Board. Giglio said they would like to make the motel into a two-family house. He wants to take the laundry room and make it an office for the manager of the building, which will be a 24-hour job. The first and second floor is rented to one family with three children. The studio apartment does not have a separate bedroom. Cataldo said the issue that will come up is parking. Giglio said that when he purchased the property he purchased it with six parking spots in the rear. Charles Burnham, an abutter, said he felt parking spots were created on State property. Giglio said he bought it that way, and wondered how he could make it legal. Cataldo then asked Ginn what he found when he went to the motel to check the parking. Ginn said at that time there were four spaces and they wanted to create another space. It was determined there wasn't room to make another parking spot because of the setback requirements. We didn't do anything then because we were waiting for the results of the die testing from the Board of Health. Ginn felt the Board would have to go through the process that they have gone through on all non-conforming lots, i.e. getting letters from all abutters and determining whether it is more detrimental or not to the neighborhood. Giglio said, "Since I didn't know about the parking when I bought the property, what are the setbacks." Madsen said, "Your lot is non-conforming, therefore we have to decide whether it is no more detrimental. A concern has been raised by the neighbors which will have to be addressed. Cataldo said, "How it was presented to you when you bought the property has nothing to do with us, that is between you and the former owner, but you should talk to the neighbors concerning this."

Richard Carter, Apple Street - A building application was received for a third dwelling on the same lot.

Wilson moved that the Building Inspector issue a building permit to Richard Carter for the siting of a third principal dwelling on a single residential lot at 8 Apple Street. The motion was seconded by Ginn with the Board voting unanimously in favor.

William Blackwood gave the Board a building application for a two-family house. Building size, length 50', height 28', width 28', no. of stories - 2½. Area of land 33,548 square feet.

Wilson moved that we instruct Ed Story to issue a permit to build to William and Helen Blackwood, 23 Southern Avenue, on the lot that is located at 90-92 Southern Avenue for a two-family dwelling. The motion was seconded by Madsen, with the Board voting unanimously in favor.

George Bragdon met with the Board to discuss his proposal to subdivide his land into two lots. It was suggested that Bragdon could put in

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a 44' easement with waivers on the road, as it is only going to be servicing one house. It was also suggested that a cul-de-sac could be put in.

Cataldo said he could no longer work on the Conservation Commission. Frye has shown an interest to serve on the Commission, so he will submit her name.

The Board signed the plans of Frederick Richardson.

W. Burnham moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned 10.15 p.m.


Gillian B. Palumbo

AGENDA

- 7:45 p.m. Michael Shea - Dana Carter
property - Conomo Drive
- 8:00 p.m. Mark Shea, Shea Bros.
Purchase of illegal building,
to put a foundation under it.
- 8:30 p.m. Rick Means - prelim. plan of
subdivision
- 8:45 p.m. Mr. and Mrs. Bruce Nicholson,
stand next to Bennett's farm
stand on Eastern Ave.
- 9:00 p.m. William Blackwood - Discussion
of duplex on Jerome French
property.

Discussion :

Quinn Bros. - Post Office
Maria Motel

Essex Planning Board

April 2, 1986

Present : Michael Cataldo, Chairman; Elisabeth Frye; Michael Ginn; Alden Wilson; Rolf Madsen.

Meeting called to order 7.30 p.m.

The Minutes of the meeting of March 19, 1986 were read. Madsen moved to accept the Minutes with the following revisions: The motion made by Westley Burnham should readmoved that the plan of land of Essex, the property of Anne W. and Phillip S. Weld, dated January 10, 1986 be accepted as a subdivision, approval under the subdivision control law not required, and that the approval be made upon the conditions that only one building designed or available for use for dwelling purposes shall be erected or placed or converted to residential use on land shown as Lot 1 of this plan, without the consent of the Planning Board shall be conditional upon the providing of adequate ways furnishing access to any additional proposed building."

On this motion Madsen voted no, and, ^{not}as was stated, that he did not vote.

Michael Shea, attorney, met with the Board to discuss the restriction placed on Lot 2, Conomo Drive, property of Barbara J. and Dana R. Carter. Shea told the Board that when the plan was signed by the Board on September 19, 1984, the restriction was placed on the plan stating "subject to the condition that Lot 2 is not buildable until Conomo Drive is deemed adequate in frontage. Shea then gave the Board a deed showing the property going from Anthony Garry to Louis J. Marino, a deed from Marino to Frederick Richardson, and a deed from Richardson to Harvey A. Schwartz and Rebecca Linhart. Shea suggested that as Carter owns Lot 2, he therefore owns to the middle of the road. Shea gave a release of restriction to the Board for them to sign. The release stated "Now comes the Essex Planning Board and agrees to release restriction on Lot 2 shown on a "Plan of Land in Essex, Property of Barbara J. and Dana R. Carter".

Cataldo - "I have no trouble signing the release as I feel it will be a civil matter between Carter and Richardson."

Shea said there is a buyer who is well aware of the problem. He felt that with the plans and deed that he presented, it solidifies his case. Frederick Fawcett said, "A case could be made that the abutters do not own to the centre of the road."

Cataldo - "We have always claimed the road is private. Richardson has absorbed the cost of the road. I am willing to sign the release because I feel that unless Richardson is willing to grant an easement it could be a civil suit. We also are not saying that a building permit will automatically be granted. You need to

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receive a driveway permit from the D.P.W. before you can begin building. I hope you as the attorney for the seller will make that clear.

Ginn moved that we release the restriction on Lot 2 "Plan of Land in Essex, property of Barbara J. and Dana R. Carter" dated July 27, 1984. The motion was seconded by Wilson, with the Board voting as follows:- Wilson, Ginn, Frye, Cataldo in favor; Madsen voted present.

Cataldo asked Shea if there were any other restrictions on the plan, to which Shea said no.

~~Mark and Tom~~ Shea met with the Board to discuss their property at 245 John Wise Avenue. They said they had purchased the building and property about two months ago. There is an existing foundation next to their building which they would like to clean out and attach it to their building. The foundation was ruled illegal several years ago because it was built on the edge of the marsh. The building that was placed on that foundation had burned down. They would like to set up a showroom on the first floor, for their furniture, and on the second floor they would like to have an office rental, one office with one toilet and sink. The size of the lot is 7 acres. Cataldo told them, "I believe there is a coastal restriction on the property and because of the close proximity to the marsh I feel you should begin your application with the Conservation Commission."

Charles and Maria Burnham met with the Board concerning the Maria Motel. Cataldo said the Board had asked Ed Story to inspect the Motel, but as he didn't attend the meeting tonight we are unable to have his input. The Board did receive a letter from the Board of Health dated April 2 which was read. Cataldo felt he would like to ask the owners of the motel to come in to discuss this with the Board.

Richard Means, County Road, met with the Board for a review of his preliminary subdivision plan. Jim O'Day, of Field Services, who is Means engineer also attended. Cataldo read a letter from the D.P.W. dated March 27, 1986, stating they had reviewed the single drawing given to them for the subdivision and found no problems with it at this time, but that they would reserve further comment until they see the plans and profiles of the proposed road and entrance on to County Road. Wilson said he gave copies of the plan to the Police, Fire Department and D.P.W. and that the Board has only heard from the D.P.W. at this time. O'Day said the final design or drainage had not been completed yet. "We drew the road in at 20', but have seen other roads at 16', so we would like to change it to a 16' road." It was felt that Means should check back with the D.P.W. concerning this. The review of the preliminary

April 2, 1986

plan will be finalised at the next meeting on April 16.

Bruce Nicholson, who had met with the Board previously regarding the construction of a small stand in the parking lot of the antique shop on the corner of Harlow Street and Eastern Avenue gave the Board a plan showing the parking area which they had requested.

Madsen moved that the Board finds there will be adequate parking for Bruce Nicholson for a bread and pastry stand at the corner of Harlow Street and Eastern Avenue. The motion was seconded by Wilson with the Board voting unanimously in favor.

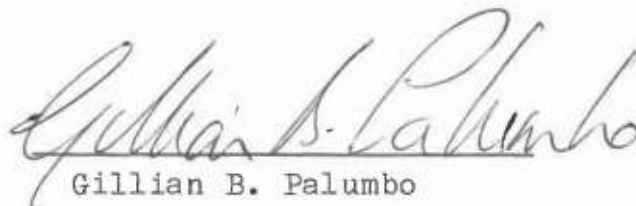
William Blackwood met with the Board to discuss his proposal to build a 2-family home, 3 bedrooms per family, on the property of Jerome French. Blackwood told the Board, "On the Appeal Board's decision they gave a variance to the frontage requirement, providing that the same driveway is used." As no building application was given to the Board at this time, they felt they could not act on it, although they did review the plans. Cataldo said that other than the traffic issue, which is up to the D.P.W., I can see no problem with the plan.

Robert Wolfe met informally with the Board to discuss his plans for dividing 8 acres of land on Eastern Avenue, property of Ralph Pino. Three percolation tests have been made on the property. Wolfe said he wants to divide the parcel into two lots, with each lot containing one 3-family unit and each unit selling in the range of \$250,000 to \$300,000.

The Board then reviewed the plans of Richard Means. It was felt that drainage should be discussed and how Means plans to address the drainage on the lots.

Madsen moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously to approve.

Meeting adjourned at 9.40 p.m.


Gillian B. Palumbo

Essex Planning Board

March 19, 1986

AGENDA

- 7:30 p.m. Trustees of Reservations -
Weld plan
- 8:30 p.m. William Lessor - Flood
Plain Insurance
- 9:00 p.m. Nancy Merring - possible
purchase of house on
either Story or Winthrop
Street.

Discussion:

Must have articles for Flood Management Program
by tomorrow. Should be 1 or 2 for this. IMPORTANT!

There should be 2 articles for amending the zoning
by-laws, stating the exact by-law that is to be
amended.

Gloria loaned out copies of samples of article wording.
She must have them back by tomorrow.

A Flood Zone map is missing off the wall in the
hallway - Does anyone know anything about this!

Richard Means preliminary plan.

Essex Planning Board

March 19, 1986

Present : Michael Cataldo, Chairman; Westley Burnham; Everett Burnham; Elisabeth Frye; Alden Wilson; Michael Ginn; Rolf Madsen.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of March 5 were read. Wilson moved to accept the Minutes with the changes as noted, that Davis Cherrington was not present at the meeting. The motion was seconded by Madsen, with the Board voting unanimously in favor.

At this point of the meeting Cataldo turned the chair over to Madsen. Davis Cherrington, Trustees of Reservations, gave the Board a new plan with the changes as requested by the Board for land owned by Anne and Phillip Weld on Conomo Drive, the changes being that both Lot 1 and Lot 2 must both be shown on the plan, together with the abutting property owners. Cherrington said, "The other problem was adequacy of access, therefore the proposal I have to address this issue is a grant of a 44' easement from Mrs. Anne Weld, running from the north-west corner of the plan all the way down to the lot of Loomas." The grant of easement was read to the Board. Cherrington then said that the revoking of the 22' easement on either side is that they encountered the property of Archie Butman, and they didn't want to give their easement to him. E. Burnham said, "That's fine." Ginn - "Are you saying that the 44' easement will be less at the Butman property?"

Cherrington - "We are giving 22' on our side, but Butman will have to grant his own easement. We will record, after the plan has been signed, the plan, the deed to Mark and Ann Bell, and the easement. They will all go on record at the same time."

Cataldo felt something should be noted that Mark and Ann Bell recognize the limitations of their property. Fortier felt it was not legally possible to sign a plan without the lot sizes. Frye said, "It is the feeling of the Board to waive that requirement as the plan shows what we want." Fortier felt the Board would be saying that Lots A, B, C and Lot 1 are legal parcels. Frye - "I feel we are not addressing these as buildable lots. We are addressing it as a subdivision approval not required."

Ginn moved that we accept the plan of land in Essex, property of Anne W. and Phillip S. Weld presented before us, based on the fact that we believe the plan meets the zoning by-laws of the Town of Essex and that the adequacy of the way has proven to be acceptable to the Planning Board. Also that the approval be made upon the conditions that only one building designed or available for use for dwelling purposes shall be erected or placed or converted to residential use on land shown as Lot 1 of this plan, without the consent of the

March 19, 1986

Planning Board shall be conditional upon the providing of adequate ways furnishing access to any additional proposed building.

The motion was seconded by Wilson.

Frye amended the motion as follows:- I move that we accept the plan of land in Essex, property of Anne W. Weld and Phillip S. Weld presented before us as a subdivision, approval under the subdivision control law not required. Also that the approval be made upon the conditions that only one building designed or available for use for dwelling purposes shall be erected or placed or converted to residential use on land shown as Lot 1 of this plan, without the consent of the Planning Board shall be conditional upon the providing of adequate ways furnishing access to any additional proposed building. The motion was seconded by Ginn. Frye then withdrew her amendment to the motion. Ginn withdrew his motion.

W. Burnham moved that the plan of land of Essex, the property of Anne W. and Phillip S. Weld, dated January 10, 1986 be accepted as a subdivision, approval under the subdivision control law not required.

The motion was seconded by Wilson, with the Board voting as follows:-

A. Wilson, W. Burnham, E. Burnham, E. Frye, M. Ginn - in favor;

R. Madsen and M. Cataldo did not vote.

The Board signed the plan.

Bill Lessor. met with the Board for a discussion of the National Flood Insurance Program. Lessor is with the Mass. Water Resource Department. Lessor said, "I understand the Town has to adopt articles for the National Flood Insurance Program. There have been national flooding disasters causing a lot of property damage and personal injuries. Over the years the Federal Government would come in with relief money to help. After doing this on various occasions they felt there was a better way to protect people, so they started the National Flood Insurance Program. It helped people to plan who lived in the flood plain. The Towns have the responsibility for establishing certain guide lines. If the Town adopts these guide lines then people can buy flood insurance. This is a program used across the country. It is my understanding that Essex received federal money for disaster relief in the 1978 storm. From information that comes from a computer there are 31 flood insurance policies in Essex."

Cataldo - "Do you have that broken down into businesses, etc.?"

Lessor - "No. It is data to help us with planning. The bottom line is this, because of this program, the property owner can buy flood insurance where before he couldn't. There are some insurance companies who are selling flood insurance if the community is following all the guide lines. There are some fairly serious consequences for people not in the program. Any current flood policies would fizzle out once that policy was over. No more new policies can be developed unless the Town is in the program. Lending institutions require a determination of whether a particular property is in the flood zone before

March 19, 1986

giving a mortgage. It would behoove a business person or home owner to be in the flood program in order to sell their property, otherwise he may have a hard time selling his property.

Edwin Perkins - "Isn't it true if a person makes an alteration or repair the person would have to stay within the by-law?"

Lessor - "That's correct."

Perkins - "I feel there are serious financial concerns about this."

W. Burnham - "If we don't adopt this, those with flood insurance will not be able to buy it any more. Isn't that between the owner and their Insurance company."

Lessor - "Nor really. The reason for making this available is that this person is a member of a community who has adopted flood plain procedures."

E. Burnham - "Will those 30 people who have flood insurance, and if Essex fails to adopt the program, have their mortgage cancelled?"

Lessor - "That's a good question. I don't really know. Any programs that would provide federal money in the flood plain would no longer be available to Essex. If the Town adopts several articles you are not going to see a tremendous amount of construction in the 100 year flood plain."

John Guerin - "Will there be any cost to the Town itself?"

Lessor - "Not really. Certainly there is a little more work by the Building Inspector. for keeping records, and more work for a developer who has to have more information on the flood zone. Projects related to construction are not the exception. Sewer projects, etc. are also involved when it comes to obtaining federal funds."

Perkins - "If a house burnt down in the flood plain area, it will have to be rebuilt to the flood plain codes. A lot of people could not afford to build to the flood plain codes."

E. Burnham - "What is the time limit to act on this?"

Lessor - "July 17."

or

Cataldo - "If this hasn't been voted on/approved by July 17, what happens?"

Lessor - "I'm not sure, I will get more information on this."

Charles and Maria Burnham Burnham, Southern Avenue, met with the Board.

Cataldo read a letter received by Ed Story from the Burnhams.

Cataldo asked, "What are the changes now from when we looked at it a couple of years ago (Maria Motel)?"

Burnham - "They have completed alterations to the garage which is now a two-room apartment. The office is now a kitchen."

Cataldo - "In fairness to the owners, have we found out how many people are living there." We should have Ed go down and check. Do° you know what is going on?"

Story - "No, I don't."

Cataldo - "Can you find out by the next meeting?"

Madsen told the Burnhams that Story enforces the by-laws of the Planning Board, to which Burnham said that the by-laws are being violated.

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Cataldo - "We have instructed our enforcement officer tonight to find out what is going on and report back to us at the next meeting."
Ginn - "In fairness to Ed I recall that about a year ago the Board of Health were going to do some die testing, so perhaps we could address a letter to them."

Dennis Gannett, Pond Street. Cataldo said, "As a result of the Board's action, we have been asked by the land court to sign the following :-

"The undersigned, being (a majority of the Planning Board of the Town City of Essex, Massachusetts, hereby certify that the conditions set forth below were imposed at the time of its approval of a subdivision plan entitled SUBDIVISION of LAND off POND STREET, ESSEX, MA., LAND COURT PLAN #37960A drawn by James L. Klopotoski, surveyor, dated October 5, 1985.

CONDITIONS: As set forth on sheet #2, dated October 5, 1985, LAND COURT PLAN #37960A."

All members present at the February 5, 1986 meeting signed.

David and Nancy Merring met with the Board to request a variance for property at 20 Winthrop Street, to convert a carriage house to a residence for Merring's mother-in-law. The lot size is 20,963 square feet. The set back from the road is a few inches.

Cataldo - "We would have to deny it because in order to have two residences on one lot you must have a minimum of 60,000 square feet."
Ginn felt it would be better for the Merrings to have the land perced and then go to the Conservation Commission before coming to the Planning Board.

Mr. Louis Rome, 4 Audette Street, Peabody, Ma. gave the Board a building application to tear down an existing camp at 45 Lufkin Point and to build a new 2200 square foot home with an attached shed and garage. The distance from the street line is 60', right side line 22', left side line 15', rear line 40'. The size of the building is length 40', height 34', width 28', no. of stories - 2.

Wilson moved that we deny the building application of Louis Rome for a building at Lufkin Point for lack of side line setbacks and frontage. The motion was seconded by W. Burnham, with W. Burnham, E. Burnham, Ginn, Wilson and Frye voting in favor and Madsen voting present.

A building application was given to the Board for Glenn Warren, Belcher Street, for a residential single family dwelling on Lot 3. Size of building, Length 42', height 17', width 40', no. of stories 2. Area of land 3.0363 acres. The driveway will be 15' wide. Cataldo read a letter from the D.P.W. to the Board, dated March 19, 1986, which stated that no driveway permit had been issued to Warren. Cataldo said, "We have an issuance of a building permit for one house."

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Frye - "It comes down to whether he has a subdivision or not. He says he has a subdivision by default. We have to address whether the access is adequate." The Board then checked the adequacy regulations.

Warren - "The Form A subdivision has been registered and therefore the six lots are legal."

Madsen - "You have to prove that the access to Lot 3 is adequate.

Warren - "You have plans showing a 15' gravel driveway which I feel, and in the opinion of my engineer, is adequate."

Madsen - "You have been playing games and are trying to stretch all the by-laws to the nth degree. I don't think it's fair to the Town and the prospective buyers."

Warren - "I have the right to interpret the by-laws in my interest. I have done what I have done within the concepts of the by-laws.

I think what I have done with the property is in good taste."

Cataldo - "There is another process to go through and that is getting a driveway permit. There are no signatures on the permit which are required. I feel it would be negligent on our part to approve a building application for a house without a driveway permit."

Madsen - "We have to be consistent on the rules for access adequacy. We cannot make one set of rules for you and another for others."

Warren - "I think what is inconsistent is the Town by-laws."

E. Burnham - "Apparently we cannot approve the application without a driveway permit."


W. Burnham - "I would like to see input from the D.P.W. before the Board does anything."

Warren then asked the Board to review the plan without taking access adequacy as an issue, to see if there are any other issues that should be addressed.

W. Burnham moved that we deny the building permit application of Glen A. Warren to such a time the Department of Public Works and Mr. Warren have resolved the question of the driveway. The motion was seconded by Ginn, with E. Burnham, W. Burnham, M. Ginn, Michael Cataldo, E. Frye voting in favor, and R. Madsen and A. Wilson voting present.

Cataldo said he wanted to review the zoning by-law changes for revisions. There was a discussion as to whether the site plan review should go on the ballot or not. It was the consensus of the Board to go with the Site Plan review.

Meeting adjourned 11.10 p.m.


Gillian B. Palumbo

Essex Planning Board

March 5, 1986

Present : Michael Cataldo, Chairman; Everett Burnham; Elisabeth Frye; Westley Burnham; Alden Wilson; Rolf Madsen.

Meeting called to order at 7.30 p.m.

The Minutes of the meeting of February 19, 1986 were read. Burnham moved that we approve the Minutes as read, seconded by Wilson, with the Board voting unanimously in favor.

Paul and Judy Schroeter, John Wise Avenue, told the Board they have planted a portion of a 3½ acre field with Christmas trees, as they cannot mow it or raise anything on it. They would like to have people come in and cut their own trees, and were wondering if they needed a permit for this. After some discussion the Board felt they could see no problem with this, as the Schroeters have plenty of parking. It was felt, though, that a letter should be sent to the Selectmen stating the Board had no problems with this.

Tom Ellis, White Elephant Antique Shop, said he would like to put a canvas enclosure on the existing porch so that they do not have to unload the porch in the evenings and then have to put the things back out the next morning. After discussion the Board said they could see no problem with this.

Ellis then asked the Board about the sign by-law. He would like to make small signs to hang from the porch stating they have furniture, silver, china, etc. Ellis also asked if there were any objections to a 3' white elephant on the roof. He was told that all signs together must meet the area requirement of 32 square feet. It was suggested a letter be sent to the Selectmen notifying them that Ellis had met with the Board concerning the porch enclosure and that they have no problems with it.

Richard Means, together with engineer John Amato, Field Services, Danvers, Ma., gave the Board a preliminary plan for a subdivision on County Road. Amato said the total land area is 5.2 acres and will be subdivided into five lots. There is an existing house on the property. The land is not under a Chapter 61 A agreement. Lot 5 is a small piece of land that will be added to Mr. Gus Means' property to create frontage for that lot. It meets the lot setback requirements, lot width requirements and front yard requirements. Lot 1 has an existing septic system. Lot 5 has been perced on the other side and the other lots are on the perc agenda for April 9. The drainage consists of culverts and manholes and will dissipate into the brook through an energy dissipator. The total length of the road from the front of the road to cul-de-sac is 605'. The change in elevation is about 25'. The subdivision will be called Sagamore Circle. The Board said they would take this under advisement and review it. Form B was filed at this time.

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Bruce Nicholson met with the Board. He would like to put in a stand where Farmer Dan has a vegetable stand, in the parking lot of the South Essex Antiques shop. He would like to have a vendor's license to sell food and hand-crafted items. Wilson said he wondered if there was even sufficient parking for the business, and would like to see a plan showing the siting of the stand and egress from the parking lot. Nicholson was told he would require a building permit for the stand and that the Board should be given a site plan for the parking lot, showing there is adequate space for the stand, traffic patterns and the amount of parking.

Deborah Frontierro, Harry Homans Drive, told the Board that nine years ago she bought a house on Harry Homans Drive with two parcels of land. It became one parcel as it was held in common ownership and she would like to know if she could divide it again. Each lot has 106' in frontage, and that all the houses in the area have that amount of frontage. The Board told her they could see no way she could divide the lots.

Cataldo turned the chair over to Rolf Madsen at this time.

Davis Cherrington, Trustees of Reservations, met with the Board. Wilson asked, "How can we avoid legalities if we permit this? We made them give us a 44' easement at the other end of Conomo Drive."

Madsen - "We have the right to make waivers of subdivision requirements. Richardson's plan was to be fore ten lots. This application from Weld is for one lot. We have to decide if Conomo Drive has access adequacy for Lot 1. If the Weld property was going to be made into ten lots, then we could ask for 44' easements."

Wilson asked what the restrictions should be.

Cherrington - "This approval could be made upon the conditions that only one building designed or available for use for dwelling purposes shall be erected or placed or converted to residential use on land shown as Lot 1 of this plan without the consent of the Planning Board, which consent shall be conditional upon providing of adequate ways furnishing access to any additional proposed building."

Burnham - "I feel it is up to the Planning Board to preserve the rights of other people up there, but I would be agreeable to signing a paper road as we did for the Nina Little property. Our position on Conomo Drive is that it is a private road, so we made Richardson fix up the road with his money. Now we are saying it is quasi-public. We can't deny access"

Madsen - "We have to ask, is the way here adequate to serve Lot 1. The difference between this and Conomo Drive is that Richardson had to service ten house lots. In my opinion, Conomo Drive is adequate access, servicing the lots that are there. Conomo Drive is adequate for Lot 1. I feel that Lot 2 should be shown on the plan, but I find the access adequacy fine for the plan."

Burnham moved that the application of Mrs. Ann Weld be denied, that the road has previously been declared inadequate for use and installation of municipal utilities under Section 81L of the subdivision regulations. The motion was seconded by W. Burnham.

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Frye said she would like a letter substantiating the statement.
E. Burnham - "The Board had said Conomo Drive was inadequate and had made someone upgrade it."

Madsen - "Our decision was made for a 1200' length near Pond Street."

E. Burnham moved to amend the motion to read, to consider that Conomo Drive is inadequate for access and installation of municipal utilities to Lots 1 and 2. The motion was seconded by Wilson. Wilson said that he felt Conomo Drive was adequate for Lot 1, but he would like to see Lot 2 shown on the map. The voting on the amended motion was as follows :- in favor - E. Burnham; opposed- Wilson, Frye, W. Burnham, Madsen.

W. Burnham moved that we deny the plan of Anne W. and Phillip S. Weld dated January 10, 1986 for a lot of land off Conomo Drive for a subdivision of land, subdivision approval not required, due to the failure to show the boundaries of Lot 2 and abutting property owners. The motion was seconded by Wilson, with E. Burnham, W. Burnham, E. Frye, R. Madsen and A. Wilson voting in favor. M. Cataldo did not vote. Cataldo chaired the meeting again.

Peter Van Wyck met with the Board. He stated, "I want to identify some changes in the linen for my subdivision, as they were in error, and the land court will not accept the plan. The lot lines have not been changed. I have also added on a short statement that the Town Clerk has to sign." James Klopotoski, an engineer, told the Board that the changes were made in red on the plan and that they were (i) some lots were not identified and (ii) the mathematical calculations were not correct.

Wilson moved that the Planning Board approve the mathematical computations as required by land court, reference subdivision plan of Turtleback Road, Essex, Ma. dated November 6, 1985. The motion was seconded by Madsen, with Cataldo, E. Burnham, W. Burnham, Madsen, and Wilson voting in favor and E. Frye opposing.

Van Wyck told the Board that he has been before the Conservation Commission for his road. He was wondering if he could move it over to keep it away from the wet area and asked the Board if they would like him to make this change, because the Conservation Commission would prefer this, before he records the linen.

Cataldo said if you want to move the road, bring in the plan.

Madsen - "How many feet are you going to move it and how does it affect the grades?"

Van Wyck - "It won't affect the grades. The road goes over Deer Pond and I can go around it by moving it over. I'm talking about 20'".

Burnham - "You should start with the Conservation Commission and the D.E.Q.E. before you get into a plan for us."

Van Wyck then asked for an extension.

Cataldo - "I don't know if we have the ability to give you an extension. Also I would be more comfortable if you had been to the Conservation Commission first before we make that decision."

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Frye feels we should not interfere with this when it involves the State. Van Wyck said, "If I go and file the linen and I move the road, we are needlessly making a lot of work."

E. Burnham said, "If you want the Conservation Commission to review your plan, that's up to you. You know the concerns of the Conservation Commission, then you can come back to us with another plan."

A building application was received from Vito J. Pascucci and Patricia A. Pascucci, 19 Grove Street, for an addition, size - length 14', height 10', width 24', no. of stories - 1.

W. Burnham moved that we approve the plan of Vito J. and Patricia A. Pascucci, 19 Grove Street, on the basis of 6-4.2, that it is substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Cataldo said he has received two phone calls about the Board's article on the Flood Plain Insurance. Phill Herr said he had written them for 3 or 4 towns. Bill Lessor is going to come to the March 19 meeting to discuss this. The issue is that the Town of Essex will not receive any federal funds if they do not accept it. Cataldo said he feels it's up to the Board to create some good articles, and that the Board should put out the issues to the Town. Burnham feels it should go to the Town for them to approve or disapprove. Cataldo - "If we postpone it too much longer, then we might as well forget it."

Cataldo feels it's a good time to rewrite the building application so that all the Boards are notified.

Madsen moved to adjourn the meeting, seconded by Cataldo, with the Board voting unanimously in favor.

Meeting adjourned 10 p.m.


Gillian B. Palumbo

Essex Planning Board

February 19, 1986

Present : Michael Cataldo, Chairman; Elisabeth Frye; Alden Wilson;
Everett Burnham; Rolf Madsen.

Meeting called to order 7.35 p.m.

The Minutes of the meeting of February 5, 1986 were read. Wilson moved to accept the Minutes as read, seconded by Madsen, with the Board voting unanimously in favor.

Michael Shea, representing Daisy Eddington, met with the Board to discuss her subdivision on County Road. Shea told the Board Parcel A is a non-buildable lot. This parcel is to be conveyed to Daisy Eddington and to be made contiguous to Parcel B as shown on the Plan of Land, County Way, Essex, Ma., dated January 9, 1986. The ~~original~~ plans were sent back for revision, because a parcel of land which had been sold to Michael Doyle was not shown on the plan. No action was taken at this time.

There was a discussion with Shea regarding the property of Dana and Barbara Carter, off Conomo Drive. The Minutes of September 18, 1984 concerning this. It was felt this may be a civil matter between the Carters and Frederick Richardson regarding an easement on Conomo Drive. Cataldo said he would check with Town Counsel for the Town's view of this.

Madsen, at this time, chaired the meeting in place of Cataldo. Davis Chervington, Trustees of Reservations, met with the Board for a discussion on a subdivision approval not required for property on Conomo Drive. He told the Board that about a year and a half ago Mr. Phillip Weld died, and his wife, Ann, became owner of the property. She approached the Trustees of Reservations for some guidance in disposing of this, and it was decided she would donate 100 acres to the Mass. Farm and Conservation Trust, who in turn would deed it to the Essex Greenbelt for a permanent conservation area. The land would be as shown on the plan given to the Board. 10.9 acres will be kept for Weld's children, and the rest will be donated to Mass. Farm and Conservation Trust. Before it was deeded to the children a perc test was done, just in case the children should want to build. The only other person who has frontage there is Archie Butman. When the Mass. Farm and Conservation Trust deed the land to the Essex Greenbelt, they intend to put a provision in the deed that this land, approximately 100 acres, can only be used for conservation land. Madsen said, All you are asking us to do is to sign a plan for the 10.9 acre parcel and asking if Conomo Drive is considered an adequate way. Chervington said he has told the Weld children that although the plan will be signed, it does not necessarily guarantee them a building permit. Frye said she felt it should be written right on the plan. Bruce Fortier said that once you have signed the plan you have approved the lot as a buildable lot. Madsen asked, "Would you have any problems putting restrictions on the linen?" Chervington said, "I want to

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be able to advise the owners of the property their rights. I understand even if you signed the plan I may have difficulty getting a building permit." Fortier said, "That's not true. Once this plan is signed, it's approving the lot." Frye said, "All he is asking is that it shows frontage on an adequate way." Frye then read the adequacy requirements of a Form A, approval not required. She said, "We are not saying anything about zoning requirements; we are just addressing access and adequacy. Is the road adequate?" Madsen asked Burnham if he felt the access was adequate. Burnham said, "No, I don't feel it is adequate for a house lot as we know adequacy today." Wilson said he felt it was adequate for one house lot. Frye said she would have to look at it again before she could make a decision. Chervington said this has to be done, for reasons that relate to the estate, by March 15. Burnham said, "There is one other point; there is a 44' easement laid out at Old Manchester Road and Conomo Drive, and I feel a 44' easement should be laid out." Chervington - "I feel this requirement is rather outrageous." Burnham said that from Richardson's land to Archie Butman is Greenbelt land, therefore this is basically going to be a driveway for one house. Chervington said, "What has been suggested is that it be written on the plan that it be just for one principal structure." Cataldo felt the Planning Board should be polled so that Chervington could see what direction he should go in. Madsen said, "The lot is fine, if there is a covenant in the deed." Burnham - "I've always considered it a way and I am a bit disturbed there is no easement, but it is a Form A. I feel the easement should be in there, but it does basically conform to our Form A requirements." Wilson - "I'll go along with one principal building." Frye - "I approve of it with one lot and no further subdivision." Madsen - "How does the Board feel about putting a covenant of no further subdivision on the plan?" The Board agreed with that. They also asked that the word 'public' be removed from the plan. Burnham wondered if gates would be put up, but Chervington said they are trying to preserve land for public use and are not trying to shut people off. Cataldo said he would obtain the correct wording from Town Counsel. Burnham felt perhaps it should go back to the Courts and have them decide whether it is a Town road or not, as at present there is a controversy of the status of the road and it should be decided whether it is public or private. The Form A was given to the Board this evening.

Flood Plain Insurance Article - an article was given to the Board "to see if the Town will vote to accept the National Flood Insurance Program." Wilson asked Cataldo to find out about the cost to the Town of this insurance.

Frye moved that we see if the Town will vote to raise, assess or appropriate from available funds a sum of money for the purpose of preparing a study for submission to the Town pursuant to implementing the National Flood Insurance Program. The motion was seconded by Madsen with the Board voting in favor.

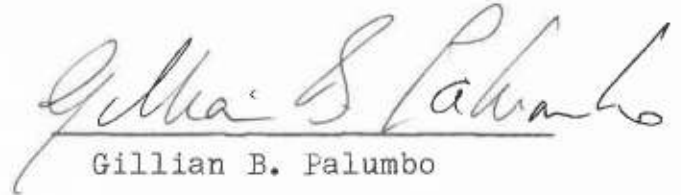
Cataldo said he is going to call Town Counsel for the wording on

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the plan for the Trustees, so there will only be one lot there.

Madsen moved to adjourn the meeting, seconded by Wilson, with the Board voting in favor.

Meeting adjourned 9.45 p.m.


Gillian B. Palumbo

Essex Planning Board

February 5, 1986

Present : Michael Cataldo, Chairman; Michael Ginn; Elisabeth Frye; Alden Wilson; Everett Burnham; Rolf Madsen.

Meeting called to order 7.35 p.m.

Phil Herr, Land Planning Consultant, met with the Board. Cataldo asked if anyone had any objections to having a large group meeting with Phil Herr, beginning where they had left off last year. He said he had no intention of putting anything up at the March Town Meeting. Herr said, "What you are saying is let's have a meeting to decide what to put on the Town Warrant. Cataldo said he spoke to Mr. Serafin of the Cape Ann Chamber of Commerce to send another representative in Pat Roy's absence to attend the meeting. Cataldo said he wants to send postcards to those who attended the last meetings. Burnham said he feels we should get everyone concerned with the Town and have them discuss the issues. He is totally in disagreement with creating problems and then finding solutions. He also does not agree with sending postcards to a select few. If postcards are going to be sent, it should be to all registered voters or not at all. Cataldo feels the best way to be prepared for the Town meeting is to take what we have and deal with that. Phil Herr believes the Board should have a meeting and hope that a good cross-section of people attend; to work on the articles and put whatever is satisfactory on the Town Warrant. Bill Holton said he feels the Planning Board agreed on the articles at the meeting, but at the Town meeting, a Planning Board member got up, shot down the articles and got a group following. He feels the Board should be satisfied themselves first. Burnham said there was a lack of information given to the public and he was asked to do that. Madsen said, "I feel the important thing is that the Town was basically not informed. We should at any Town meeting be able to state what are our overall objectives. The articles should be very clear to the members of the public. What happened at the Town meeting is that people looked at small specifics and read into them things that weren't there." Cataldo feels it would be nice to hand everyone on that night a complete package of the articles. Frye said, "People will want to know what you are addressing, why you are addressing it and the specifics." Madsen feels there is a misunderstanding on the by-law changes, so people find it easier to put it on the back burner. Holton feels a large group input is the best way for a by-law change, to have on the last meeting a rehearsal Town meeting and present the changes to them. Wilson said, "I feel the scenic roads article should be taken out. There are ramifications to this. For one thing we don't get money for it." Frye said, "Yes we do." Herr said, "You've got to admit the scenic roads article in there is not critical." Wilson feels we could also eliminate a water resource article, as the whole Town is a water resource article. Frye said, "As was pointed out at the last group meeting, Chapter 90 funds are available for scenic roads."

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Cataldo said he would like to bring up the concept of home occupations. He would like some member to work on the wording of this for an article. Herr said, "I have trouble getting around that, because you can tear down your house and put up a factory, but a home occupation cannot use more than 25' of your home." Burnham said, "We have to decide on the limits of a home occupation. Herr said, "Some of the things most people care about we haven't touched, cluster developments, lot sizes. Maybe what we really should be looking for at our meeting is to identify one or two things instead of a multitude. There will be more things you will have to bring up at a later Town meeting." Wilson feels that the site plan review is very important. Cataldo asked Burnham if he had heard a lot of opposition to the site plan review article. Burnham said he didn't think it was considered, and that he feels it's too wordy to work. Wilson said, "We should have a by-law review of prop-erty of a certain size. Districts are also important. Cataldo said he spoke to the Chamber of Commerce who said their fears were that a lot of this was written to give the Planning Board leeway. They also felt the lot sizes were too small. Madsen said he feels the important articles are the business article and the village article. Should the village be one district or two. Burnham said the Board should have a meeting and make sure the Chamber of Commerce is there. These by-laws should be very specific to set standards, and that the trouble starts when things become vague. Cataldo asked the Board, "Should I send cards or not?" Wilson - no; Madsen - yes; Burnham - no, except to the heads of the groups; Ginn - I'm not sure; Frye - I abstain - no.

The meeting will be held on Tuesday, February 25, at 7.30 p.m. at the Elementary School.

Sandra Begg met with the Board for a discussion on the addition she is building on her home on Southern Avenue. She said a letter was sent to her by the Building Inspector stating that all work on the addition should cease immediately. Begg's addition was going higher than the plans the Planning Board had approved on September 18, 1985. When asked about her plans, Begg said, "The walls are definitely coming down. I have had trouble with my carpenter and when I asked him for some height, he went up too high. I would like to have some headroom though, to make a sleeping loft. There will also be a new kitchen and laundry room."

Madsen - "Are the drawings materially different from what is going on right now?"

Story - "I asked for the cease and desist because it is a full second story going up there."

Burnham - "Do these plans conform to the plans we approved?"

Story - "No, there is a whole second story."

John Cushman, of Hamilton, who was called by Begg to help her, said, "To answer the question of whether it is materially different, there is a 2' kneewall."

Cataldo - "So it will be a bedroom."

Cushman - "No, it is a sleeping loft."

Cataldo - "Anything like an additional kitchen or bathroom is a Board of Health concern."

Begg - "I would like to put in a small leaching field as well."

An abutter, Charles Burnham, told the Board, "The building that was there was an accessory building. It was moved closer to the line. I don't see any need for it to be put where it is as there is a big yard there. It's been put on the boundary line so that any work done on it will have to be done on my land. The way it's going up right now it's 8' longer than the previous building. There is a foundation where there wasn't one before. My assessment has gone down because of the addition. It's about 3' from the line at the end. It's supposed to be a one story building."

Madsen suggested that Begg get a new building permit and go to the Board of Health. Story said, "It started out as a remodeling of an existing structure, but then that was torn down and a new structure put up with a second story."

Begg was told to file a new building permit and to make it contingent upon Board of Health approval and also the approval of the neighbor, or to just go back to the original plan.

Clay Morin met with the Board for them to sign the subdivision plan of Mary Carolyn Gannett, Pond Street. The blue linen did not have the waivers on it, which will be filed in land court and was drawn to land court specifications. The waivers were written on the mylar. Cataldo asked, "What guarantees do we have that the waivers will be filed in land court." Morin said, "The original will be filed at land court showing the boundaries and copies of any documents can be filed with the blue linen in land court."

The waivers are as follows:-

- 7.01 - underground utilities
- 7.02 4(a)2(b) - 20' pavement
- " 3 - 8% grade
- " 10 - Bituminous concrete pavement
- " (b) - sidewalks
- " (c)3(a) - 125' diameter cul-de-sac
- " 6 - curbing
- " 7 - sidewalks
- " 8 - trees
- 7.03.5 - Drainage by structures
- 7.04.1 - Water supply system
- 7.06.6 - Side lot line radial to street line.
- 7.07 - Monuments

Klopotoski

Morin said, "If there is a condition attached to an approval, then under where it says approved by the Planning Board, you can put on it conditions attached, and attach them to the linen."

Burnham moved that we approve the subdivision plan of land off Pond Street, submitted by Mary Carolyn Gannett, 38 Pond Street, Essex, Ma., dated October 5, 1985, showing lots 4 and 5, which is

February 5, 1986

a subdivision of Lot 3, with the waivers as shown on Sheet No. 2, and other information shown on Sheet No. 3. The motion was seconded by Ginn with the Board voting unanimously in favor.

Chebacco Estates - The Board signed the plan.

Stephen Woodman brought in a subdivision plan for the Board to review. He would like to subdivide behind the restaurant, with Lot A containing the house behind Judy's Kitchen. The lot size is 14,985 square feet.

Burnham moved that we deny the plan of Woodman's Inc., dated August 12, 1985, for the following reasons :-

- 6-6.2(a) 1 - Lot area is less than 30,000 sq. feet.
- 2 - Lot frontage is less than 150 feet.
- 3 - Lot width is less than 150 feet.
- 5 - Front yard, all buildings, is less than 25 feet.

The existing way does not meet subdivision requirements. The motion was seconded by Wilson, with the Board voting unanimously in favor.

James Prentiss, Spring Street built a new house, then added a wing. It was found the wing does not meet the setback requirements. The Building Inspector was instructed to inspect the building and to ask Prentiss to rectify the problem.

Mr. Earl Jones would like to enclose an existing deck on their property on Gregory Island. He has the approval of the Conservation Commission for this project.

Ginn moved that we accept the plans submitted to us by Earl and Janet Jones, located at 50 Lake Shore Drive, finding it is substantially no more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson with the Board voting unanimously in favor.

A building application was received from Dan Bennett, 9 Conomo Point Drive, for the construction of a frame building 18' x 24'. The building will have electrical service but no plumbing. The structure will be located in the parking lot of the former Bell, Book and Candle. This will be leased land.

Wilson moved that we approve the accessory building of Dan Bennett, 9 Conomo Point Road. The motion was seconded by Frye, with the Board voting unanimously in favor.

Cataldo said, We have been asked to draft a regulation concerning the Flood Plain Insurance

The Selectmen are about to review the building permit fees.

Cataldo told the Board they need to adopt a revised open space program. He and Frye will work on it.


February 5, 1986

The Trustees have asked for time at the next meeting to discuss their plans.

The Finance Committee has asked for the Planning Board's budget. Cataldo said he will ask for a provision for a Clerk of the Works for Van Wyck's subdivision. E. Burnham feels we should have money for hiring an engineer to work with the Board to certify other engineer's plans. Cataldo felt the budget for expenses should be raised to \$3200.00 from \$1200.00.

Ginn moved to adjourn the meeting; seconded by Frye, with the Board voting unanimously in favor.

Meeting adjourned 10.15 p.m.


Gillian B. Palumbo

Essex Planning Board

January 15, 1986

Present : Michael Cataldo, Chairman; Michael Ginn; Elisabeth Frye;
Westley Burnham; Everett Burnham; Alden Wilson; Rolf Madsen.

Meeting called to order 7.30 p.m.

The Minutes of January 8, 1986 were read. Ginn moved to accept the Minutes as read; seconded by E. Burnham, with the Board voting unanimously in favor.

Charles and Maria Burnham met with the Board for a discussion concerning the Maria Motel. They said they had read an ad in the newspaper trying to attract people to the motel with the rental of one-room apartments. Cataldo said he had checked with Town Counsel on this, and his answer was that if it is a motel and licensed as a motel, then they can do this whether it be by the day or week. Burnham asked, "What about a kitchen? Doesn't it change it from a motel to an apartment when kitchens are put in?" Burnham said he would like his name added to the list of those opposed to a change in the use of the motel. He then said, "There is an accessory building which was used as a kennel, which is now being used as a kitchen. I am opposed to an accessory building being used for anything other than an accessory building. I just wanted to bring this situation to the Board's attention, for them to note that they are opposed to this. The motel is being used to its absolute capacity." Cataldo said he couldn't see anything in the by-laws that would prohibit this. Burnham said he feels it is a change of use and questioned whether the Board had any objections to this. Cataldo said, "Personally I do, but how can I say if it is an apartment house." Burnham said, "We are here to put you on notice to keep a close watch on what is happening there. I feel it is a change of use on a non-conforming lot. I feel we must have what specific laws are being violated." It was pointed out that the motel license is for four units, and the Building Inspector was asked to check to make sure a fifth unit, which had been asked for by the Maria Motel some time ago, had not been put in.

Dennis Gannett, Pond Street - Burnham said this piece of property is registered land and he felt it is important that the linen be exact, that all waivers, etc., should be shown. Frye said the waivers must be tied in with the regulations. Waivers of the grade, lot line, should be shown on the linen. It was felt there should be certification from an engineer that there is an adequate water supply to the lot. Approval for the subdivision had been received from the Conservation Commission. The Board then went through the regulations to be sure the plan was in order. Gannett granted the Board a time extension until February 5, 1986, because no linen was available at this time.

Thomas Ellsworth met with the Board to show them how to read the wetlands maps. Ellsworth told the Board they should check with Town Counsel as to whether it's a wetland or not if it isn't shown

January 15, 1986

on the map. The best way to obtain accurate wetland maps would be to go on site and map them, but at the time these maps were made the Conservation Commission and Planning Board felt this was too expensive.

Jerome French filed a subdivision plan with the Board this evening, January 15, 1986, at 9 p.m. He told the Board he wants to transfer parcel C and parcel D from his property to his son, George E. and Ruth D. French, to straighten out their boundary line.

Ginn moved that we accept the plan before us based on the Form A application submitted to us tonight by Jerome C. and Abbie E. French, plan of land of Essex dated January 2, 1986. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

Frances P. Englehardt met with the Board in order to file a Form A plan for property on Western Avenue. Parcel A is 3 acres and Parcel B is 11.65 acres. The Board told Englehardt there was a problem with parcel B as the lot lines did not coincide with the locus.

Wilson moved we reject the plan of land by Englehardt Realty Trust dated December 24, 1985, due to the fact it does not show north and east boundaries and abutting owners, and to give us dimensions of frontage and ownership of east boundary. The motion was seconded by Ginn, with the Board voting unanimously in favor.

The Board received a building permit for Daniel F. and Jody L. Harris, 21R Spring Street, for the construction of a single family dwelling. Size of building, length 80', height 24', width 28', no. of stories - 2. Area of land 2,909 acres.

W. Burnham moved that we approve the building permit of Daniel and Jody Harris, 21R Spring Street, Essex, finding it is conforming in all ways, except for the variance that was granted by the Board of Appeals. The motion was seconded by E. Burnham, with W. Burnham, E. Burnham, Wilson, Ginn, Madsen, Cataldo in favor, Frye abstained.

A building application was received for Kenneth P. Monroe, 48 Main Street, to enclose a porch with glass sliding doors and screen, with roof and glass skylights. The building inspector was instructed to issue the building permit.

The Board received a memo from the Board of Selectmen that the warrant for the annual Town Meeting will be held on May 5, 1986. All articles should be received by the Selectmen by March 3, 1986. Wilson feels there should be a discussion on what is a home occupation and what is a home business.

Phil Herr will meet with the Board on February 5.

January 15, 1986

Cataldo asked that board members look at the articles proposed for more input.

W. Burnham moved that we adjourn the meeting, seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned 9.30 p.m.



Gillian B. Palumbo

Essex Planning Board


January 8, 1986

Present : Michael Cataldo, Chairman; Alden Wilson; Elisabeth Frye;
Michael Ginn; Everett Burnham; Rolf Madsen.

The meeting was called to order at 8.30 p.m. relative to the proposed subdivision of land in Essex located on Pond Street. The applicant is Mary Carolyn Gannett and the owner of the land is Dennis B. Gannett, 38 Pond Street, Essex. The lot size at present is 4.10 acres and Mrs. Gannett wants to subdivide a 1.25 acre lot. A memo was received from the Board of Health regarding this, which Cataldo read to the Board. The engineer for the subdivision is Clay Morin who was represented at the hearing by Robert Klopotoski, ~~a registered engineer and surveyor~~. The Board reviewed and discussed the plans. Bruce Fortier said that the property line where it meets the proposed road did not meet the subdivision regulations, because of the angle. Klopotoski said it could be corrected very easily as there was plenty of land. Ginn said he could change the lot line or request a waiver. Klopotoski said the reason that they drew the lot that way was to make it a decent looking lot. If they had conformed to the requirements it would have made a much funnier shape, but if the Board felt it was of some concern, then they could change the lot line. The Board members gave their opinion regarding this. Wilson - "It doesn't bother me at all." E. Burnham - "I would rather grant a waiver than to see some abortion to the lot lines." Frye - "I'm concerned with the wetlands. I do want to know where they are." Ginn - "I concur with what E. Burnham says, but would also like to see the wetlands identified." Madsen - "It's fine as it is." Morin, who had arrived at the meeting at this time said the flagging of the wetlands has changed since the last meeting. His botanist went out again and slightly changed the flagged area. There is a ditch on the land but the edge of the wetland vegetation is off the lot. Morin was then asked if this land was susceptible to flooding to which he replied no. It was felt that the Gannetts should meet with the Conservation Commission for their opinion. Ginn moved that the public hearing be closed; seconded by Madsen, with the Board voting unanimously in favor. The public hearing was closed at 8.55 p.m.

Wilson moved to adjourn the meeting; seconded by Ginn, with the Board voting unanimously in favor.

The meeting was adjourned at 9 p.m.


Gillian B. Palumbo

AGENDA

- 7:50 p.m. ... Submission of application and plans
for Deer Run Estates
- 8:00 p.m. ... Public Hearing - Craft Hill subdivision,
Story Street
- 9:00 p.m. ... Public Hearing - Doyle Acres, County Road
- 9:30 p.m. ... Charles Ridge, Spring Street - Informal
discussion on subdivision plan
- 9:45 p.m. ... Peter Van Wyck - Review of modified
subdivision plan, Turtleback Road Ext. loop

Essex Planning Board

December 16, 1987

Present : Westley Burnham, Chairman; E. Burnham; Francis Dunn; Michael Cataldo; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

A building permit application was received from Stephen Roberti to change 17 Maple Street to a two family dwelling, one bedroom per unit. Roberti said he will live in three-quarters of the building and will rent the other quarter as an efficiency apartment. Roberti said he went to all the abutters for their signatures. The barn will remain the same but the roof will have skylights. A letter was read into the meeting from Beth Cairns, Martin Street, stating her disapproval of the issuance of a building permit. A letter was received from the Board of Health stating that neither Health Agent Linda Wimer nor the Board of Health knew that the proposal was for a two-family house. The Board of Health noted that the septic system is for four bedrooms. Roberti showed a plan of parking for six cars. Roberti's plan showed four to five bathrooms. Cataldo - "Do we have a right to vote on it if the Board of Health has not approved the system.?" W. Burnham - "I think any motion should include clarification from the Board of Health."

Wilson moved the Building Inspector issue a building permit to Stephen Roberti, 17 Maple Street, to change an existing structure to a two-family dwelling, the issuance to be based on the Board of Health's approval of the septic system and finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Cataldo, with E. Burnham, Wilson, Dunn, and Story opposed and Cataldo voting present. The motion did not carry.

A Form B - Application for approval of a preliminary plan was submitted to the Board for Pine Ridge Subdivision.

Attorney John Serafini submitted plans and reports for the Charlottee Partnership, Deer Run Estates, for a special permit application. A letter of withdrawal was requested to be sent to the Board and the Town Clerk.

A public hearing was held at 8:20 p.m. for a definitive plan submitted for Craft Hill subdivision.

Clay Morin of Morin Engineering was representative. Morin said "The definitive plan is a proposal for six lots. Building sites were located with proposed driveway location. It is the assumption that all driveways will be paved. It was, originally, going to be a 16' road, but we have decided to go with a 20' road. We are upgrading the crossing and are involved with the Conservation Commission for this, as we had to replicate some wetlands. There are three sets of catch basins, as well as a drop inlet at Story Street. The D.P.W. said we could use the catch basin on Story Street at first, but if the D.P.W. does not approve use of the catch basin, we could put in a trench drain across the entrance of Story Street. The 8% grade has been brought down to a 3% grade at Story Street. The 1% at the 'T' has been brought down upon your review. There will be a 22" reinforced concrete pipe. The catch basins will have gas and oil separators. There is a

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proposed maintenance agreement to maintain the separators and the roadway. This will be attached to the subdivision plan and will be filed with the first ownership deed."

Story - "Who will own the road?" Lyn Gelineas - "The owners of the lots will own to the middle of the road. The way as it is shown now, it would be easier to convey it to the lot owners who will own fee to the road."

Morin - "The water service and drainage will be underground. The electrical has not been decided on but there is a possibility it will be going above. We will have to show a 20' easement on the mylar for the water line."

A letter was read into the meeting from the Fire Department stating only one hydrant was shown. It was suggested that another hydrant be put in for safety purposes. One was on the 'T' and it was felt another should go near the entrance of the subdivision. A letter was read into the meeting from the Board of Health. Morin - "The dry well locations are not on the soil test shown. They will have to be done again. Dry wells are strictly for roof run-off, as requested by the Conservation Commission. I will go to the Board of Health and explain the reason for dry wells. Perc tests have been done on Lots 4 and 5. Conservation Commission wanted to know where they were too. We can give them an updated version. We have percolation tests on all six lots. We will meet with the Board of Health to discuss these things." David Landry, an abutter, said he is rather concerned about getting more run-off on his property. Morin said there was surface sheeting across Landry's lawn area, but the run off will be directed to the catch basins. Landry - "There is a water problem. It is coming from another source off my property. I'm hoping this will not create further water problems." Morin - "A cape cod berm will be made where this isn't a walk, so there will be no sheeting affect across the road. Guard rails are also proposed." George Andrews, an abutter, - "I would like to have clarification at the entrance to Story Street that you unequivocally have got permission for water to flow into the catch basin. The only question from the D.P.W. is that the flow drain directly into the catch basin and there be no overrush over the road. We have calculated for a 50-year storm when usually you only design for a 10-year storm." Andrews - "Has the issue of departure into a scenic way been discussed?" W. Burnham - "I believe we have to deal with the stone wall and trees." Andrews - "I believe anything within a scenic way must be considered." Frank Yulling, abutter, - "Do the septic systems have to be located where the percolation tests are?" Morin - "The septic systems have to be located in the general location of the percolation tests."

Madsen moved to close the public hearing; seconded by Cataldo, with the Board voting unanimously in favor.

A Public hearing was held at 9:05 p.m. on a definitive plan submitted by Margaret Hatfield and Catherine Doyle for Doyle Acres subdivision.

George Johnson of Hancock Survey told the Board nothing has changed on the plan. A letter was received from the D.P.W. requesting a 20' easement. There is no road maintenance agreement and no Clerk of the Works. Also we do not have, as yet, Conservation Commission approval.

Madsen moved to close the public hearing; seconded by Dunn, with Dunn, Cataldo, Wilson, Story and Madsen voting in favor; E. Burnham and W. Burnham abstained.

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W. Burnham told Hatfield and Doyle that the Board would not approve the road unless a Clerk of the Works, paid for by them, had checked and approved the road. He also would like to have a covenant from them.

Wilson moved we approve the subdivision plan dated November 3, 1987, of Doyle Acres located on County Road, the subdivision entailing three lots, subject to the approval of the Conservation Commission and the filing of a road maintenance agreement. The motion was seconded by Dunn, with Story, Dunn, Cataldo, Wilson and Madsen voting in favor; E. Burnham and W. Burnham abstained.

There was an informal discussion on a preliminary subdivision plan of Charles Ridge, for property on Spring Street.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10:15 p.m.


Gillian B. Palumbo

Essex Planning Board

December 2, 1987

AGENDA

- 8:00 p.m. ... Glen Warren - request for variance
- 8:30 p.m. ... Phil Herr, Planning Board Land Planner
- 9:30 p.m. ... Stephen Robert - House on Maple Street to be
converted to two family
- 9:45 p.m. ... Peter Van Wyck

Business:

Review Pine Ridge preliminary subdivision plan.

Essex Planning Board

December 2, 1987

Present : Westley Burnham, Chairman; E. Burnham; Francis Dunn; Rolf Madsen;
Dana Story; Alden Wilson.

Meeting called to order 7:30 p.m.

Stephen Roberti met with the Board to discuss his proposal to convert a barn on Maple Street into a two family dwelling. At present the barn consists of one apartment on the second floor and storage space and a workshop on the first floor. Roberti said he has had a new septic system approved by the Board of Health, which will be a 1500 gallon tank and two 500 gallon pits. The lot size is approximately 4200 square feet.

Story - "When this was first created by the Selectmen as the Board of Health it created an uproar, and I think to condone it being changed to a two-family is outrageous." Roberti said it had been subdivided in 1949 and an occupancy permit was given in 1977. Madsen - "We also require letters from abutters. Six parking places will be required for four bedrooms." Roberti said he wants to keep the storage on the first floor and have two apartments above. He then showed the Board photographs of where his parking areas would be and stated that another car could be fitted under a cantilevered porch. Madsen said, "I feel we should wait until we have letters from the abutters. We have to make our decision as to whether it is more detrimental to the neighborhood and we need to have the letters." Roberti was told to complete a building permit and return with it at the next meeting.

Glen Warren, Belcher Street, met with the Board requesting a variance. He said he had inadvertently built a deck 7½ feet closer to the sideline than the by-law permits. He has sold the next lot and therefore cannot change the lot line. He came before the Board seeking information on how he could rectify this problem. The Board suggested that the only answer to his problem was to saw off the 7½ feet. It was felt it would not be considered a hardship with the Board of Appeals as he had created it.

Philip Herr, Planning Board consultant for Deer Run Estates - W. Burnham - "You do know Deer Run have withdrawn their plan?"

Herr - "Yes, I do know they withdrew their plans, but I didn't know they were going to resubmit on December 16."

Madsen - "This whole thing will be coming back to us. We straw polled the Board and Dana Story had very firm reservations, Michael Cataldo had some reservations, I was quasi, the rest of the Board 'straw polled' yes. Dana had a problem with the fiscal report and I don't feel it's going to have a monumental fiscal impact on the Town Hall, but I'm just one opinion. You've experienced more things like this in other communities and what has happened. We would like to have your expertise on this and the sewage, etc."

Herr - "My sense is that it would be helpful if we could get an agreement on what the subjects the people think are good or bad about it and list those, and then see what, if any, additional information would be helpful, and think about what, if anything, could be done to make it better or worse. Mr. Serafini wanted to know what additional things they should do from my respective. I told him I didn't have a perspective."

Burnham - "One thing that came up was the fiscal impact report. Can you explain what you would visualise as an actual fiscal impact on the Town?"

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Herr - "First of all, it seems to me that the fiscal impact report submitted by the applicant was a better one than is usually submitted by applicants. The rebuttal by a member of member of the Finance Committee was way beyond that, done with an insightful view. What the applicant said is that this will produce a substantial bounty to the Town. The Finance Committee report says we cannot be sure. I do know that an analysis for a community like this shows that a development like this usually produces a benefit to the Town. Typically, communities in deciding whether they want to allow such development in general or a particular development at that time are weighing the fiscal benefits they are going to get against so many other downside things. We have a system that does this. We can do it in this case. My guess is it would show a substantial fiscal benefit. If it will be as big as the applicant says, I don't know."

W. Burnham - "Another concern is the impact on schools. They did an analysis which showed there would be 7.3 children out of the entire condominium complex. Have you got a feel for the number of children which may show up?"

Herr - "The reason why multi-family developments come out fiscally attractive in Massachusetts is because they have so few school children. Of course, there are some extraordinary cases where that is not true. Multi-family development in a Town like this, the number of school children per dwelling unit is much lower than those in a typical city. There again, whether that figure given is correct, I don't know. We've done some surveying; we've seen the results of surveying done by a lot of other people in Massachusetts. The source that was used by both the applicant and the Finance Committee I don't care for, because it's obsolete, but it is in the ballpark."

W. Burnham - "I think the difference is whether it will be 7 or 75."

Herr - "There's no question in my mind. I can't believe it would be anything like 75. It would be unprecedented for that kind of development in Massachusetts."

Story - "I can see that these studies relate directly to the situation as it exists at the time of completion of these things, and maybe for the first four or five years, but I'm worrying about fifteen years down the road. Invariably, the character and nature of all of this is, in a sense, going to deteriorate as time goes by, and I'm wondering if instead of condominiums that we see now, they may be low-income housing perhaps. I have reservations, not for the immediate term, but what it is going to be fifteen or twenty years down the road."

Herr - "There are proposals to change the state-aid system in Massachusetts, which, if they were adopted, might radically change the fiscal benefit of the development. That's unlikely to happen next year. I'm less confident it won't happen in five years or ten years. By the time you get ten years down the road, I think any projection of what the fiscal benefit of something is, is really so speculative. I think the fiscal benefits you ought to discount very heavily, because I don't think you can count on those benefits still being there."

Story - "Inevitably, the management of this is going to change as the years go by. Perhaps there will come a management that will be very lax and very slipshod in the way it handles things, and

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all of a sudden the people in these developments are going to start calling up the Town Hall and say 'Why don't you come up here with the snow plough and plough this street. I want my rubbish picked up, etc.', because the management isn't attending to its business properly. These things happen."

Attorney John Serafini, for the Charlotte Partnership, - "Assuming the developers are going to put all this time and effort and money into having a quality project, people who live in there are going to have a big incentive to make sure those units are kept up. The only real scenario where I could see that will happen would be that land values and property values get so depressed that the value that people sunk into these units from the beginning would have to drop way down. People who are going to spend two or three hundred thousand dollars per unit are going to fight pretty hard to see that they are maintained. The other thing is, what happens if it does go down and they start calling for Town services. I have been saying right along that we won't expect to have Town services, and we can put a condition into your permit that says, essentially, that this is going to be a private development, and they are going to be responsible for their own trash, their own ploughing and their own road maintenance, and all the other concerns. I think if that is part of their permit they are not going to be able to come back to the Town and say 'we know we have a permit but we want you to take care of these things anyway'. You are only going to have two-bedroom units here and with two-bedroom units you really have a limitation on how many children you will have there."

Madsen - "On the conditions in the special permit, how strong can they be?"

Herr - "You can make them as strong as you like."

Madsen - "Suppose we write a special permit to grant it, and the conditions on the grant was (a) they pick up their own trash, and (b) they pave their own roads, and (c) they run their own septic system, or whatever it is, that isn't final. It can be changed at some later date."

Herr - "I think that's correct. One of the good things was a critique of what ought to be in the condominium association papers. One of the things on that list was provisions saying they wouldn't petition the Town. We shuffled the list around a bit and used it; it wasn't on our report for two minutes before a local attorney pounced on it and said watch that one, it's a violation of people's first amendment rights. You can make fine strong provisions on things that do not take away people's rights."

Madsen - "Ten years from now and people haven't done their required maintenance or they haven't kept up with what is required to make this treatment plant work and it isn't working, it's essentially failing, and the Town has to take over the plant. Is there anyway in which we can prevent the Town from financially becoming responsible for that and to protect our rights at all?"

Herr - "I don't believe it. What I do believe is that the 'shopping list' that McGregor gave you was a good one. It included a lot of assurances. I know the D.E.Q.E. is very concerned about exactly the issues you are raising at this point. They are now going through a soul searching. I think those two things do a good job of providing assurances."

Serafini - "We are talking about a place where people are living, paying a lot of money, paying taxes, paying a lot of money in condominium fees to keep it going, so the last thing in the world they will want to be told is they cannot flush their toilets, or they cannot take a bath. If they have that much money sunk into the ground you can bet they are going to make sure that those systems

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are operating. Again, if you do get a major depression or the area gets hit with a local typhoid epidemic and it makes the units totally drop to zero in value, etc., but I think you have got to go with the normal possibilities. You have enforcement mechanisms that are going to guide the development to stay off the public payroll."

Bruce Fortier - "It has nothing to do with future management, but we are talking here about individual buildings valued at two or three thousand dollars, built when similar buildings on individual lots in Essex are selling presently for less than that. It has already happened in other parts of the country where land values have adjusted themselves to the reality. Farm land was over-inflated with the same thing and its gone down to what the rental value of a similar property would be. If there is a fiscal surplus based on inflated values we can reasonably expect that five or ten years from now, we will be operating at a loss on these buildings."

Story - "In as much as I am the only one present who gave a negative opinion on this project, my other objection was one which we can deal with in a positive way. My objection to the whole plan is I think it is a mistake to plan a lay-out of this complexity as a cul-de-sac. It concerned me that there was only one access road to and from these clusters of buildings. It would seem to me for good planning it would require a second entrance from the other end."

Herr - "I was surprised that I didn't hear objections from anyone regarding the fact that if this was a subdivision you would never pass it."

Story - "If for any reason that main road is cut off and there is a dire emergency at the further end, how do you get to it. I would like to see another way in. My impression was you own property on the other side through which you possibly might make another exit."

Serafini - "I shall have to look. The only thing we have really focused on is the Essex property."

Herr - "There are a series of reasons why people object to a single means of egress. One that you are raising is one of them; another reason is that it is inconvenient for providing services. I think their layout takes care of the concerns except an emergency exit. My guess is that it is better from a traffic safety point of view to have a single road out. You might want to have an emergency egress that isn't normally used; it might have a gate across it. By providing a wide median, you don't eliminate, but you cut it down very substantially the possibility of something happening. One tree is not going to do it, and the likelihood of an accident taking out both of the lanes becomes very small."

Story - "I think I would look favorably if you had a divided highway with a median strip down the middle. Then, in fact, you do have two roads. I would accept that."

E. Burnham - "The real advantage to having a single access road to a piece of property like this is the fact they can have

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control of what goes in and goes out, which is a very common thing in these types of developments."

W. Burnham - "For discussion purposes you could speak with Gus Means or John Mansfield about using their driveway as an emergency exit."

Story - "Presumably in your arrangements for the use of the road, will not the glass factory have to be a part of your arrangements?"

Serafini - "We have a right to use the whole right of way for the entire development. They cannot prohibit us from using that."

Story - "Suppose you do make it a divided highway, won't they have to enter into the agreement somehow?"

Serafini - "No, as long as they have the right to use it."

Herr - "What about other non-conformities of the subdivision regulations?"

W. Burnham - "Are you looking for our opinion as to why we are not looking at this in light of our subdivision regulations?"

Herr - "Or is there anything you want to ask me or ask them?"

W. Burnham - "In my opinion, with regard to our subdivision regulations, we couldn't allow this basically at all. By the time they got through laying out a full road, there wouldn't be but 25 lots, I believe, in which case they could go to 25 duplexes, but then it would be a completely different concept."

Herr - "There was some reason, I don't know what it was, why you adopted the regulations so the road cannot be steeper than 8%."

Wilson - "In the first place, I really don't think we should try to dictate a driveway for this entity up there, because it is their own property. Therefore your 10% grade is not germane to this problem at all. Number Two, we cannot look down the street 20 or 25 years to see what is going to happen. Number Three, these people are going to be paying taxes and they have a perfect right to come down to the Town to say we want the Town to plough our driveway. You think nothing of going to the State to get State grants for your school, for your roads, etc., because it's your right. You have paid these taxes. I cannot see where there is a financial problem coming up here except to put a little more money in the treasury. As far as a two-lane driveway is concerned, with one driveway you've got all your problems right now. You don't have another problem some place else."

W. Burnham - "In response to your question as to why we are not enforcing our 8% grade. When we consider a subdivision road, we are considering it to be eventually accepted and owned, maintained by the Town itself, in which case if someone was to create what, in some people's eyes, would be an unsatisfactory situation for public access on their own property as a private driveway, to me that's their business. If they are going to assume, at some point in time, the Town is going to accept it, assume the liability for it, then we are going to treat it in a completely different light."

Herr - "First of all, I think the 8% is crazy. I think the subdivision regulations ask too much. Steeper grades are perfectly

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okay. I think the reason for the ten percent has nothing to do with the Town maintaining the road. I think the reason for the eight percent is based on the safety. That becomes a concern as a function of how many people are using that piece of travelled way, whether you call it a driveway or a road. I don't see the distinction with regard to that based on whether it's a family development strictly a subdivision road."

Westley Burnham - "I look at that as to whom is going to assume the liability for having created it."

Herr - "I don't think there is a safety problem with the road design of this development. Maybe I'm suggesting you want to reconsider the numbers in your subdivision regulations. If you agree there is no safety problems with this development then probably you are over-regulating single family subdivisions."

Herr then suggested perhaps putting a median strip in the entrance road.

Burnham did not feel there was enough room on the topography for a two-lane road. Herr then wondered if there was anything additional that could be done at the intersection of Western Avenue looking towards the left.

Burnham - "The only concerns that I have seen to that specifically have come from McGregor, Shea and Doliner and now yourself. As far as our local police department they do not have any problems with it, assuming they were going to cut back. We have put in a couple of requirements, such as a stop sign. I don't consider that to be as large a problem as it is being made out to be.. We are only looking at an average 30/40 miles per hour speed. Maybe I'm wrong, it is up to the rest of the Board. It is being considered though. In fairness to the entrance and exit up there, when the skating rink was in operation the number of cars which entered and existed was much higher than what is going to be going in and out of there now, and I don't ever remember an accident on the corner."

Madsen said he did not have a problem with that either.

Burnham - "Have you come across anything either in general or in particular which you may feel we are overlooking?"

Herr - "I don't know what you are taking into account. I still have trouble understanding how those buildings fit onto that land. I haven't seen a grading plan yet. When I see it then perhaps I will see how it fits together."

Madsen - "Was one of your suggestions as a request was a grading plan?"

Herr - "I keep hearing that it is outrageously expensive and it is just a great surprise to me. When you see these typical grading plans it is possible to understand the way it all fits together. This is the first development I have encountered that has not had a grading plan. I think the other concern that has been addressed in greater depth than any other is the question of sewage disposal. There are two pieces to that; one is the question of adequacy for the people who live there and the other is the consequences on the groundwater or water supply. My guess is that if they are going to go with the treatment plan and it is going to be subject to the D.E.Q.E. permit, then they are going to have to file under M.E.P.A."

Serafini - "It looks to me right now that we are going to have to go through a state permit, but we do not think we are over the limit to file with M.E.P.A."

Burnham - "What kind of time frame can we expect as far as your application

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to D.E.Q.E. and potential approval and disapproval?"

Herr - "I think that is going to be very slow. My understanding is that D.E.Q.E. at this point is simply not acting on a package treatment plant."

Burnham - "So regardless of the outcome of that we are going to have to deal with this prior to any knowledge of D.E.Q.E.'s opinion of their sewage disposal system."

Serafini - "I think for your purposes your permit would simply be voted subject to whatever state permit was applicable."

Herr - "The only question I have got is whether either the school enrollment or fiscal questions are serious enough for you to want us to do something independently of what they did. Or perhaps you would rather wait to see what they present to you."

Burnham - "I really do not want to commit to anything until we see what they give us."

Peter Van Wyck, together with his attorney William Evans, met with the Board to discuss his definitive subdivision plan for Turtleback Road. Van Wyck said he was only asking for one waiver of the radius. He said he would put a condition on the plan that there will be a total of twelve lots to eradicate the fear of further development.

Burnham - "Have you come up with a basis for not considering this a dead-end road."

Evans submitted to the Board some legal cases on this type of situation. Madsen asked if any of these cases were appealed. Evans said both the cases were and submitted another case to the Board. Evans said, "I think there is enough precedent on this for the Board to act on this and approve the subdivision providing all other requirements are complied with."

Story - "Why is this not a resubmission of the same plan that was turned down?"

Evans - "The developer can take what is not in compliance with the regulations and resubmit it with the corrections. The statute says if the plan is turned down the applicant can return a plan with corrections."

Van Wyck - "I have corrected them based on the Minutes."

Burnham - "I would like to get the consensus of the Board whether we should deal with Peter's plan or discuss it in front of a judge."

Madsen - "This is a corrected definitive plan in which you say you have corrected all the issues that were brought up in the Minutes. This represents what you feel takes care of all the omissions. I suggest we take it and review it."

The plan was accepted by the Board.

Ronald S. Ober/Charles Richards - Pine Ridge subdivision, Pond Street - met with the Board regarding approval of their preliminary subdivision plan.

Burnham - "Technically, this preliminary plan is approved because we overlooked the time frame. I would like to review this to give you some guidelines before you submit a definitive plan."

Ober mentioned that they had not been before the Conservation Commission yet. Burnham suggested they resubmit their plan with a new Form B. Ober said he would talk with his attorney regarding this.

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Burnham - "One problem I have with the plan is the small amounts of lots on either side of the road, and its legality, for the benefit of the percolation tests, with the actual lot being on the other side. The best avenue of approach would be to submit. You will have to demonstrate that there is adequate potable water. The Fire department has questioned whether there is adequate fire protection."

Ober - "We would like to improve the pond that is there. It would be a potential source of water."

Story - "Did you plan on putting separate wells on each lot?"

Ober - "It is all a question of economics. I do not know how much it would cost to run the water from the Home Center."

Burnham - "It has been discussed and ideally we would rather see the water line run down there, but I do not think we can insist on it. But you do have to provide a source of potable water according to the by-laws."

E. Burnham - "You may be required to put in a pipeline in the subdivision leading to the street so that if a water line is ever put in on Pond Street it will be ready to hook up."

The Minutes of September 16, 1987 were read. Story moved to accept the Minutes of September 16, 1987; seconded by Dunn, with W. Burnham, E. Burnham, Dunn, Story and Wilson voting in favor; Madsen voted present.

Madsen moved to adjourn, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 11:00 p.m.

Respectfully submitted



Gillian B. Palumbo

AGENDA

- 7:50 p.m. .. Peter Ferriero - Bed and Breakfast, Main Street
- 8:00 p.m. .. Robert Wolfe - Essex Reach, Eastern Avenue
- 8:05 p.m. .. John Dick, Hancock Survey - Henderson property
- 8:30 p.m. .. Continuation of public hearing - Deer Run Estate
- 9:30 p.m. .. Review of Craft Hill definitive subdivision plan

Essex Planning Board

November 18, 1987

Present: Westley Burnham, Chairman; E. Burnham; Michael Cataldo; Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

Building Inspector Richard Carter presented a building permit application to the Board for Daniel Bennett for two greenhouses on the corner of Harlow Street and Eastern Avenue. It was determined that no action was required by the Board.

A building permit application was received for Samuel Hoar, Lot 5D, Conomo Drive, for the construction of a single family residence. Area of land - 14.446 acres. Size of building, length 80', height 29', width 75', no. of stories - 2.

Madsen moved to approve the site plan of Samuel Hoar for Lot 5D, Conomo Drive, as it meets all side line and setback requirements. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Peter Ferriero, together with Robert and Cynthia Cameron and their attorney John Mahoney, met with the Board regarding their proposal of a bed and breakfast inn at 148 Main Street, currently owned by Ferriero. Attorney John Mahoney said he had checked with other towns but there was no consistency in the State for regulations that govern this type of business. The Board of Health has allowed an additional three to five bedrooms above the existing five bedrooms. Nancy Gallant, 152 Main Street, said, "We were only told yesterday about this. My concern is the traffic. I am also concerned that if an inn goes in, what is going to happen to my privacy. I would like to know more of what will be going in. Ferriero - "I feel very comfortable that it will not be deleterious to the neighborhood." Cynthia Cameron - "Our main goal is to live in the house and have guests stay there. We are not interested in getting last minute people in from the restaurants. Our experience in other bed and breakfasts is that people come for one or two days visiting with relatives or attending weddings, etc. There are two bathrooms right now which are servicing the whole house. We would have to put in one or two more but not every room will have their own bathroom." Story - "If you did, then it would put it in the category of a motel." W. Burnham wondered if there was a license that had to be obtained. Ferriero thought it might need a common victualler's license from the Selectmen. It was noted that nine abutters were notified. Gallant said she had spoken to Mrs. Perrotti this evening, who said she also was not in favor. Gallant said, "My problem is parking. This will have a given number of people, but as with the antique shops a lot of them park on the street, which is a mess now." It was suggested to the Camerons that they meet with the Conservation Commission as they could be within 100

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feet of the wetlands. Cataldo said he would like to indicate the number of bedrooms the Camerons should be held to in relation to the parking. Dunn wondered whether a closing time could be set. W. Burnham asked the Camerons what they were considering for advertising purposes. Mrs. Cameron said, "I only want a small sign on the house. I do not want people looking for a motel. I just want people who will call from a listing in a Bed and Breakfast book. Janice Parnham, a neighbor, said, "We expressed concern about coming in and out of a mutual driveway. I would like to have a cut off time. I am also wondering if the appearance of the building will change." Ferriero asked the Board if they were to put a limit on the number of bedrooms that it be set at at least seven. Cameron said, "We are anticipating five. We would be in one, so that would be four. I would like the cap put on at seven." There is parking for seven vehicles with two potential spots.

Wilson moved that authorisation be given to Peter Ferriero, 148 Main Street, Essex, for an alteration of use of premises to include use as a Bed and Breakfast Inn as well as use as the residence of the owner, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story.

Cataldo moved to amend the motion to limit the number of bedrooms to a total of seven. The amendment was seconded by Madsen, with the Board voting unanimously in favor. The Board then voted unanimously in favor of the motion with the amendment.

Robert Wolfe met with the Board requesting his letter of credit be revoked and that the Board obtain one from Michael DiGuiseppe, the new owner of Essex Heritage subdivision on Eastern Avenue. A letter will be sent to Michael DiGuiseppe requesting a letter of credit.

(Minutes continued on next page)

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The Continuation of the public hearing for Charlotte Partnership, Deer Run Estates, was held at 8:38 p.m.

Story - "I have some comments I would like to make. I have thought a great deal about all of this. There are a number of aspects that disturb me, but are not within the purview of this Board, so I cannot address those. One thing that disturbs me is a project of this scope is on a cul-de-sac. I think that represents very bad planning from a purely planning point of view. Anything of this size with fifty units should certainly have two means of access and egress. I think it is just a matter of common sense and safety, traffic considerations and so on, that all of this should be on, what is in essence, a large cul-de-sac. I would like to see from my own point of view a second access made to all of this property. Secondly, I am still not wholly convinced about the financial impact this is going to have on the Town, thinking especially of the long range impact which this will have."

Attorney John Serafini, representing the Charlotte Partnership - "We were here last night for sessions with the Board of Health and Conservation Commission. Before we came into the Board of Health meeting we had been studying the issue of sewage design and we have come to the conclusion that, especially to satisfy the Board of Health's requirements and concerns and to make sure that no one is left with any questions about the site being able to handle the amount of sewage that may come of it, that we are going to redesign the septic system. We are going to redesign the septic system only because the Board has said that we have spaces within our Townhouses which could be used as another bedroom, even though, I think legally without a building permit we could not use it, they want to see the project design as if it were a three-bedroom. When you design for three bedrooms and have fifty units there are certain calculations you have to follow. Without going into a lot of details, the total gallons will be over the maximum limitation that a local Board of Health can approve. In order to do that, we are in the process of having to redesign that part of the project, and potentially we are going to have to include some sewage treatment. That should not affect your Board directly. I think your Board has expressed a willingness all along to pretty much leave the sewage issues to the Board of Health, and we have stated all along that the permit, if granted, would be subject to whatever the Board of Health's permit is going to be, or if it turns out to be a State permit, or combined permit, subject to whatever the State permit is going to be. We have to redesign that part. We also have to, in connection with that redesigning, are going to upgrade some hydro studies to include that mounding analysis that you wanted. We have done a mounding analysis, using one set of criteria, which is acceptable; there is another way we are doing it and those results are going to be finished relatively shortly. Before the Board gets alarmed about the clock that is ticking, and we also are concerned about the clock that is ticking, and we have been trying to have the public hearing closed as soon as we can, the Board has said they want to have a fair amount of time to consider this project after the public hearing is closed

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and that's a reasonable requirement. I think you had suggested there ought to be a month and people were aiming for tonight for closure of the public hearing so you would have about a month to consider when you should make your final decision, going on the assumption you were going to count the ninety days running from September 16 which was the night of the first public hearing. We do not want to disturb the timetable and rush you through a quick decision. However there is additional time in order for the project to be redesigned and to get the finalised plans and data, so we are going to request there be a continuance to a certain period of time. One of the members was not present for all of the sessions of the public hearings that we have had. There is also a good possibility that this case is going to end up in court, not because we are going to want to take it there, but I know some of the other people in the room are going to want to see it there. That's clearly not a problem you are going to have to face, per se, but I think it is an obligation of the Board to build the best record for the court they can, so the court can have a clear understanding of what the decisions were that the Board reached, why all the members voted the way they did, why all the data was presented, that all the procedural parts were done right. We are going to propose to you that basically the hearing be continued and that the public notices go out again, i.e. that the abutters be renotified, that the newspaper notices go back in, if it is a problem as to who will pay for those, we will be happy to do so. At the other continued public hearing which has been advertised, if everybody shows up, that should cure any lingering problem the people have about whether they can vote because they did not come to one of the sessions. We plan to put on all the data we have put on before, the final plans, and run through the whole thing again, so that all members of the public who want to come in and talk can, and go back and forth about it if they want to, so that it is clear to the court that it is a final record and that everybody attended enough of the public hearing process to make an intelligent vote."

W. Burnham - "I assume from what you are saying that you would like to have another complete hearing. I would like you, if we are going to go this route, is to research back and resubmit one complete copy of everything you submitted for our review."

Cataldo - "Why don't you withdraw your application and resubmit?"

Serafini - "We have talked about that as a possibility, and we may be willing to do that, but that presupposes that we don't run into obstacles such as a new filing fee under the new regulations. Also we would not like to get into a situation where you say we'll take sixty-five days to have a public hearing. I think that would be unfair."

W. Burnham - "Can we assume, if we go through this route, that you will have all of the documentation necessary, complete from start to finish, when you refile to present to us, theoretically, to be done in one night."

Serafini - "I don't see why not."

W. Burnham - "Changes that we are discussing at this point involve the septic system redesign, and as far as you know, that is the only

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sizeable alteration."

Serafini - "Yes, that is the only sizeable one. I think you already have the re-designed areas for the building locations. The buildings moved slightly from when we filed back in July."

W. Burnham - "As far as I'm concerned, you withdraw it, I'm going to consider all the information we've got up until now for information only."

Cataldo - "If you refile this, are you going to file as two bedrooms or three bedrooms?"

Serafini - "It will still be two bedrooms. The only thing we are doing is saying we will do the calculations for sewerage based upon three bedrooms, but we still only plan to build two bedrooms. The only reason for going through that was because of the definition of what might be used as a bedroom. Our documents and permits will say it is a two bedroom project, and that is what everyone is going to buy. It is only the effluent. The only reason we are doing that is because that seems to be one of the major objections of the project, is concern about what the septic system is going to do to the site. If we design for the higher amount, even though we may never come close to that higher amount, there should not be any doubt that that system is going to work for that site."

Warren Messier - "If we do withdraw in order to resolve the technical issues of procedure, we don't want to waste time in court; I don't think the opponents do and I don't think the Board wants to be cooling their heels in a court procedure, while waiting for a judge to decide what all the issues were. I think we have had enough of it here. In order for us to go that route and put ourselves on the line and withdraw, we would like to know the Board's intent with regard to time frames."

W. Burnham - "I'm going to refrain from saying that I want thirty days, forty-five days or fifteen days. My intentions are to be reasonably expedient. I don't intend to drag my feet strictly because we have the time available. I do want and plan to utilize enough time to wallow through the stack of paperwork. I would like to know what time frame are you looking for as far as resubmittal, assuming that all your engineering work is done."

Serafini - "They are shooting for December 8 for our engineering work. That's what we told the other Boards. I think realistically we are looking at something after the first of the year."

W. Burnham - "Can we assume you will resubmit the night after you resubmit with the Board of Health. Can we use the 16th as a relative time frame?"

Serafini - "Unless there is some kind of change that the other Boards want."

Warren Messier - "If we get all of the plans in to the Board and to our abutters attorney, that we could, based on that, have a meeting early in January."

W. Burnham - "There are specific advertising requirements. They have to be advertised at least two week, in consecutive weeks prior to the hearing. If you submit the new application on or about the 16th, we start the process going. We can advertise the following week, the week after that and hold the hearing the first week in January."

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Warren Messier - "I think what I was trying to say was that we will have the application and all the plans submitted to the Board and to the Town Clerk by the 8th, could we then get the advertisement on the next week and the following week so we could have it the first second, or third."

W. Burnham - "I will not schedule a public hearing the week of Christmas. Right now, for the first week in January, your best bet would be to submit the application on the 16th, at which time assume that all the information is here or at least available or you plan to have it available, we will start the procedure rolling. We will keep it in mind for the first week in January."

Serafini - "Does anyone plan to be on vacation during the time when we plan to have this public hearing. We want to do our best to have everyone at the hearing."

W. Burnham - "We will ensure that all members will be present." I do not consider it fair to us, fair to you or fair to the opposing team to make a decision with less than a full Board complement."

Serafini - "We respectfully request that you allow us to withdraw this petition without prejudice in order to refile."

W. Burnham requested that Serafini put this request in writing, which is as follows:

"Charlottee Partnership, petitioner for Deer Run Estates project, originally filed on or about July 15, 1987, hereby requests permission to withdraw its petition without prejudice." Signed by John R. Serafini, Jr. for the Charlottee Partnership.

Madsen moved that we accept the withdrawal; seconded Dana, with the Board voting unanimously in favor.

Madsen moved we close the public hearing without finding; seconded Wilson, with the Board voting unanimously in favor.

informally

The Board decided to poll themselves/for their vote on the project. Story - "I have a great many concerns but they are mainly environmental concerns. One of our most ecologically sensitive areas is going to be destroyed, but I don't think that is in the purview of the Board."

W. Burnham - "Do you realize that under a special permit we are not acting as a Planning Board but as the special permit issuing authority."

Story - "I object that there is only one entrance, and I do not believe we are going to come out of this smelling like a rose financially."

Dunn - "There is one thing I like which they are doing and that is they are leaving open land. I also would like to see a second exit."

W. Burnham - "Insisting on a second exit for this project I don't think would be reasonable or prudent, due to extraneous conditions. We are talking about a completely private road. I don't think it is in our best interests to inflict that on the owners."

Dunn - "I can understand this. The road is definitely private. I like the project, but I do have a water concern."

E. Burnham - "Something is going to happen with this property. We

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have something here that maybe is controllable. Tentatively, I am for it."

Cataldo - "At the moment I'm inclined to be against it. I feel fifty units in this Town at the moment is too much. I feel it has not been demonstrated that this is best for the area."

Madsen - "I'm inclined to be for it, but I do have concerns with water. I would like to see more information to be really for it."

Wilson - "I would go with the project. The sewage is a problem of the Board of Health and the D.E.Q.E."

W. Burnham - "There are some details that have to be worked out. I feel this may be the best use of the property at this time. The added tax revenue would be far less detrimental than what the Finance Committee's report stated."

Cataldo moved to accept the Minutes of September 16, 1987, as read; seconded by Story, with Cataldo, Dunn, Story, Wilson and E. Burnham voting in favor; Madsen abstained.

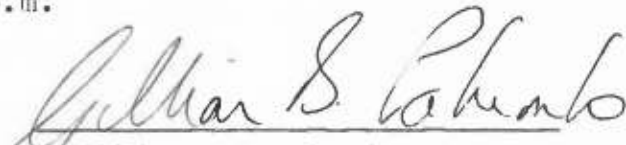
Madsen moved we hold a public hearing for Craft Hill subdivision on December 16, 1987, at 8:00 p.m. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Madsen moved we hold a public hearing for Doyle Acres on December 16, 1987, at 9:00 p.m. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Madsen said he would like to have monies put in the Planning Board budget for their own legal counsel.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.


Gillian B. Palumbo

11/18/87

Charlatte partnership,

petition cover for Deer Run Estates Project
originally filed on or about July 15, 1987.
hereby requests permission to withdraw
its petition without prejudice.

John R. Seraphin
for Charlatte partnership

A G E N D A

- 7:50 p.m. ... Peter Ferriero, Main Street -
Bed and Breakfast Guest House
- 8:00 p.m. ... Clay Morin - Review of Craft Hill
subdivision plan
- 8:30 p.m. ... George Johnson - submission of definitive
plan for Hatfield/Doyle subdivision
- 9:00 p.m. ... Peter Van Wyck
- 9:15 p.m. ... Duane Himes - Brook Pasture Realty
Trust
- 9:30 p.m. ... Continuation of public hearing -
Deer Run Estates

Essex Planning Board

November 4, 1987

Present : Westley Burnham, Chairman; Francis Dunn; E. Burnham;
Michael Cataldo; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order 7:35 p.m.

The Essex Board of Appeals met with the Board for clarification of an appeal made to them by Margaret Lake, Apple Street. Richard Cairns wanted to know the basis of the denial. He felt they were being pointed into several directions. The Minutes from a Planning Board meeting held on September 12, 1987, were read, which pertained to this.

Clay Morin submitted a definitive subdivision plan for Craft Hill, Story Street, with Forms C and D and a check for \$600.00.

Peter Ferriero met with the Board to discuss a proposal to change his house at 148 Main Street to a bed and breakfast guest house. He said he wanted to file a special permit application. W. Burnham said he could not find anything in the special permit application regarding boarding houses. Madsen thought it could be construed as a hotel/motel. W. Burnham thought that a hotel/motel was the closest thing to a bed and breakfast in the by-laws, and that the special permit really defines apartments. E. Burnham suggested Ferriero do some research as to the fire codes and building codes as he felt the rooming house may have to be sprinkled. The lot is non-conforming. The total area is about 2½ acres, but two acres is salt marsh which cannot be included in the lot configuration. Ferriero wondered if the special permit application was the route to take. Madsen said he didn't think so. It was felt the potential buyer should contact his attorney and see any reason why he could not have a guest house under the by-laws. The Board of Health gave their approval for an additional three to five bedrooms above the existing five. W. Burnham felt the Board would have to look at this as a potential of ten bedrooms, unless the applicant comes in with documentation for seven bedrooms. Madsen said the by-laws really do not hold as this is a non-conforming use. W. Burnham agreed except that the use would be completely changed. Madsen said, "We can use the by-laws for guidelines, but we have to determine whether it is substantially more detrimental to the neighborhood."

George Johnson, Hancock Survey Associates, met with the Board to submit a definitive subdivision plan with Forms C and D and a check for \$300.00. A list of waivers was also given. The name of the subdivision is Doyle Acres.

A site visit will be made on November 11 at 8:00 a.m. to the Doyle property and Craft Hill subdivision.

Peter Van Wyck met with the Board to discuss the disapproval of his definitive subdivision plan, for the Turtleback Road extension

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Van Wyck said he would like to comment on the plan that was turned down and apologise for it being incomplete. He asked that the Board allow him to correct the plan. W. Burnham asked the Board if the Board could re-vote on the plan or not. Madsen said the time frame had expired.

Van Wyck - "I am trying to separate the reasons that it is an incomplete plan. You should have said what was incomplete and I could have made a complete plan."

W. Burnham - "Some members were not convinced of the validity of the loop. I was under the impression you were going to get some hardcore caselaw backing this up."

Van Wyck - "The fact remains we have an issue here. It is the circle and length of the road. There is legal precedence on the subject."

Madsen - "If the plan was incomplete why didn't you submit one that was complete. I'm flabbergasted that you come back and say it was incomplete and ask us to open up the hearing again."

Van Wyck - "Just because the 'i's are not dotted and the 't's aren't crossed is not a reason for turning it down."

Cataldo said he thought there was a mechanism for appeal. W. Burnham said the only appeal he knew of was Superior Court.

Van Wyck - "The reason I am here is to get another vote."

W. Burnham said he would check with John Tierney on this. He added, "We have approval on two plans that I know of, but you have run in to a problem elsewhere. We agreed to consider it. We asked for validity of the loop and you were supposed to provide it. You gave me something on the street which was a case which was fifteen years old."

Van Wyck - "I want the Board to let me clean up the plan."

W. Burnham - "I have to find out whether I can legally take the vote again. Then I have to get information on the validity of the loop. I will discuss this with Town Counsel."

Brook Pasture Realty Trust, Martin Street - Duane Himes of CDEC met with the Board for review of the subdivision plan (definitive). A letter was received from the D.P.W. requesting a fire hydrant at the end of the cul-de-sac. Himes said he could see no problem with putting in two fire hydrants. The Board questioned Himes as to how maintenance of the road could be ensured. Himes felt it could be written in the deeds that there be a covenant for maintenance of the road. Story said he felt if the road was going to be gravel it should be twenty feet wide and not sixteen feet. At this point Himes was asked to continue his definitive subdivision plan review until after the continuation of the public hearing for Deer Run Estates.

A continuation of a public hearing for Deer Run Estates was held at 9:35 p.m.

Attorney John Serafini said, "The only outstanding item was the hydrogeological study shown in a report dated November 3, 1987, done by Core Environmental. We will be meeting with the Board of Health on November 17. The engineers say the soils will safely

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accept the system and basically there will be no impact. I went to file a response to the memorandum of the Finance Committee. There are some assumptions in the report that are not accurate. This is for the records. These are the documents we want to present tonight." Serafini then reviewed the proceedings that have taken place between the Charlotte Partnership and the Planning Board up to this evening.

Serafini continued, "The Board has to ask itself some commonsense questions. Is this project one that will fit on the site. Is what we have designed much worse than single family dwellings going in. We have tried to answer all the concerns the Board has had. In fairness to the Messiers, they have bent over backwards to try and co-operate. The process has been to keep an open mind and adjust the project where necessary." Serafini then reviewed the basic standards of the By-laws, B-002(k) and renumerated the conditions the Board should consider.

Serafini - "There should be some flexibility when the Board writes their Special Permit. We have them limited to two-bedroom units and no one will run the risk of violating their condominium permit for an extra bedroom. I feel there are adequate safeguards there. The other thing is the location of sites. If the buildings should have to be moved approximately twenty feet it should not make that much difference. All of the documents presented should be made a part of the formal public hearing and the Board should adopt them as part of it. I am looking for a motion to accept these documents as part of the hearing."

Charles Messier said also the documents received from McGregor, Shea and Doliner should be part of the record.

Cataldo moved that the Board accept the documents from the public hearing and all submissions relative to Deer Run Estates for the Special Permit process. The motion was seconded by Story, with the Board voting unanimously in favor.

Lisa Eggleston of Rizzo Associates said she had a letter from one of their traffic engineers, which she gave to the Board. She said the letter addressed site distances. She told the Board, "Basically what we have found looking from the site westward is there is plenty of site distance, but looking in the other direction, it is very limited due to the hill on Route 22. I don't know whether the applicant will have to deal with the D.P.W. for a curb cut. I would like to mention the hydrogeological study. I would like to say the data presented at the last meeting confirms what we have to say. What the report did not address was the mounding process, which is normally part of a study. We would like to ask for more time in which to study this."

W. Burnham - "When we close the hearing we are going to allow time up to our next meeting for written comment."

Serafini - "I would like to state that there have been no accidents at that site in all the time the skating rink was there. This is not a State highway even though it is a numbered route. With regard to the mounding analysis, our report does touch on that and from what we understand it really doesn't apply."

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Donna Vorhees of McGregor, Shea and Doliner said the Board had requested language for a condominium document which she was submitting in a letter this evening. She also suggested the public record be kept open beyond the 18th for the Board of Health decision, otherwise the Board would not have the benefit of their review.

Serafini then said he would like to submit a draft copy of the Special Permit.

John Mansfield, abutter, - "Attorney Serafini said some of the abutters are opposed and some are in favor. I feel the three major abutters are opposed, mainly on environmental issues. Also the school committee has never received a copy of the finance report and I feel they should have it to review and perhaps respond to it. As I am an abutter and a member of the school committee I will not respond to it."

Warren Messier - "The impacts have been presented to the Board and certainly fifty units of two-bedrooms mean far less impact than single family houses. I feel that with all the advertising regarding this project that if the school committee was interested then they would be at this meeting."

John Mansfield then said he felt the time for comment should be kept open longer, at least until December 1.

W. Burnham said he was waiting for the response from Town Counsel as to when the ninety day period started from.

W. Burnham - "The Board of Health does not have the time restraints we have. It is not fair for us to have to review this material in two weeks. I would like to close the hearing but allow a time period for written comments."

Madsen said he did not advise closing the hearing this evening, because the Board needs time in which to review all the information and allow others with questions to comment. Once the hearing is closed the public will not have that chance.

Cataldo moved we continue the public hearing until 8:30 p.m. on November 18, 1987. The motion was seconded by Story, with the Board voting unanimously in favor.

Continuation of the Brook Pasture definitive subdivision plan review -
Dunn said she would like to see the road hot-topped. William Holton, an abutter said, "I cannot agree with Mrs. Dunn on that. I feel paving subdivision roads for a two or three house subdivision is not in keeping with Essex." There was a discussion on the adequacy of a sixteen foot gravel road. Holton said this was a family subdivision, not a developers subdivision, and that it was only for three houses.

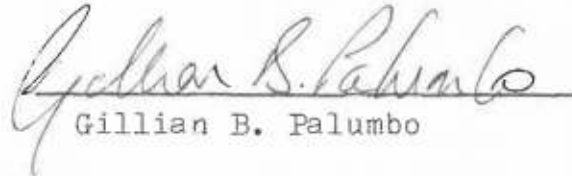
Wilson moved we approve, with modifications, the subdivision plan of Brook Pasture Realty Trust, 57 Martin Street, Thomas A. Corkery, Jr. Trustee, dated July 18, 1987, as it meets all subdivision regulations with the following modifications:- Water main and utility easement not in the travelled area and an additional hydrant at the end of the water main. The motion was seconded by Cataldo, with the vote as follows:

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Dunn - approve; Story - approve; E. Burnham - approve, because it meets all required conditions of our regulations; Cataldo - approve, because we have been supplied with adequate information and it meets all subdivision regulations; Wilson - approve - because it meets all subdivision regulations; W. Burnham - approve; Madsen abstained as he was not at the public hearing.

Cataldo moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 11 p.m.


Gillian B. Palumbo

Essex Planning Board

October 27, 1987

A G E N D A

7:45 p.m. ... Special meeting to review
and make decision on definitive
subdivision plan of Peter Van
Wyck

Essex Planning Board

October 27, 1987

Present : Westley Burnham, Chairman; Everett Burnham; Michael Cataldo; Frances Dunn; Dana Story; Alden Wilson.

Meeting called to order at 7:56 p.m.

The Board met to review and make a decision on the definitive subdivision plan of Peter Van Wyck, Turtleback Road. All Board members present at this meeting were also present at the public hearing held on October 21.

E. Burnham said, "The plans do not show any type of guard rail around the hill area. I feel it should be shown." The Board also noted that the list of waivers were not shown on the plan. Elisabeth Frye, an abutter, said, "The one thing that really bothers me is Page 28, Section 7.02, Paragraph 2(i), "Every dead-end street (whether a cul-de-sac, teardrop or other variation) shall not exceed 1,200 feet in length". That indicates they should be requesting another waiver. This is much longer and a waiver should be requested." There was a discussion on whether a cul-de-sac is considered to be a dead-end street. Van Wyck had provided the Board with caselaw of Robert B. Sparks versus Planning Board of Westborough, etal. Dunn said she was concerned with safety and does not like the additional traffic going into Apple Street. Cataldo wanted to know if there was anything outside of this plan which showed the Board the actual water flow. Cataldo said, "I wonder how the Board would have felt if someone from out of Town had presented this plan." Bruce Fortier said, "I wonder why this warrants any consideration, because the Planning Board originally had restricted any more addition to Turtleback Road for the number of houses there." Dana Story said, "I would like to say essentially what Pat has been saying. I don't disagree with the cul-de-sac, per se. There are some I agree with, others I don't. This I don't. Given the inadequacy of Apple Street and the grades and turns of Turtleback Road, it is unwise to allow more lots. I don't feel I can vote for this plan with regard to Apple Street and Turtleback Road. We are also quite strict with what is on the plan with people out of Town." Cataldo said, "I agree with Dana; you can act on it, you can call it what you like, but it's beyond the 1,200 feet. We are talking major land area. I think the regulations require lot lines. Peter has been told time and time again. I feel I cannot vote on this because there is just not enough information."

Cataldo moved that the Board approve the definitive subdivision plan, with waivers of (1) 9½% grade for less than 200 feet between Stations 6 and 8, (2) minimum radius on the intersected road beginning at Station 1, of Peter Van Wyck, Turtleback Road, dated August 1, 1987, for a single loop plan of five lots, finding it meets the Town of Essex subdivision control laws,

October 27, 1987

pending modification to the drawings specifying construction requirements of the Massachusetts Department of Public Utilities for the Tenneco Gas Pipeline in the areas of the plan where relevant. The motion was seconded by Wilson.

Cataldo - I vote no. (1) On the definitive plan content I found the proposed lot lines were not the same as those presented at the public hearing. (2) Roadway alignment and general design does not meet the by-laws relative to subdivision control. (3) Insufficient information on the plan. (4) I found no fault in the actual layout of the plan. The question is whether it is or not a dead end road. More documentation is needed regarding this.

E. Burnham - I approve of the plan. I cannot see anything wrong with it.

Story - I vote no for the reasons I stated earlier. Access and egress are inadequate for^{the} nature of Turtleback Road and Apple Street, and for lack of information on the plan.

Dunn - I am opposed to it for the reasons Dana Story gave. Also the plan is not complete.


Wilson - I don't care about the length of Turtleback Road. It is an existing road. The loop on the end ceases to be a cul-de-sac. I have no expert opinion on the adequacy of Turtleback Road or Apple Street. Apparently it is capable of handling the traffic that will be there. I am in favor.

W. Burnham reserved his right as chairman not to vote.

The approval of the definitive plan of Peter Van Wyck failed to carry, with a vote of 3 to 2 against, with the chair abstaining.

Cataldo moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 9:05 p.m.


Gillian B. Palumbo

AGENDA

- 7:45 p.m. ... Submission of definitive plan -
Craft Hill subdivision, Story
Street
- 8:00 p.m. ... Public Hearing - Peter Van Wyck -
Turtleback Road Extension Loop
- 9:15 p.m. ... Public Hearing - Brook Pasture
Realty Trust, Martin Street
- 9:45 p.m. ... Continuation of public hearing -
Deer Runn Estates, Western Avenue

Essex Planning Board

October 21, 1987

Present : Westley Burnham, Chairman; Everett Burnham; Michael Cataldo; Frances Dunn; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

Building Inspector Richard Carter gave the Board a building permit application for Michael Cataldo, Conomo Drive, for construction of a single family house. Area of land 4.75 acres. Distance from street line 272', right side line 45', left side line 148'. Size of building, length 50', height 32', width 36', no. of stories 2.

E. Burnham moved we approve the building permit application of Michael Cataldo, Conomo Drive, on Parcel C for a second residential dwelling on a conforming lot. The motion was seconded by Dunn, with W. Burnham, E. Burnham, Dunn, Story and Wilson voting in favor; Cataldo abstained.

Donald Metcalf, Martin Street, met with the Board requesting their signatures on a Landcourt plan dated August 14, 1987, for land off Apple Street. The Board signed the plan.

A public hearing was held at 8:02 p.m., relative to a proposed subdivision of Peter Van Wyck, located on Turtleback Road.

Robert Klopotoski, of Survey Associates, Gloucester, representing Van Wyck, said, "There are 24 acres of land at the end of Turtleback Road. We intend to divide it into twelve building lots for residential purposes. Shown on the plan are five lots. The reason for this is, at the last period of perc testing, three percs were approved. It has been our intention all along to divide this parcel into twelve lots. The loop on Turtleback Road is the only loop before you this evening." Cataldo - "The application before us states both loops." Klopotoski - "We would like to make the distinction that there will not be a through road to Essex Park Road. This plan requires a waiver of one rule, which is maximum grade in one section of road where there is a hill consisting mainly of ledge. The maximum grade waiver is from 8% to 9.2% for 150'." Wilson - "You were going to bring us Massachusetts General Laws regarding a loop as a dead-end street." Klopotoski - "The legal definition of a dead-end street is a street that's open at one end and not at the other. If you are anywhere on the cul-de-sac or loop you have two ways out." It was noted that case laws had been obtained regarding this, but had not been brought to the hearing. W. Burnham - "In light of some information that has been raised with another subdivision, have you been in contact with the Tenneco Gas Company regarding crossing the gas line?" Van Wyck - "I have been in contact with them. Have I sent the plan to them, no, I haven't." W. Burnham - "I am going to ask you prior to any

approval for documentation from them. This information should be documented in the plans."

Klopotoski - "We are aware of the requirements involved."

W. Burnham - "Will the water pipe be looped around?"

Klopotoski - "The water pipe is going to Essex Park Drive."

E. Burnham pointed out that the D.P.W. requires a 20' easement.

Van Wyck then gave the Board copies of a traffic study he had done.

Elisabeth Frye, abutter - "The grade and the length of the extension are waivers. (1) 1200 feet is the limit for the dead end road or cul-de-sac. I think you could probably find caselaw on both sides. I feel this is the real issue. There is only one way out and that is Turtleback Road to Apple Street. The loop is 1800 feet in length. This is in fact a waiver. This concept has been turned down before. What if, for some reason, the other doesn't go through. Why is your judgement better than the Boards before. I think the 1800 feet on top of the 1200 feet would be hard to find in caselaw. Why does Richard Means have to have a Clerk of the Works and this road is without one. Is the Town going to accept a road like that when they don't know what is under it."

W. Burnham - "The D.P.W. will make their recommendation."

Frye - "How can you deal with a plan if you don't know what is going on it?"

Cataldo - "That is one of the fears I have. What guarantees do we have?"

E. Burnham said he felt the Board had to go for the potentiality of the plan.

Story said he felt he could not vote on this plan as submitted.

David Elwell - "Did all the lots perc?"

Klopotoski - "Just the three that are shown."

Elwell - "I don't know how the gas line has let him get away with what he has done already."

Paul Gross, Turtleback Road - "I have a couple of concerns, but I am for the loop. I think Apple Street is dangerous, so I am in favor of limiting the number of residences that could be built. I would like to see the road taken over by the Town. I think the loops are a better idea than the through road."

Frye said she wondered if the 52 lot limit was applicable here.

W. Burnham - "I feel that applied to a different set of plans."

Cataldo - "I like the road configuration, but I guess I fear the unknown. Our regulations call for a configuration of the lots."

E. Burnham - "As Fire Chief I like the idea of the loop. The access is more than adequate."

It was felt the maximum number of lots would be eighteen.

Klopotoski - "The road is not going through any wetlands, but it is within 100'."

W. Burnham - "A loop at the end of the cul-de-sac is not considered part of the cul-de-sac, but I will still try to investigate this with Town Counsel, to back this up."

The public hearing closed at 8:45 p.m.

The Minutes of October 7, 1987 were read. Story moved to accept the

October 21, 1987

Minutes as read. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.

The Minutes of September 30, 1987, were read. Cataldo moved to accept the Minutes of September 30 as read. The motion was seconded by Story, with the Board voting unanimously in favor.

Cataldo moved to hold a special Planning Board meeting on Tuesday, October 27, 1987. The motion was seconded by Story, with the Board voting unanimously in favor.

A Public Hearing was held at 9:15 p.m. relative to a proposed subdivision of land in Essex located on Martin Street and submitted by Brook Pasture Realty Trust (Thomas A. Corkery, Jr., Trustee).

Duane Himes of CDEC was the representative for Brook Pasture Realty Trust. Himes said, "This will be a four lot subdivision, accessed by a 550' length cul-de-sac. There is a stream on one side of the property and an intermittent stream. The D.P.W. has requested the water main go to the back of the cul-de-sac, the relocation of a fire hydrant from station 4+75 to station 6+75, and for a recorded easement to the Department of Public Works."

Edwin Perkins of Riverview Road, an abutter, said he has no objections to this subdivision.

Joseph Guerin, an abutter, said, "My main concern is the drainage from the road would not run onto my property and into my septic system. Other than that I have no objections."

When asked about the right-of-way through to Winthrop Street, Himes said no provision had been made to use it. Story felt it was unwise to have a 16' gravel road and that it should be hot-topped.

Cataldo moved to close the public hearing; seconded by E. Burnham, with the Board voting unanimously in favor.

A letter was received from Eliot Bank, Boston, regarding the performance bond in the form of a letter of credit for Essex Heritage Preservation.

A continuation of a public hearing was held at 9:45 p.m. for the Charlottee Partnership, Deer Run Estates. A precis of a hydrological study was shown to the Board by Paul Sommer of Core Environmental Engineering. Sommer said they had undertaken a fairly sizeable geohydrological study which has involved extensive field studies. The purpose of this was to identify what soils were there and their capabilities. They had put in test borings to identify the depth of various types of soil. A copy of this study is attached to the Minutes. Beth Story asked if they were seeing a plan that will be implemented, or would changes be made because of the D.E.Q.E. ruling on collective systems. Sommer said this information would be given to the Board of Health in two weeks. Attorney John Serafini said, "The D.E.Q.E. has never ruled on this particular septic system design. They will take a look at what the

October 21, 1987

Board of Health has done." Lisa Eggleston of Rizzo Associates, said, "The D.E.Q.E. is permitting collective systems for condominiums, but not for a subdivision. Will the report submitted to the Board of Health show the location of the wells."

Sommer - "Yes." ^{it}

Eggleston said she would like/to go on record that the State requires a mounding analysis for treatment plants.

Sommer - "You will get those."

Beth Story - "I urge the Planning Board to acquire any legal restrictions they can on the watershed area."

An updated traffic study dated September 28, 1987 was given to the Board by attorney Serafini. He also gave the Board a draft of the condominium documents. He specified that this was only a draft set and it could change. He said document provides that there is a collective septic system that has to be maintained. The Board will have to spell out what conditions it wants which will become part of the condominium documents.

Wilson - "Who do we have for a name and address or Board of Directors the Town will do business with. How do we have legal assurance that those things will happen."


Serafini - "It is all in the documents. We have chosen a trust. The names of the trustees are within the documents. The Board will always know who is a trustee. The conversion from a two to three bedroom unit is written in there. If an owner violates this he can be sued."

A site grading plan was given to the Board as requested. It was noted that building No. 8 was stepped according to the topography. None of the roads have been regraded. The grading plans were for the sites and retaining walls. The existing grades were shown on the plan. Some regrading will have to be done, but the assumption is that it will be minor. The Board was told that the Charlottee Partnership is still awaiting the narrative of the hydrological study. A discussion followed on the date on which to hold the continuation of the public hearing.

Cataldo moved we continue this public hearing to 9:30 p.m. on November 4, 1987, at which time we will take up any issues regarding this. The motion was seconded by Story, with the Board voting unanimously in favor.

Cataldo moved to adjourn the meeting; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10:50 p.m.


Gillian B. Palumbo

Essex Planning Board

October 7, 1987

Present: W. Burnham, Chairman; Frances Dunn; Everett Burnham;
Dana Story; Alden Wilson; Rolf Madsen.

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

Matt Huatala, Clerk of the Works for Essex Heritage subdivision, now known as Essex Reach Development, on Eastern Avenue, met with the Board to discuss the progress on the road. Huatala said, "In Spring work was started and some areas were found to be soggy. I thought there would be drainage problems and conveyed this message to engineer Clay Morin. I asked them to dig out an extra two feet of the material and bring in some good material. I made them put in a foot of processed gravel. On top of the processed gravel they will put the hot top. I felt, because of the grade of the property, it be recommended they put in two catch basins at the end of the cul-de-sac, or deep ditches at the side of the road to minimize water on the cul-de-sac. At the moment there are ditches. The ditches are directing the water into the culverts. They want to finish grading tomorrow and on Friday they want to hot top. They want to put on the finish coat on the same day. I frowned on that. I felt the culvert they put in was a good culvert. Yesterday they put in a conduit for electricity. I thought it was too close to the water main, so I told Clay Morin to move it a little." W. Burnham - "Will these alterations be shown on an "as built" plan?" Huatala - "Yes, they will have to be. I don't feel we will have any problems with drainage. As I said, I frowned on hot topping, but they still want to put it in. I said I would only approve it on condition it was still in good shape by spring. If not, they would have to redo it. It's really not good practice to put on the finish coat and then have heavy trucks running over it." W. Burnham said he would rather not see a finish coat, but Huatala was in charge of the project. Huatala said he felt a good job was being done.

Building Inspector Richard Carter gave the Board a building permit application for Gerald Muisse, Cogswell Court, for the addition of a deck, and to change the housse from a single family to a two family. Letters from all abutters accompanied the application.

Wilson moved that the Building Inspector issue a permit to Gerald and Mary Muisse, 5 Cogswell Court, for the addition of a deck and conversion of a single family to a two family, finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Dunn, with the Board voting unanimously in favor.

A building permit application was received for Andrew Kourketis, 24 Lufkin Street, to change the second floor of his dwelling into an apartment, with an addition of a deck and stairs. Area of land 13,176 square feet. Distance from street line 50', right side line 17', left side line 59', rear line 15'.

October 7, 1987

E. Burnham moved we approve the building permit application to remodel the existing house to a two family,, with the addition of a deck and stairs, of Andrew Kourketis, 24 Lufkin Street, finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

Robert Arundel, together with his daughter Barbara Burke, met with the Board for a discussion on a day care center to be located at 245 Western Avenue. Burke said she is a registered nurse, and at present runs a family day care center at her home in Beverly. She would like to expand and has found a building for it at 245 Western Avenue, property of Richard Teel. They will be using two-thirds of Teel's new building. At present it is finished as a warehouse but she wants to make it as close to a room in a home. The only parking necessary would be for the staff. Madsen said, "The only question I am concerned with is that we issued a permit that it be used for industrial space. Day care is a professional use and would require more parking spaces. Arundel said parking would only be required for about eight or nine staff members. The number of children would be about twenty-four. The general consensus of the Board was that they would have no problem providing Arundel has approval from the Board of Health.

Kim Wonson, Blueberry Lane, met with the Board to discuss the operation of a beauty shop in the basement of her home. She said the Board of Health had no problem with this. Their only concern was parking and they recommended meeting with the Planning Board regarding this. Wonson was advised of the Town by-laws which govern a home occupation; parking must be off-street and her sign can be no larger than six square feet in size. The Board felt they had no problem with this.

The Board discussed the Land Court plans of Donald Metcalfe, Martin Street, presented under a Form A. As no decision was made by the Board within the time period, the Board recognized the plans were authorized as drawn due to lack of action on their part.

The Minutes of September 2, 1987, were read. Wilson moved that the Minutes of September 2, 1987, be accepted with the correction that W. Burnham voted to approve the motion of the building application for Margaret Lake and voted to oppose the motion to retain Phil Herr as an advisor on behalf of the Planning Board. The motion was seconded by Story, with the Board voting unanimously in favor.

The Minutes of September 9, 1987, were read. Story moved that the Minutes of September 9, 1987, be accepted. The motion was seconded by Wilson, with the Board voting unanimously in favor.

The Board reviewed the correspondence.

October 7, 1987

Madsen acted as chairman due to the departure of Chairman Westley Burnham.

The Board reviewed the preliminary plan of Ronald Strong, Western Avenue.

Wilson moved that we approve the preliminary plan of Misty Acre Drive of Ronald B. Strong, 122 Western Avenue, Gloucester, for property situated off Western Avenue, as shown on plan dated August 18, 1987, with clarification to be shown of the following:- (1) Complete drainage calculations, (2) What drainage easement exists for Lot 8 and adjacent property, (3) Lots 2 and 8 are questionable usable areas due to wetlands, (4) Location of hydrants and water supply, (5) Abutters across on Western Avenue and in Hamilton unnamed, (6) Cul-de-sac size - recommend it be a larger radius for commercial vehicles, (7) Sight distances at Western Avenue, (8) Block for approval, (9) Percolation test locations. The Board requests it be a 24' wide road of bituminous pavement instead of 20' wide. The motion was seconded by Story, with the Board voting unanimously in favor.

E. Burnham moved to adjourn; seconded by Story, with the Board voting unanimously in favor.

The meeting was adjourned at 10:25 p.m.


Gillian B. Palumbo

Essex Planning Board

September 30, 1987

AGENDA

8:00 p.m. ... Michael DiGuiseppe,
 Robert Wolfe's property,
 Eastern Avenue

Review plans of Wheeler Street Riverside
 Realty - Pond Street

Sign Voucher

Essex Planning Board

September 30, 1987

Present: Michael Cataldo, Acting Chairman; Frances Dunn; Everett Burnham; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order 7:30 p.m.

The Minutes of the Meeting of August 5, 1987, were read. Wilson moved to accept the Minutes of August 5, 1987, as read; seconded Dunn, with the Board voting unanimously in favor.

Attorney Chris Dalton, representing Michael DiGuiseppe, met with the Board to discuss the subdivision on Eastern Avenue known as Essex Heritage Development. DiGuiseppe has purchased the property from Robert Wolfe and it will now be known as Essex Reach Development. Dalton said, "The subdivision approved by the Board was for two lots, Lots 1 and 2, with one structure to be a duplex and a second structure to be a single family dwelling, both to be constructed on each lot. There are two means of access; one is the approved road and there is also a curb cut on a lot owned by DiGuiseppe and shared by Mrs. Stoddard, owner of the abutting property. The right-of-way will still exist. Mrs. Stoddard doesn't have a complete right-of-way, it is shared. The structures will have the same foundation size as Robert Wolfe's plan. The footprint will not be changed."

A building permit application was submitted by Manchester Properties/Essex Reach Development for Unit 6. A building permit application was also submitted by Manchester Properties/Essex Reach Development for Units 7 and 8 and 9.

E. Burnham moved to have the building inspector issue a building permit for Units 6, 7, 8, and 9, of Manchester Properties/Essex Reach Development as shown on Essex Heritage site plan dated September 30, 1987, these units located on Lots 1 and 2 of the subdivision plan dated November 19, 1986 and revised September 2, 1987, pending approval of the Board of Health and the Conservation Commission. The motion was seconded by Wilson, with E. Burnham, Dunn, Wilson and Cataldo voting to approve; Story abstained.

The Board reviewed the preliminary plan of Brook Pasture Realty Trust, Martin Street. The Board felt a hydrant should be placed on the cul-de-sac.

Madsen felt the Board should perhaps readdress the roads and decide they should all be hot-topped and not gravel. E. Burnham felt the Board should get a ruling from Town Counsel as to who pays taxes on the subdivision road. There was also a discussion on the maintenance of subdivision roads.

Madsen moved to hold the public hearing for Brook Pasture Realty Trust, Martin Street, on October 21, 1987, at 9:15 p.m. The motion

September 20, 1987

was seconded by Wilson, with the Board voting unanimously in favor.

The Board reviewed the preliminary plan of Ronald Strong for a subdivision located on Western Avenue. Madsen felt the Board should look at this for its potentiality.

The Board reviewed the Pine Ridge subdivision/on Pond Street.^{plan} It was felt water should be a concern of this project. Note the plan is a preliminary plan.

Madsen moved that we request Town Counsel's legal opinion, in writing, on what our rights are in demanding deep water being brought into subdivisions and approval not required lots. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A continuance of the public hearing for Deer Run Estates is scheduled for October 21, 1987, at 9:45 p.m.

Madsen moved to adjourn the meeting; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10:15 p.m.

Gillian B. Palumbo

Essex Planning Board

September 16, 1987

Present : Westley Burnham, Chairman; Everett Burnham; Michael Cataldo; Frances Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

A building permit application was received from the building inspector for Warren E. and Patricia Heath, 31 Pickering Street, to add a 13' x 24' passive solar room. Area of land 12,600 square feet. Length 24', height 13'6", width 13', no. of stories, 1. Letters were received from all abutters.

E. Burnham moved we approve the building permit application of Warren E. and Patricia Heath, 31 Pickering Street, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was received for Curtis Jones, 75R Wood Drive, for a one-story garage for boat and car storage. The garage is 135 feet from the lake. No plumbing will be installed. Area of land 8,250 square feet. Letters were received from all abutters.

Dunn moved to approve the building permit application of Curtis E. Jones, Jr., 75R Wood Drive, for construction of a single story accessory building finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Cataldo, with Cataldo, Dunn, E. Burnham, W. Burnham and Story voting in favor; Madsen abstained; Wilson voted present.

A building permit application was received for Tim Harrell, 34 Eastern Avenue, for reconstruction of the second story. Area of land 12,180 square feet. Letters were received from abutters.

E. Burnham moved we approved the building permit application of Timothy Harrell, 34 Eastern Avenue, for reconstruction of the second story, pending review of the application by the Conservation Commission. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Vito and Patricia Pascucci, 19 Grove Street, for an accessory building.

E. Burnham moved the building inspector issue a building permit to Vito and Patricia Pascucci, 19 Grove Street, Essex, for an accessory building on Lot No. 78 and 79, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Story, with the Board voting unanimously in favor.

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Attorney Michael Shea submitted a preliminary subdivision plan for Wheeler Street Riverside Realty Trust, 66 Leonard Street, Gloucester, for property on Pond Street. The name of the proposed subdivision is Pine Ridge.

A public hearing for the Special Permit Application for Deer Run Estates was held at 8:05 p.m. John Serafini, 63 Federal Street, Salem, representing Charlotte Partnership, said, "We have been meeting informally with the Board and filed with you on July 15 a special permit under the zoning by-laws 6-6.9(k) for multi-family housing on a single lot, 40 acres in size." Serafini gave a brief overview of the six basic requirements in the zoning by-laws.

Serafini - "Other factors that apply are the suitability of the site for water and sewage. In this case we have done some water studies. The water is adequate for the site. We have been working with the D.P.W. as to the size of the pipes going in so that there is no question there is adequate water pressure. The Fire Department is interested in that and so are we. We have been happy to work with the Fire Department as to the specific size of pumps and pipes. The septic system is pretty much a collective septic system. It's an integrated system which has a common leaching field. It has integrated septic tanks, pumps, pipes, and so forth. It has been designed for beyond what Title V requires, by as large a margin as 200% in some cases. That issue is probably of more concern to the Board of Health. We have before the Board of Health an application for a variance from one of the conditions you have in your local Board of Health regulations. That application is pending now and we would expect any permit you would issue would be subject to whatever their permit may be. You have to consider the appropriateness of the site for this use. You, I think, took a walk on the site last Saturday. You were able to see from the configuration of the site that it is a relatively hilly site; it's a large site, relatively few swampy areas in it, except for the pond area in the middle and a small piece out towards the front. Apart from that, it is what I consider buildable land and should easily support the fifty units proposed. The other conditions we have to concern ourselves with have to do with what will the proposed use do as far as adversely affecting the neighborhood. There really should not be any adverse affects or impact on the neighborhood. The houses up there are quite scattered. There is not a lot of density. There shouldn't be any more traffic. The traffic that may come out of the project should easily be able to enter Route 22 which is a well designed first class road, which can easily handle any entrancing and exiting traffic there is going to be, We are going to submit to you an updated traffic study as requested. That will be one of our follow up items. One other factor is they should not be a nuisance or a serious hazard to vehicles or pedestrians which can be caused by over use. I think we covered that one reasonably well. The road widths and layout on the project are not likely to cause any problems for pedestrians or for people going in and out of it. The next issue is, are there adequate appropriate facilities to be provided. I'm not really sure

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how that applies but apart from simply cycling it back into the utilities, roadways, the water issues, sewerage issue, and so forth, I think clearly, there are no special facilities necessary for that site. To make a couple of general observations, it is really not a large project by outside standards. To the Town it is a large project, only because you do not have anything to compare it to. The Town of Essex has gone through a significant amount of building in the last five years. Certainly you have built more than fifty units. The proposal here is that we phase the building. Not all these fifty units are going to be built at the same moment. As any other developer, we want to build some, we want to sell some, and then if the demand is there we will want to sell more. We want to get the authorization now so we don't have to come in on a piecemeal basis. The magnitude of that project should not be large as long as the engineering of it it is properly done. We've hired first class engineers. We have a new member of our team, Clay Morin, who is a local engineer. This is not a sloppy project, its not a flimsy project, it's not something the Town is going to have to worry about in the coming years as an eyesore that might develop, or we build something and leave the mess behind. The scheme will be a condominium scheme and that will be held to the various by-laws in building maintenance and all the rest of it, which will be enforced, so the project is as good years from now as it is on the first day. We can write in restrictions into the condominium documents that basically will ensure the activities that take place will have to be in compliance with zoning and will be a credit to the Town. We've done a study, filed with you, that shows there should be a positive fiscal impact on this project. It is impossible to tell exactly how many dollars you are going to get, but the Town may get in the range of \$100,000 in net revenues from this project on a yearly basis. Given the problems of 2½, that money is not an insignificant sum. The other issue I want to stress with you is the plans we have presented are the plans we want to work with you on. I think there is an overall agreement from the Board that the overall layout is something they understand. This is a preferable use than simply just coming in with a typical subdivision plan that might show you cutting up fifty separate house lots with the identical characteristics. The thing to keep in mind is that we are going to ask you to keep flexible conditions, so the siting we show on the plan of the footprints of the buildings can move slightly. The buildings, depending on what the real conditions are, you never know until you get out there, should have a little bit of latitude, so that if the building has to be moved over ten feet, because of a group of trees to be saved or a rock formation worth keeping, then the building will have some flexibility. I'm not talking about such flexibility that he can come in with something you don't understand and has no relationship to what the filed plans show. We want to keep it very close, but we ask you for some flexibility there, mainly to adjust the height of a building and step them, because some of the land is hilly. They may want to go up or down a few feet, all within the 35 foot limitation. We will not have any monstrosity, but there needs to be some flexibility of how they design this. We have brought a parking plan

tonight so you can see how the parking spaces can lay out on the site. These are all two-bedroom units, so each will have ample parking facilities. There will be three per unit. The design the architect will go over with you also is a flexible interior design. Some of these units are going to be pre-sold to people who know how they want their unit to be laid out. The others the builder will build and guess, and will sell at a later time, but there should be some flexibility. I shouldn't think the Board is overly concerned as to how the interior of these units is laid out, as long as they stay within the two-bedroom limitation, and how roughly they end up to what's been shown to you on the plans. Some people like a bigger bathroom or a slightly different bedroom, or a bigger living room, and to accommodate them we should have some flexibility."

Clay Morin, Belcher Street - "The first plan or layout we have is of the parking. With each cluster is a minimum of three parking spaces per unit. In some cases, there is additional parking spaces per cluster. The layout was done by GHR dated June 30, 1986. We modified it to show the parking spaces dated September 14, 1987, (stamped by Morin)."

The Board reviewed the parking layout.

Morin - "There was concern by the Board of Health that the buildings and cutting into the slopes adjacent to the leach facilities would create a breakout potential, so we eliminated one building and brought it out front and took another building and moved it forward fifty feet away from the slope. As far as drainage concepts, with the break in the slope about here, this drainage is directed towards the front towards the detention basins. The drainage concept here is to bring this back towards the ponding area and create detention areas for it. The additional run off that is created with the development of the parcel, we increased the peak run-offs, so we have to contain that. Our end result is to make sure there is no increase in run-off to the wetlands."

Cataldo - "Is this roadway layout the same location as the previous one or has the road been moved."

Morin - "The road layout is the same. The parking concept is all that has been changed."

Cataldo - "Are you proposing any kind of drainage system from the parking areas, or is it just going to be surface run-off."

Morin - "As far as the drainage concept, it is to collect the parking areas as well as the driveways, and to put that into a conventional type drainage system that enters into the detention basin."

Cataldo - "So the parking lot will be banked to allow water to run-off."

Morin - "The slopes and pitches on the pavement and parking areas will be banked so it can be collected in a conventional drainage system."

Cataldo - "How are you going to address the roof run-off?"

Morin - "There will be gutters. That also was approached by GHR and they will direct that into the drainage system. That's been calculated in the drainage calculations."

W. Burnham - "Did you review GHR's drainage calculations. Did that include the parking area and garages?"

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Morin - "In a brief review and discussion, yes. I have additional review to do on that."

Cataldo - "Are you planning on supplying us with a new plan for contours showing us how this is going to be laid out."

Morin - "There was an area identified when we walked it shown on Sheet 1. We are going to provide contour and a cross-section of this intersection road and provide you with a typical cross-section cut to show you how we are going to handle the cuts and fill."

Warren Messier (Charlotte Partnership) - "The Board will have it for their next meeting."

W. Burnham - "Is the hydrological study ready yet to be delivered to us.?"

Charles Messier - "We should have it by next week."

Douglas Harring, architect, Beverly Farms, showed the Board plans of the units.

Harring - "There are two prototypes, one is colonial, the second is more contemporary. We are going to use natural materials, either cedar clapboards or stucco. The roofs will be hip roofs, and I'm discussing with the developer whether to have dormers in the attic. This is purely for scale and decoration. There is no living space above the eave line. There is 20' to the eave line and a total of 31½' to the peak. Your building code has a maximum of 35' which I have shown going below our grade. I would not allow anymore than 34', just for a factor of safety of one, to the top of the retaining wall which would be for the basement. At no point will we exceed 35' and the front will be 31½'. Only the rear of the basement is exposed, the side is covered, the front is covered, and because they are townhouses, the fourth side is covered. There is approximately 1350 square feet on the first floor, a double height space of living and dining rooms. These layouts will seem generous in kitchen size and bathroom size, but more and more houses sold in New England are reflecting a market taste for almost a suite in a bedroom, where there are very large changing areas and very large bedrooms. Upstairs is the double height space over the living room, a bath to which we expect to provide a jacuzzi or whirlpool; there is a shower and two sinks and a lavatory. The total area is 27,000 square feet."

W. Burnham - "Does that include the basement?"

Harring - "We would present it to the buyer as so many square feet of usable space and other square feet that would be unfinished, the basement. The rear portion would be all mechanical and storage and unfinished. The front would be finished as a recreation area."

W. Burnham - "You are planning a whirlpool on the first floor and a hot tub in the basement?"

Harring - "That's right. Some of these will be options and some of the buyers will bring in items that will surprise us. If we did a model apartment, we would do one like this."

Story - "Are all these whirlpools and jacuzzis figured into your water consumption?"

Harring - "Yes."

John Guerin - "I realize this is a Board of Health question, but I feel it should be of some concern, which is the outlay of the floor

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plan. The developer is coming in saying these are all two-bedroom townhouses and there is a big difference in Title V requirements between two-bedroom and three-bedroom units and just because you call a finished basement or a loft area something other than a bedroom, and given the comment that you are looking for the flexibility to put in whatever you please, I don't know how you come up with two-bedroom units. The basic design is perhaps that; however, the concern here is that it could be a three-bedroom unit or a four-bedroom unit, whether you call it a den or an exercise room. If there is someone living there, it's going to add to the water flow and the size of the leaching field. That has to be taken into consideration; if it's going to be two bedrooms then that's all it will be. I think consideration of that should be taken."

Serafini - "I can state for the record, although we want some flexibility, we plan to build two-bedroom units. If someone goes in and builds more than that, then we expect the building inspector to come down and revoke his certificate or license. There is no attempt here to build a four-bedroom or six-bedroom unit. There are going to be two. We are not going to design anything that somebody can turn into something more. We have to be taken at face value as to what the application is. Otherwise, potentially you can think with that much space you turn all kinds of areas into bedrooms and say there is six or seven bedrooms. Title V requirements ought to go up by a factor of three fourths. We have asked for two-bedroom units; that's what we plan to build and given a penalty if we don't stick to that, although some of the interior design may change. We will be happy for you to write in a condition that these are two-bedroom units."

W. Burnham - "If we approve this, it will probably be written in this part of the stipulation, into the special permit application of approval that it will only be two bedrooms. That is assuming it is approved, I'm not making any decisions here."

Serafini - "We expect that."

Charles Drake, Western Avenue - "What I am going to say is probably too late, but I feel I have to say it. I can appreciate anyone wanting to make a profit. We moved to Essex sixteen years ago. We have loved Essex because it is Essex. I see this as the first step in destroying Essex. Everywhere I go, when I identify the fact I'm from Essex, they say I absolutely love that Town; it's natural, it hasn't been spoiled. While you optimistic report about what Route 22 is, the fact is it is a very dangerous road. People are constantly darting out from side roads, from behind bushes. I think if this is approved, that it means the absolute end of the Town except for the Main Street. It will mean a Town choked with automobiles, choked with a whole different concept of life. I can see having to build a whole new addition to the school. I see this whole highway from here to Ipswich filled with those pseudo-condominia, that are going to totally blight and destroy all that we have loved and hope to keep here in Essex. I think we have the future of our Town tied up in this decision, and I, for one, hope you will vote for this monstrosity not to be built."

Serafini - "The size of this is only fifty house. It is linked

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together in a condominium scheme, so you can have some uniformity and control. If you have fifty separate houses next to each other you would not necessarily be able to obtain the same degree of control. This development will be set back a long distance from the roadway, and it will be difficult, unless you really gaze at it, to see it. It's not going to be built all along the road for a long stretch of it. About the schools, statistically fifty units will not bring a significant amount of children in Town. People may have a child, who will occupy the other bedroom. If they have another child, typically they have to move out to a three bedroom. That's why many two-bedroom units traditionally you get very few children. I'm not saying you won't get any. I think our calculations show seven. We do not want to destroy the Town of Essex."

Henry Dix, Western Avenue - "I live across the street. I know the property. If these men do what they say they are going to do, then if you safeguard what they say they are going to do, I don't see any problem."

Dunn - "On a project like this maybe you can explain what a formed corporation is, to protect the Town so that expenses such as trash, etc., will not be incurred by the Town, but by the condominium project."

Serafini - "This is a self-contained development. This is true of most condominiums. With a condominium form of living, owners do a few things collectively. They all own all the physical elements, and they all have a common interest in maintaining the appearance and quality of those common elements. They also govern themselves through an association. Everybody has an obligation to live by what the condominium rules are. They tax themselves in the form of ownership fees for the maintenance and upkeep of their condominiums. It includes keeping buildings in repair, providing them with services they need to have, such as trash. We don't expect the Town to have to bear the burden of trash. Trash will be deposited in locations authorized in the condominium documents and the condominium association will pay to have it taken away. The roadways will be maintained by the condominium, buildings will be maintained, landscaping, drainage, everything else on that site will be maintained by the condominium people. If they need extra money to do that, then they assess themselves as any other private association would do. We have said before that we will be happy to review those documents with you and we are open to suggestion about how they can be revised. The best enforcement is going to be someone who has paid a lot of money for a unit and will not let the next person get away with something that's going to reduce the value. I think you will have all the enforcement you need. This, in no way, should be a drain on the Town. The study shows that the Town should pick up about \$100,000 a year."

Mrs. Margaret Drake, Western Avenue - "This is twice you have mentioned the figure of \$100,000, which rather surprises me. I would have expected it to be more. If there are as many as fifty or sixty children, right there you have added the expense of hiring two more teachers, perhaps another school bus. Is the water to be supplied from the existing wells of the Town?"

Serafini - "Yes."

Mrs. Drake - "Then the Town may have to get another well. As it is with the present population, this would surely push us over."

Serafini - "If you have two bedrooms, the parents will live in one and typically you will get one child per unit. These are national standards that architects use everywhere. It's only when they have a second child they make that decision to move, because they need that extra bedroom."

Mrs. Drake - "I have seen the figures allotting $2\frac{1}{2}$ persons per unit, i.e. five per two units, which is a little denser than what you have mentioned. I think it would be safe to say you could count on a minimum of fifty children, and that would mean hiring more teachers, more personnel at the schools, and more school buses. These are expenses for the Town, so you can hardly say the Town is going to net a great deal of money from it."

Mrs. Drake then questioned whether this project would come before the Town meeting. W. Burnham outlined the special permit procedure. Charles Drake wondered if this would set a precedent. W. Burnham said he felt it would be very difficult to set a precedent in Essex, given the topography that the Town has.

Cataldo - "There is one thing which makes the project unique, this is the first time any developer of a major project has tried to use a collective septic system. In the past they have always been required to have an individualized system. This is a decision the Board of Health will be making for the first time and that will establish a precedence."

Guerin said he felt, in spite of what John Serafini said, it would cost the Town to get rid of the rubbish, because the hauler takes it to the Town dump. He said, "I realize this is a minor detail, but I didn't want anyone mislead. There certainly be other things it will have an impact on, the schools, police, fire, rubbish, water system. There are benefits, and you will be bringing in a lot of tax, but you will be spending it. That's something that will have to be discovered also. I don't think it should be brushed off."

Rolf Madsen, Planning Board - "Prior to this public hearing, we had asked the developer to provide us with a fiscal impact study, a school impact study, a hydrogeological study, which we haven't received, and a traffic study. We have asked the developer to provide us with these reports on exactly how it is going to affect the Town. This information is open to anyone who would like to read it. This will all come into play in our decision make process."

Cataldo - "In addition to providing written documentation, they have also provided this Board with an impartial planner to help us take a look at all these plans from a professional perspective."

John Guerin - "I certainly know that you already have a lot of these studies done, but you have to determine the validity of each on of these studies, whether it's done by an expert."

Madsen - "That's true, but I cannot make that determination on my own, without some type of documentation to give me direction. Mrs. Drake has a point; she said fifty children, the developer said 7.3. We will have to weigh that."

Serafini - "In the report where we cited net impact on the Town, a positive impact of \$100,00, whatever is in there, we stand by those conclusions. I think it is important for the townspeople to understand that people who pay condominium fees are also going to pay a

huge amount of tax, because these are going to be fairly expensive units, probably selling in the \$300,000 range. That's going to generate a lot of taxes. Someone who lives there will pay an average \$3,500 which is a sizeable amount of tax, and as a citizen of the Town those people are entitled to have certain services as well. They are going out of their way not to make themselves an extra burden; they are going to skip the ploughing, collect the trash, take care of their own maintenance and they are going to have very few children."

Harring - "We have found the most expensive units sell first, and they are selling to people who have sold their houses and moved to these units. Their children are usually in college and they just come to visit. When you get two people in their fifties, the children only come to visit occasionally. If you feel every second bedroom will be for children, that is not where the market is."

Cataldo - "As a worst case scenario, what would happen if you got through phase 1 and found you had no buyers at \$300,000. What would happen to phase 2 and phase 3?"

Harring - "We wouldn't continue. We would have to go back to the people who we worked with for the study and then understand what we can build."

Cataldo - "If we were to control the number of units to be constructed, we are limiting the ceiling on your returns."

Harring - "The developer has to pay taxes on the first unit that is sold. The developers profit comes from the 48th or 49th unit."

Cataldo - "You are capped by the permit process to this total number of units that you can construct. If you had to drop the price of the units, you could not up the number of units to gain a higher return."

Serafini - "That's right, not unless we came back to you with a modified plan. We'd have to repeat the process."

Helen Dix, Western Avenue - "Can a developer apply to the State and put in low-income housing and do whatever he wants. Is this true or not?"

W. Burnham - "From what I understand, there is a 'Teller' program which is a federally administered program and which totally circumvents our input for all intents and purposes."

Helen Dix - "So if we say no, he can turn around and put in three-hundred low income housing units."

W. Burnham - "That is a viable possibility."

Attorney John Shea, representing abutter John Donovan - "The developer cannot do whatever he wants. There are guidelines, and in fact, zoning applies to a project only in exception for those requirements that would make the project 'undoable' from an economic point of view. To the extent that it is necessary to have relief from zoning provisions, in order to make a profit, you don't have to conform with the requirements of zoning. But many 774 projects in Massachusetts do conform with zoning and some do not. You cannot just put whatever you want on the property without any say by the Town."

Shirley Duffy, Western Avenue - "I have three questions, one has already been answered by Michael Cataldo about setting a precedent

for a collective sewage system. My other questions deal with what I have been hearing all night, which has resulted in a very uncomfortable feeling for me. (a) When you talk about control of a condominium, I am not sure what you are talking about. The analogy was made to fifty single family houses that might be built instead of this condominium, but with these fifty single houses we would have one owner that we are dealing with, and that owner would be in control of that situation. When we are talking about 'an association', I'm wondering what that is. We can assume that if people pay lots of money they will be in control of the situation. I think we can only assume death and taxes. We cannot assume anything and I don't think we should base our judgement on guesswork. I would like to hear who will be managing or controlling this whole situation. We all know how difficult it is to communicate with one person that we try to get hold of during the day. If we had to communicate with several people who were in charge, I don't know whether it would be possible or not. I have a big question mark about the control and the safeguards. My other question is this work 'flexible' that I keep hearing, which concerns me. They have asked for flexibility inside and outside. What does this mean? How far can you go? If the Board does not feel comfortable with the ninety days for voting, can they extend the time for the decision?"

Madsen - "First of all, we cannot extend the time frame. We have no choice. The developer is requesting flexibility. The Planning Board is making the decision. We can put specific restrictions on that special permit. It is our decision to do so. He requests flexibility but it might be in the Board's interest not to grant that."

Duffy - "I hope the Boards feel they are not pressured into making a decision before they feel comfortable with it. If there are any risks to the people who live in this Town, or concerns, I think the Board should vote no, and not risk creating problems to add to the problems we already have."

W. Burnham - "I would like to bring up one point. If anyone has serious objections they must be made in writing to the Planning Board to be taken into consideration. Your comments are to be considered input. As far as specific objections, they must be made in writing."

Serafini - "Just to clarify a point about how the condominium is able to control itself, a condominium association elects officers, trustees. They have a board that runs, manages and makes the basic decisions. Part of our condominium law is that someone declares condominium title. It means it is to be held in common ownership. It has to be filed with their master deed. The by-laws, or they can set up a corporation or some other mechanism, that describes how they will govern and manage themselves, how they will maintain the place, how they will assess themselves for fees, how they will make rules and regulations. They have to have an operating constitution, which says who will be elected, when they will be elected. They have annual meetings, they can appoint people like a managing agent, and that person basically becomes a troubleshooter. At some large condominium projects, you have professional companies come in and manage the project. This is not on that scale. Here, interested unit owners get together at their annual meeting, or more frequently if they have to, and decide who is going to help make decisions and

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policies. They elect a Board and they live by what that Board says. If they do not like what the Board did, they can change the people, they can change the policy, but essentially, you have to have a group that is ongoing and has accountability. It is much different from a subdivision where you have fifty individual owners who have no control over each other. It is true the developer, when he owns everything, has control, but when he sells out, everybody else can do what they want within zoning restrictions, unless the subdivision people put on their own set of restrictions, which are rarely as detailed as condominiums, and you are going to get a lot more flexibility and diversity. The control issue is a real issue, but I think it is something the developer has to see happen, otherwise he will lose the value of his units if it degenerates without good control and good maintenance. So those issues are iron clad. There are tight controls and we will be happy to work with you on whatever they are going to be. The flexibility we are talking about for design is not to rewrite the entire plan, but to be able to make small field changes as the conditions warrant; maybe clapboard looks good on one unit, brick or stucco on another unit, or a slightly different interior plan maybe required; or we want to move a building slightly because there are some trees you want to preserve, or some natural feature that makes sense to move the building slightly. I'm sure you can write limits to what those flexible things are."

W. Burnham - "We have already discussed with Mr. Serafini and the applicant certain regulations to be entered in the by-laws. We haven't got the exact wording yet. They have been more than co-operative. We have also mentioned the fact that any by-law changes that they make to their condominium laws be sent to us so we can keep appraised of the situation. If there are any changes that may concern us we can deal with it accordingly."

Dana Story, Planning Board - "I would like to ask Mr. Serafini at what point does the condominium concept come into play. Does it come into play immediately, upon the sale of two or three units or does it wait until all units are gone before all this organizational strategy is put in place."

Serafini - "It has to come into place before any unit is sold. You cannot sell a unit in condominium form unless it is under that form from the beginning. Even though this project will be done in phases, you have to start off with a condominium. As soon as those units have been built, before they can be sold, you have to declare the condominium and that is the point when the association comes into being. Depending upon how many people have bought condominiums at the time, the developer may have a controlling interest on the condominium board. Obviously he is going to want to maintain the units during that sale period to make sure he can sell them. As the proportion of developer versus independent owners of units changes, the owners can begin to get their seats on the board."

Debra Bartlett, County Road - "The owners of the condominiums will be paying the standard tax rate in Town without services, so what is to prevent them from suing the Town later for these services, or to ask that their tax rate be lowered. Can the condominium by-laws be changed without the Planning Board knowing?"

Serafini - "The documents can specify that they take care of their own trash, maintain all the other services they have on site, as the drainage."

Bartlett - "It will protect the Town legally from any suits?"

Serafini - "I would think so. I would hate to argue against it. Many of the changes that could be made would be things the Planning Board would not be interested in anyway, like changing the fiscal year of the condominium. We would certainly work with you to put into the Special Permit conditions things that required your consent. I think as we go through the drafting process, we can identify those things which you would probably want to have some say about."

Attorney John Shea - "Mr. Serafini has said there have been a number of informal discussions, but occurring at public meetings. To my knowledge, all those discussions between the Boards in Town and the developer have occurred at public meetings. A number of modifications have been made to the design plans as a result of input from other Boards, and particularly input from our review engineers, Rizzo Associates. Lisa Eggleston, who is a resident of Essex and a member of the staff at Rizzo is here to make some brief remarks. I have provided a copy to the Planning Board of a document with today's date on it and have provided copies tonight to the developer's attorney. Other Boards in Town will receive copies. It addressed a number of points that have been addressed, have not been addressed and questions that have been posed primarily by Mr. Philip Herr, who is the consultant to the Planning Board. A legal question arose as to the time period for decisions to be made by the Planning Board. I would like to highlight some things that are in the document. First of all, attached to it are a number of documents which have been supplied previously to the Planning Board and Board of Health dealing with deficiencies and specific criticisms of the plan. If you will examine them, there may be a number of deficiencies that still exist in the project. On September 10, Mr. Herr requested our assistance with an issue raised by us with respect to the condominium association documents. One of the things this document does is to identify some of the items you need to review in those condominium documents, prior to making a decision. I hear a lot of discussion tonight about the potential to review some documents when they are created down the road, and I would think this Board should insist those condominium documents which provide the very level of detail of control that you need, need to be reviewed by the Board prior to making a decision, and not after the decision is rendered. Some of the biggest concerns are being addressed by the Board of Health in its decision on the common septic treatment system. I think it is still an open issue yet with respect to the Board of Health, whether or not the septic system that is proposed here is going to be acceptable, or whether some more advanced system of waste water treatment should be required, either first as a matter of law, because you exceed the gallonage flow set forth in the D.E.Q.E. regulations, or because the Board of Health determines in its discretion, that a greater level of treatment of the water on this particular project, which is requesting a variance to have a common septic system, is required. I think the Board of Health has a very difficult decision to make and it is one that is going to impact

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your decision making process terrifically. The condominium documents need to provide unique provisions dealing with maintenance, repair and replacement of these types of septic system. There should be adequate financial assurance over the long term that these systems will be maintained, repaired and replaced as the case arises. Again I make the point, you need to evaluate those specific documents prior to you being able to make a determination whether or not there will be adverse impact on the neighborhood, whether there are adequate and proper facilities. The last issue is when does the decision have to be rendered. In this case, it is my suggestion to the Board, and I think it is required at this point in time, because there is still a lot of material still outstanding that needs to be submitted to you and needs to be reviewed by us and members of the public in a public hearing context, that this public hearing be continued to some point in time so that the public review process occurs in the context of a public hearing. The Special Permit granting authority has to issue its decision with its final action, that is filing a written decision, a permit with its conditions on it, to the Town Clerk ninety days from the public hearing. A question arose as to whether it is from tonight's public hearing or is it from a public hearing that is continued. When exactly, does the ninety days run from. I have provided to the Board two court cases that deal with this issue. I know the Planning Board has a concern, and we certainly do not want the project to be constructively approved without any conditions being imposed by exceeding the time limit on the statute. You will see the text of the opinion of Judge Wagner it is clearly the intent of the legislature that the running of the ninety days is from the close of the public hearing, and clearly there are cases where there are multiple nights of public hearings in which to evaluate information. So I think if you look at that case for guidance you will see that your ninety day time period for making a decision is going to run from the point in time when you have received all your information, you've received the public input on it, there is no more evidence to consider and you've closed the public hearing. The Massachusetts Supreme Judicial Court and Appeals Court have not had the opportunity to address this issue directly, maybe because it is so implicit in the statute, maybe because people have chosen not to appeal a Superior Court decision. (Shea cited case of Shea vs. Alderman and City of Chicopee). The point I'm making to the Board is, do not feel constrained to not use the full amount of time allotted to you under the statute to frame a proper decision. I think problems posed by this development require a very carefully crafted decision, whether it be a denial or conditional approval. We would respectfully ask you to keep the public hearing process open so you can continue to receive input from members of the public and their experts on information that has yet to be supplied to you for evaluation."

Lise Eggleston, John Wise Lane, Essex - "I am engineering project manager with Rizzo Associates. We have not had a chance to review the plans submitted tonight, so we would like to retain the right to submit comments on these plans once we have had the opportunity to review them. It was my understanding that at the last meeting there was going to be grading plans prepared for the driveway areas and the parking areas. Is that something that is coming?"

Warren Messier (applicant) - "At the meeting of the various Board members, the question arose as to what the grading plan would be of specific areas of concern. We agreed we would provide additional information for the Board's consultant, Phil Herr, so that he would have a worst case scenario of grading plans and an average grading plan, a cross section."

Lisa Eggleston - "I do feel that a grading plan of the driveways and parking areas is fairly important in evaluating the buildings also, how the project is going to fit on a site that has relatively severe topography, and in order to evaluate both the drainage, the environmental impacts and the engineering viability of it. I feel those are key issues and should be clarified with Mr. Herr. You also mentioned that there are retaining walls in the parking lot. What is the maximum height?"

Clay Morin, engineer, - "Seven feet."

Lisa Eggleston - "Have all the garages been eliminated?"

Morin - "Just the ones on the hillside."

Lisa Eggleston - "So several buildings will not have garages?"

Morin - "Just the two to the rear."

Lisa Eggleston - "We had some questions about the drainage at a previous meeting, which I believe were answered regarding how the drainage was going to be guided into the catch basins. They were answered by the developer, saying there would be a berm around all the driveways. That does not show on the plan or in any of the written material. I just want to make sure that information will be provided. Is there a traffic study being submitted tonight?"

Serafini - "No, I said it is being worked on."

Lisa Eggleston - "There was a comment made earlier by one of the neighbors about the travel on that roadway (Route 22). I think one of the concerns is that to the left direction, which is going towards Essex, there is a problem with sight distances. I'd be curious as to what the sight distance is."

W. Burnham - "We read a letter from Chief Platt at an earlier meeting which commented on minimum sight distances. It also commented on a 'stop' sign. He was fairly thorough."

Lisa Eggleston - "With regard to Mr. Story's question of whether whirlpools and jacuzzis have been taken into account, the wastewater generation rates which we have seen submitted to the Board of Health were based on Title V. They did not include the community house, which has a swimming pool and showers, and so on, and they also did not increase the flows on the basis of the jacuzzis and the whirlpools. Title V was obviously done years ago and probably never took that into account. I honestly can't tell you what the difference in flows is."

Harring - "Most hot tubs are self-contained, like a swimming pool." Attorney Michael Shea, representing Gus Means, a direct abutter - "I would like to reiterate what John Shea says, that I think this public hearing should be continued, and I specifically think it should be continued so that my client should have the right to comment on whatever ends up being filed here. I don't know what the size of the buildings are, I don't know what they look like, or what the drainage is going to be on the road; I don't know whether the 7.2 children that live there are going to walk on sidewalks or whether they are going to walk through drainage ditches. I don't know whether the septic systems, which are located on a hill, are going to take fifty units of sewage and the effluent from that is going to run

downhill into my client's property. I don't know where the bedrooms are going to be located, whether they will be on the first, second or third floor. I understand it calls for a library room; it is not called a bedroom. My understanding is that you have to make a determination of whether or not what they are proposing is in harmony with what is in the neighborhood. I don't know whether it is or it isn't. I don't know whether it will have clapboards or plaster. I don't know what is going to go there at all. This is a multi-million dollar project. You've got bits and pieces of plans that are scattered all over that table. It would be hard for them to present that many plans in numerous disarray to you on another evening. I don't know if they could find them all again. Is this the way you make a determination as to what is going in there. I would suggest to you it isn't. I would also suggest to you that if the condominium association is going to police themselves as Mr. Serafini says they are, they will be a most judicious group. You need to see what they are going to do. You cannot say we'll take care of it. You will lose the right to take care of it. It shouldn't be your responsibility to sit here and write an encyclopedia of what they can and cannot do. They are supposed to present things to you. They are supposed to say what they want to do and you are supposed to rule whether they can or cannot do it. What is your expert going to make his determination on, what was filed at the last public hearing or what was filed when it was changed tonight. If, in fact, this public hearing is continued, will it be changed the next time you come in. Somehow these people have to present a group of plans that you can look at and say this is what they want to do. We do not know what will be on the inside or outside of the building, They have added eight more spaces to the community building, but it is not shown on the plan. What else isn't shown on the plan. I can only believe that with these plans and that testimony that if you tell them you want it, they will find a way to throw it in there. I suggest to you that that is not the way they should present the plans to you and that is not the way you should vote on it. I feel my client should have the opportunity to see a complete set of definitive plans, plans that show everything that is going into that project, including the by-laws, including the unit deeds, including the master deed that is going to be filed with restrictions, and then sit down and be able to review it. The Board of Health is in the same position. I think everybody in this room has the right to know what the final plans are, what the final requests are, before you vote on it."

Serafini - "You people have seen basically the same set of plans before you for quite a period of time. The only change on tonight's plan is to one of the buildings on the back of the hill which has been moved to another side, and another building has been moved forward. All the other buildings are basically the same, the roads are the same, the basic contours are the same. The side elevation plans which were presented on July 15 are virtually the same as they always were. All we have are minor modifications which, on a project of this size, you are bound to go through. Certain issues have been raised by you and other Boards. We have made design changes to try and accommodate those. There has been no attempt to hide all of this. It has been done at public hearings. We will get to a point where

there won't be any more changes, but there have to be changes as we go along. We will absolutely submit to you all of the plans, the condominium documents and everything else within a very short time so you will have plenty of time to look at them."

W. Burnham - "In response to Attorneys Michael Shea and John Shea, I had fully intended continuing this public hearing to allow submittal of the reports as requested under the public hearing purview."

Dana Boutchie, an abutter - "I would like to say that the plans have been around for people to review."

Michael Davis, Davis Family Realty Trust, an abutter - "Regarding the traffic situation, it was a hockey rink at one time, and I've come up with a figure of 960 cars each on a weekend that went in and out for a period of about ten years. To my knowledge, there were never any accidents. Now a comment to Mr. Shea, I have been to almost every meeting that these gentlemen have been in since February when they started, and Mr. Shea pops in last week at the Board of Health public hearing for the first time. If Mr. Means was concerned he would have started at the beginning like I did. Our family has no problem with the development, as my mother is building a house right off the road."

Shirley Duffy - "I would just like to request that at another public hearing the public be given equal time or priority to comment and ask questions over the developer."

Scott DeWitt, Lakeview Road - "I took a walk on the property with the developers on Saturday and I think overall it is a good project. The only concerns I have is with the septic systems. After seeing the site, where they are going to be, and a certain part of the parcel does feed into Chebacco Lake, I feel that no variance should be granted. If it is, then they should be forced to put in a larger system than the 2-bedroom they have proposed, possibly it should be a three or four bedroom. With 2700 square feet you are bound to get more than two bedrooms. After you sell the units, I don't know of any way you can tell people they can't sleep in the den or living room. I would like to see individual systems for each unit, and build what the land can support. They have said they can build fifty houses, but it is my understanding they only have 15 to 20 percs. That's not fifty houses."

Lisa Eggleston - "It was mentioned at the site visit that the septic system layout was being changed, together with the grading plan that is being prepared, as a requirement of Title V. I was wondering when those plans are going to be submitted and if they will be submitted to the Planning Board as well as the Board of Health."

Warren Messier - "They will be submitted to the Board of Health and the Planning Board so you can keep abreast of what is happening."

John Guerin - "My general concern is the septic plan. On top of that, over any place in Town, my concern is to represent the people who do not speak out on some of these adverse effects. Playing the devil's advocate throughout this process, I do think they have a plan that is workable. I think they put together a building that is presentable and a layout, and a lot of work that has been done to be helpful to what this Board has requested. Even though I do have serious problems with the discharge systems which is again mostly a Board of Health question, I think in general the plan is far better than what could be up there. In that respect I would

in favor of it, but in that respect only. The problem of the effluent, where the septic systems are going to go and what the land can support, have to be solved before I can come out and speak in favor of it."

Letters were read into the meeting regarding this project from the Conservation Commission and the Fire Department. A discussion followed on a date to hold a continuation of this public hearing.

Cataldo moved we continue the public hearing to a later date to be published and advertised as required. The motion was seconded by Story, with the Board voting unanimously in favor.

W. Burnham said a request had been received from Hancock Survey Associates requesting the removal of an elm tree on Apple Street. It was felt John Dick of Hancock Survey should be requested to meet with the Board to explain the project.

Madsen moved we hold a special meeting on September 30, 1987. The motion was seconded by Story, with the Board voting unanimously in favor.

Clay Morin filed a Form A with the Board for two lots on Conomo Drive, property of Frederick Richardson.

E. Burnham moved that we approve the Form A plan submitted by Frederick Richardson, Jr., dated August 22, 1987, for two lots of land on Conomo Drive. The motion was seconded by Dunn, with E. Burnham, W. Burnham, Dunn, Story and Wilson voting in favor; Madsen and Cataldo abstained.

E. Burnham moved to adjourn the meeting; seconded by Madsen, with the Board voting unanimously in favor.

Meeting adjourned at 11 p.m.

Gillian B. Palumbo

Essex Planning Board - Special Meeting

September 9, 1987

Present: Planning Board - Westley Burnham, Chairman; Dana Story; Everett Burnham; Michael Cataldo; Frances Dunn; Alden Wilson; Rolf Madsen.

Conservation Commission - Robert Borden; Edwin Perkins; Scott DeWitt.

Board of Health - Dr. Robert Dutton.

Meeting called to order 7:50 p.m.

Burnham introduced Philip Herr, who is the Planning Board consultant for this project.

Robert Borden - "Our primary concern is not really a Conservation Commission issue, but we do not see how or why the large septic system protects the area any more than the Title V septic systems. Turf meadow is a sensitive area. We would like to see less of an impact on the environment. If we are going to approve a system like that, we would like to see a M.E.P.A. study to show that the area is being protected."

W. Burnham - "The design and overseeing of construction of the septic system is beyond this Board's purview. That is up to the Board of Health. Basically, we will go on a go/no go from their recommendations."

Borden - "Our concern is the link system from Turf Meadow."

Selectmen John Guerin - "The Selectmen have discussed this project but only in general terms. We don't want to see negative impacts come from this. We do not want to see it adversely affect the Town or any of the neighbors. We are interested in seeing that the Planning Board have all the facts;; if you feel you do not have all the facts or the expertise we are willing to support you to seek it at a higher level. The Selectmen feel you do need more expertise"

Philip Herr - "Can you be more specific on what topics?"

Guerin - "The water is a concern here. It is our aquafer area which feeds our lake, which is supporting our Town water. This could affect the entire Town. There is the impact of high density in one area. Our main concern is the environment."

Warren Messier (applicant) - "It was suggested we make another hydrological examination of the site as opposed to taking the findings from your report that you had made a year ago for the purpose of obtaining well sites."

Herr - "I spoke with the GHR people two weeks ago. It was my understanding they were proceeding with a full hydrogeological study."

Charles Messier - "We are doing one, but don't forget we have just been told we had to do another one."

Guerin - "My concern is that we do not have a member of the Planning Board who has the expertise to read the study."

Borden - "I'm not asking this as a Conservation Commission member, but who is going to review for your Board the covenants and restrictions, etc., as they affect the Town, and to protect the Town from a legal standpoint from having to fix failing septic

systems for example. How is the developer going to fund any sort of road problems?"

W. Burnham - "We have discussed this with the applicant. They haven't written their condominium by-laws yet. We have voiced our concerns along those lines, but we are not sure how the mechanism is going to work. It will be covered at some point."

Dr. Dutton - "We did not come to any conclusion at our public hearing. We are getting a geological survey and postponing our decision until that time."

Scott DeWitt - "With concerns about Chebacco Lake, I don't see why we should grant them a variance for the septic system. It is such a sensitive area, I think they should build what everyone else has had to build, which is what the land will support. I know they will have condominium documents, but who from the Town will actually oversee it to see that it is done and done the way the Town wants it."

W. Burnham - "That is a topic I am going to bring up with Town Counsel to see if we can work out some mechanism. The applicants have already discussed it briefly, but one item was periodic updates, probably on an annual basis, of any by-law changes when they have their meetings."

Perkins - "I hope the Planning Board requests that they have an on-site Clerk of the Works"

Guerin - "What is the time period on asking Town Counsel about the condominium documents. I feel they should be in place before approving this."

W. Burnham - "I feel it would be a little unfair to approve or deny the project itself by tying it to condominium by-laws. There will have to be some sort of mechanism to be sure everything is complied with."

Borden - "You don't feel as a Board that tying approval to the documents is necessary."

W. Burnham - "We could tie them to the occupancy permits."

Herr - "You should tie them to conveyance rather than occupancy permits."

DeWitt - "I feel it would be easier to deal with one owner than a number of people."

W. Burnham - "It is my understanding there would be some sort of Association which will be the responsible body. That association will be made up of the individual owners."

Wilson - "I feel we should check with other Towns to see what vehicle they use to be assured of continual maintenance, etc. of the units."

Herr - "I think it is fair to say most Towns that have experienced this kind of development haven't done anything about this issue. As McGregor, Shea and Doliner raised the issue they perhaps could give us an example of where it has worked well."

Donna Vorhees, (McGregor, Shea and Doliner) - "We would be happy to do this."

Lisa Egglestone of Rizzow Associates - "I think what you say is true, in that many condominium associations do not have such a set up, but I think one thing that is an exception here is that it is an on-site septic system. Most condominium associates are either on a sewer of this size or have their own treatment plant. The State does have a mechanism for those that have their own treatment plant."

Herr - "There are hundreds of condominium developments in Massachu-

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systems scattered about that site. You will have less environmental damage from the way the engineers were talking."

Perkins - "We were led to believe there were only about twenty percs up there. You must appreciate we have been asked as a Conservation Commission to come before the Planning Board to raise our concerns. Your engineering firm has not come before the Commission. Maybe they should have made it a point to come before us before we came to this informational meeting."

Serafini - "We did come to your Board before."

Perkins - "Only with very general information."

Serafini - "The engineering is top-notch. This is not a shoddy system which will stick the Town with a lot of problems later on. Don't assume because it's a collective system it's a sub-standard system or it's something the Town should be afraid of. There are questions whether the ground under that particular leach field will support the volume of water. We are having a study done to see whether that ground will support that."

Perkins - "I would hate to see the Planning Board have to make a decision on the development prior to this information being studied primarily by the Board of Health and secondly by the Conservation Commission. Ninety days is not a long time when other Boards are waiting for information from their engineer."

W. Burnham - "I understand the septic system is of the highest concern but it is not the concern of this Board. At this time I would rather not spend the whole evening on it."

Perkins - "I feel it is the largest impact on the Town."

Madsen - "I feel it is in our purview. I feel it is our responsibility to give our input on this to the Board of Health. If there is a water issue, a planning issue, we are supposed to have some input on this. We would be negligent if we didn't take it into consideration. There are other Board who have a problem so I think we should entertain what they have to say. I think in the whole project the concern is the water and sewerage. I don't think it's a design issue. If we close discussion on this, I think we would be remiss."

W. Burnham - "I am not saying that we do not have any concerns with this, but I would rather wait for the Board of Health to make their decision and then if we have a concern with the way they have handled it we'll go from there."

Guerin - "You can't change what the Board of Health has to say, so if you want to say something to the Board of Health, now is the time to do it."

W. Burnham - "Listening to Dr. Dutton, it would seem the Board of Health has the same concerns as we have."

Madsen - "If they approve the system we cannot turn down the system on the grounds of inadequacy."

Herr - "There are two concerns. One is the concern that the health of the occupants of that site is adequately protected, which is what basically Title V is all about, and whether, as a result of that, there is an off-site consequence. Where that bears on the Planning Board is that if, on the evidence of those studies, that site, given the design that has been selected for it, cannot protect the health of the occupants of the site and also the Town water supply with fifty units, then you shouldn't be approving fifty units."

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You absolutely shouldn't get in the business of designing disposal systems. The base issue of whether that site is appropriate for fifty units is up to you. If you approve fifty units you then put the Board of Health and Conservation Commission in the position of almost having to pick up the pieces afterwards. Will that study be available at the public hearing. Is there any estimate of when it will be available?"

Serafini - "We don't know."

Charles Messier - "Keep in mind one thing, we did produce a study by the area of the septic systems. The engineers had studied it and came out with the conclusion that the area is more than sufficient and the system is more than adequate. The Board of Health requested a safeguard and asked to go beyond what the State and statutes require. The statutes did not require us to do the quality of study we are doing. We agreed. The engineers told us it would take eight weeks to get somebody in there." There was a discussion on what studies were being undertaken by the applicant and the Board of Health.

Herr requested architectural drawings of the buildings, and elevations. Herr was told the elevation drawings had already been filed.

Herr - Site grading plan - the drawings I have here show the contours around the road, existing topography, the location of the proposed buildings, but it doesn't show the topography of anywhere else. The land is very steep. Does it exist?"

Serafini - "That will be one of those follow up items."

Herr - "It is an unusually steep site and the question arises as to how you will keep soil in place while building."

Herr also requested that the buildings have numbers on them so they can be easily identified if reference has to be made to them.

DeWitt - "How many bedrooms?"

W. Burnham - "Two."

DeWitt - "I ask this because if there is a possibility of another room being used as a bedroom, then the system should be designed for an extra bedroom."

Herr - "The normal practice is that any room which is capable of being a bedroom is construed as a bedroom. The applicant, also, has submitted a fiscal impact analysis which suggests this development will produce twice as much revenue as it will cost to service. Is this something which should be meticulously examined or are you comfortable with this?"

Cataldo - "I don't feel it is going to be one of our concerns. It probably should be, but to date I don't think we have discussed it."

Story - "It's going to be one of mine."

Herr - "You are going to look at the whole set of considerations in the book and make a balanced judgement as to whether this is better for the Town than what would happen if you turned it down. One of those considerations is fiscal. Their analysis says that the Town is going to reap a very substantial fiscal benefit. What I'm asking is should a second opinion be sought on this as it has on other things."

Burnham said he would make it a point to send a copy of the fiscal report to the Finance Committee.

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Lisa Eggleston - "There was a discussion at the last meeting regarding parking delineation and an ongoing traffic study. I'd like to find out how that is progressing."

Serafini - "The parking plan is coming, so is the traffic study."

Eggleston - "Has the Fire Department had an opportunity to review the plans with respect to the grades and curvature of the road. There are some very steep grades on the site roadways and we don't know the limitations of the fire equipment. We are suggesting the Fire Department take a look at it."

E. Burnham - "The Fire Department will submit their recommendations on what the minimum or maximum the requirements should be."

Herr - "I urge that instead of closing the hearing that night you should continue it. It's important to be absolutely scrupulous procedurally. There's a whole raft of cases that say Boards acting as Special Permit Granting Authorities should not receive testimony outside of a public hearing. What you should do at some point is to stop receiving information and start mulling it over, but keep the hearing open until you have received all the information you are going to rely on. People lose some of their access to challenging when you move out of a public hearing mode to a regular meeting mode."

Herr then discussed the number of members required for a positive vote.

Herr - "My understanding of it as a lay person is this. You need a positive vote of five members to approve this special permit. There are some cases which say a member who was not present at the public hearing should not vote. Certainly any member who is absent from the vote cannot vote; those conflicting shouldn't vote. So you may find yourself in the circumstance where if you proceed on a given night it is going to require a unanimous vote of the people who are there. Given that circumstance, many Planning Boards have formed the habit when they are short members of offering to the applicant the opportunity to pass over testimony that evening in order that all the members can be present."

There was a discussion on whether members present from one of the meetings can or cannot vote. W. Burnham said he must bring this matter up with Town Counsel.

Cataldo moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 9:30 p.m.

Gillian B. Palumbo

AGENDA

- 7:30 p.m. ... Brook Pasture Realty Trust -
Filing a definitive subdivision
plan
- 7:35 p.m. ... Building Inspector - building permits
- 7:50 p.m. ... Robert Wolfe - filing subdivision
plan with road enlargement
- 8:00 p.m. ... Connie Armstrong - questions
regarding subdivision of property
- 8:15 p.m. ... Michael Shea for Old Essex Village
- 8:30 p.m. ... Donald Metcalfe, Martin Street -
Signatures on Land court plan
- 9:00 p.m. ... George Johnson - review of prelim-
inary plan of Margaret Hatfield and
Catherine Doyle, County Road.
- 9:30 p.m. ... Paul M. Shea - property at 48-50
Western Avenue

Business:

Read Minutes of August 5 and August 19.

Sign Pay Voucher for Gayle O'Leary

Mrs. Pierce Bjorkland would like the letter to
Selectmen read into the meeting.

Essex Planning Board

September 2, 1987

Present : Westley Burnham, Chairman; Everett Burnham; Michael Cataldo; Frances Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of August 19, 1987, were read. Wilson moved the Minutes of the meeting of August 19 be accepted as read; seconded Dunn, with the Board voting unanimously in favor.

Brook Pasture Realty Trust, Martin Street - A formal submission of the definitive plan was made by John Davis of C.D.E.C., together with a check for \$400.

Building Inspector Richard Carter gave the Board a building permit application for Margaret Lake, Apple Street. W. Burnham said he spoke with Town Counsel regarding this matter, who in turn said the letter to the Board dated the 18th or 28th was explicitly clear. Cataldo said he was not willing to vote approval for this permit. He didn't think it was a grandfathered lot. It was presented as 'we want to separate it from the house but we have no intention of building on it.' Wilson said He could not perceive Apple Street as a scenic road and it could not be made a scenic road if it was private.

Wilson moved that the Building Inspector issue a building permit to Margaret Lake for a single family house and garage on Apple Street, finding that the lot is grandfathered and that the lot meets all zoning requirements at the time of creation. The motion was seconded by E. Burnham. The voting was as follows: E. Burnham and A. Wilson approved; Cataldo, Dunn, Madsen and Story opposed. The motion was denied.

Story said he objected because there is a legal question as to whether the lot is grandfathered. There seemed to be inadequate information. Cataldo and Dunn agreed with Story.

A building permit application was received from Robert Getty, Sr., 15 Story Street, for an addition of a garage with bedroom apartment over. Letters were received from all abutters. Size of building, length 36', height 23', width 30', no. of stories - 1½. A letter was received from Kobby Construction (Brookside Apartments) giving Getty permission to use the rear driveway of Brookside Apartments, 23 Story Street, for access to the garage but no formal easement was given.

Madsen moved we approve the building application finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was received for Curtis E. Jones, 75R, Wood Drive, for a storage building for boat and car. No plans were

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submitted with the application, so the Building Inspector was asked to resubmit the application with plans at the next meeting.

A building permit application was received for Robert Coviello, 44 Main Street (Hotel Essex), for the erection of a 10' x 30' deck on the level of the third floor apartment. Also to rehabilitate the third floor apartment and update electricity. Signatures were received from all abutters.

Madsen moved to approve the building permit application for Robert Coviello, 44 Main Street, finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Robert Wolfe, Essex Heritage Development, Eastern Avenue. W. Burnham said he checked with Town Counsel with regard to the change in road size from 20 feet to 24 feet. Town Counsel said he did not regard it as a substantial change.

Cataldo moved to approve the subdivision plan submitted by Robert S. Wolfe, Trustee, signed approval on November 19, 1986, the revised plan dated August 17, 1987, showing the new roadway width of 24 feet, all other aspects to remain the same as the original plan. The motion was seconded by Madsen.

Story asked if the new owner plans to build the same as Wolfe was going to. Wolfe - "Yes."

Wilson moved to amend the motion to state pavement width of 24 feet instead of 20 feet as originally approved. The amendment to the motion was seconded by Story, with the Board voting unanimously in favor.

The Board voted unanimously to approve the motion with amendment.

Attorney Michael Shea met with the Board, representing Arthur Spenser, who is proposing to put in a pizza shop at the Old Essex Village. Shea also represented Philip Budrose, owner of the Old Essex Village. Shea said Spenser had applied to the Board of Selectmen for a common victualler's license, which they would not issue at that time. They said they had heard reports of problems with the Planning Board on this issue. W. Burnham said, "We were under the impression it was presented to us that there would be no night time business. The Board assumed the shops would have normal business hours. That is what we approved when we approved the building permit. A non-conforming lot has different regulations. If the pizza shop uses the same hours as all the other retail businesses there would be no problem." Budrose - "There will be tables for seventeen, but it is presumed most of the business will be take out." Cataldo - "What is the long term plan?" Shea - "I don't feel it is necessary to answer that." Budrose - "I bought this to keep." W. Burnham - "What do you need from us?" Shea - "We need someone from this Board to tell the Board of Selectmen that you see no problem with the issuance of a common victualler's license."

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W. Burnham - "The Minutes do not reflect what was said. I feel we have no choice but to tell the Selectmen that we approve the common victualler's license." E. Burnham - "I feel we can make recommendations to be put on the victualler's license." It was recommended that the pizza shop close at 11 p.m. Budrose said he does not want to have a hang out there.

John Goodman, a land surveyor, representing Donald Metcalfe, Martin Street, met with the Board to ask them to sign land court plans, presented under a Form A. Madsen said, "This is not a subdivision. You are just presenting these under a Form A for landcourt. Non-conforming lots held in common ownership for more than three years merge into one lot." Lot 2 did not have any frontage. Lots 2 and 3, owned for thirty-seven years, have now become one lot. W. Burnham said he would hold the plan with Lots 2 and 3 in order to ask Town Counsel's opinion. It was felt the Board could sign off on the plan showing Lot 1, 1.9 acres in size.

George Johnson, of Hancock Survey Associates, met with the Board for a review of the preliminary plan of Margaret Hatfield and Catherine Doyle, County Road. The Board reviewed the plan. Johnson said drainage in the cul-de-sac will be shown on the definitive plan. The road length is 268 feet; around the cul-de-sac is 500 feet of roadway. Cataldo felt the Board should start to consider asking for sidewalks. It was felt this was inappropriate at this time.

Dunn moved to approve the preliminary plan of Margaret Hatfield and Catherine Doyle dated August 19, 1987, for the County Road subdivision, with the list of waivers as follows: 1) Eliminate street intersection rounding of westerly side of proposed road and Old County Road; (2) Allow sideline street intersection as shown on plan; (3) Allow the road to be private and to be of gravel construction; (4) Allow the road to be constructed without curbing. The motion was seconded by Story, with the Board voting as follows: Dunn, Cataldo, Madsen, Story and Wilson approved; W. Burnham and E. Burnham abstained as they are abutters.

John Goodman, land surveyor, representing Donald Metcalfe, Martin Street, presented a Form A application for Lot 1, property of Donald Metcalfe, Martin Street.

E. Burnham moved we approve the Form A application for the subdivision plan, approval not required, dated August 14, 1987, of Donald Metcalfe, 118 Martin Street, Essex. The motion was seconded by Story, with the Board voting unanimously in favor.

Attorney Paul Shea gave the Board a Form A application for Frederick C. Rhodes for a parcel of land and dwellings at 48-50 Western Avenue. Shea said this was just for an informal discussion. Rhodes would like to divide the lot into two lots with an existing building on each lot. The lot is non-conforming. W. Burnham - "If you wish to subdivide under our regulations you need 30,000 square feet per lot. The revision of the Town subdivision laws was made around 1959. It originally was a garage, so you must bring documentation to us if it was a house before

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1959. We also will check on this with our Town Counsel.

A letter was received from Mrs. Pierce-Bjorklund regarding Coles Island. The letter was read into the meeting.

There was a discussion regarding professional assistance for Deer Run Estates. Madsen said he talked with Phil Herr who said he would offer his services for \$1500 to \$2000. His services would entail working with two engineers and to be at the public hearing. He stated that the two engineering companies involved with this project were both excellent. John Serafini, attorney for Deer Run Estates, said, "There is no question that Herr has a pretty good standing but we wouldn't want to get caught up in something like, 'here is a piece of land and this should be done with it.' We would rather have someone look at it who is an engineer rather than a land planner. We would like someone who is qualified to read the plans and can propose to you that this is not shoddy engineering work." Cataldo felt the Board should get a land planner and an engineer. W. Burnham - "If we already have opposite entities that basically agree, why should we have to hire a third engineer." E. Burnham felt the problems seem to be coming from the Board of Health and the D.P.W. Serafini - "You have a proposal before you. It was not meant to be open-ended. I feel the concept of having the use of a land planner and engineer is fine but I wonder if Herr is going to be a neutral party. If the Board picks Herr, then you should pick an engineer yourself."

Cataldo moved we retain Phil Herr to act as an advisor on behalf of the Planning Board to assist us in the review of the Special Permit Application of Deer Run Estates for a fee not to exceed \$2,000 at an hourly rate of \$70.00 per hour, the fee to be paid by the Charlottee Partnership as agreed in their letter dated July 15, 1987. The motion was seconded by Story, with the voting as follows: Dunn, Cataldo, Madsen and Story in favor; E. Burnham and Wilson opposed.

Madsen felt any correspondence copied to Phil Herr by the Board should be sent to the other parties. W. Burnham said he would like to talk to Phil Herr first before considering an engineer. He is comfortable at present with Rizzo Associates versus GHR.

A letter was received from Peter Van Wyck stating he is in the process of considering a traffic study.

Cataldo felt some time should be set aside to address some of the issues that come up regarding zoning.

Madsen moved to adjourn the meeting; seconded Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 11:00 p.m.

AGENDA

- 7:50 p.m. ... Charles Mulcahey - Form A
- 8:00 p.m. ... Clay Morin - review of preliminary plan for property near Misty Acres
- 8:30 p.m. ... George Johnson, Hancock Survey - Preliminary plan for Dorothy Doyle property, County Road
- 9:00 p.m. ... Vickie Casey - property on Wood Drive
- 9:30 p.m. ... Review of preliminary plan of Peter Van Wyck

Business:

Wording for special permit application legal ad and time frame

Essex Planning Board

August 19, 1987

Present : W. Burnham, Chairman; Frances Dunn; Rolf Madsen;
Dana Story; Alden Wilson.

Meeting called to order 7:35 p.m.

The Building Inspector gave the Board a building permit application from Davis Family Realty Trust, 606 Essex Street, South Hamilton, for a single family dwelling with an apartment over the garage. Size of building, length 90'8", height 21', width 53'3"; no. of stories - 1; area of land 11+ acres.

Story moved that a building permit be granted to Davis Family Realty Trust, 606 Essex Street, South Hamilton, to build a single family dwelling with an apartment over the garage at 197 R Western Avenue, Essex. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received from Jeffrey Fraser, 27 Eastern Avenue, for the construction of a two-story addition, two bedrooms on second floor, living area on first floor, stair well from first floor to second floor. Size of building, length 28', height 22', width 20', no. of stories - 2. Area of land 11,800 square feet; distance from street line 20', right side line 30', left side line 12', rear line 130'.

Dunn moved a building permit be issued to Jeffrey Fraser, 27 Eastern Avenue, for the construction of a two-story addition, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was received from Mrs. Margaret Lake, Apple Street, for the construction of a three-quarter cape Bow house with attached garage. Lot size 20,500 square feet; frontage 160'. Distance from street line 60', right side line 40', left side line 50', rear line 30'. Size of building, length 70', height 30', width 28', no. of stories - 2.

Mrs. Elisabeth Frye, Apple Street, said she had been asked at a previous meeting to put her opinion in writing, which she has now done. Her letter was read into the meeting as follows:

"Application of Margaret and Spencer Lake for a building permit for a residence on property belonging to them on the east side of Apple Street and known as Lot 2."

"The above mentioned lot has an area of 21,494 square feet and 160.53 feet of frontage. A subdivision plan-approval not required, submitted by the owner, Harriet Burkhard, was signed by the Planning Board and entered in Land Court in 1965. It divided her Apple Street property into two lots, #1 on the west side of the

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street and #2 on the east side of the street. In 1942 the area that became Lot 2 in 1965 became part of the original holding on the west side through a land swap between Fuller, the then-owner of the property now belonging to Frye and Merchant, then-owner of the property now belonging to Lake (Book 3306, Page 401.)"

"Under Mass. General Law Chapter 183-58, "Every instrument passing title to real estate abutting a way, whether public or private, watercourse, wall, fence, or other monument, shall be constructed to include any fee interest of the grantor in such way, watercourse or monument, unless (a) the grantor retains other real estate abutting such way, watercourse and monument, in which case (i) if the retained real estate is on the same side (as in the land swap) the division line between the land granted and the land retained shall be continued into such way, watercourse or monument as far as the grantor owns, or (ii) if the retained real estate is on the other side of such way, water course or monument between the division lines extended, the title conveyed shall be to the center line of such way, watercourse or monument as far as the grantor owns, (as in the approval-not-required subdivision) or (b) the instrument evidences a different intent by an express exception or reservation and not alone by bounding by a side line."

"In October of 1969 lot size was increased to 30,000 square feet. Chapter 40A Section 6 of the Mass. General Laws states that "any increase in area, frontage, width, yard or depth requirement of a zoning ordinance by-law shall not apply for a period of five years or for five years after January 1, 1976, whichever is later, to a lot for a single or two-family residential use, provided the plan for such lot was recorded orendorsed and such lot was held in common ownership with any adjoining land, etc."

"It is my contention that Lot 2 is no longer a grandfathered building lot as it is adjoined and contiguous with the lot across the street and held in common ownership with it. Its exemption under Chapter 40A Section 6 has expired. As the fee under the road cannot be included in lot area, it isn't shown on the plan. Lots registered in Land Court are not exempt from zoning changes or the State statutes."

It was felt that Town Counsel should be consulted on this matter. Story moved that any decision on this building permit be deferred until we have an opinion from Town Counsel as to its legality. The motion was seconded by Dunn, with Story, Dunn, Madsen and Wilson voting in favor; W. Burnham abstained from voting.

Charles Mulcahy, Milk Street, met with the Board for their decision on his Form A submission made at the meeting of August 5. Lots A1 and A2 are at present one lot. Mulcahy wants to split it into two lots with A1 - 31,082 square feet, frontage 170.15 feet on Indian Rock Lane; A2 - 30,048 square feet, frontage 107.83 feet on Milk Street.

August 19, 1987

Madsen moved we turn down the Form A subdivision plan of Charles and Virginia Mulcahy for approval not required for property on Milk Street and Indian Rock Lane, finding Lot A1 creates 31,082 square feet which does not meet the 40,000 square foot requirement and Lot A2 with 107.83 feet of frontage does not meet the 150 feet frontage requirement. The motion was seconded by Dunn, with the Board voting unanimously in favor. Gene Reed, an abutter, said this is a subdivision of a subdivision and feels the plan presented only shows a partial picture of the whole story.

Engineer Clay Morin, together with Ronald Strong of Gloucester, met with the Board for a submission of a preliminary plan for property behind Misty Acres Restaurant. Strong wants to divide this land into eight lots which will be for commercial use. Lots 1, 2 and 3 - 40,000 square feet, Lot 4 - 85,000 square feet, Lot 5 - 105,000 square feet, Lots 6, 7, and 8 - 40,000 square feet. The total area of land is eleven acres. The Board then checked the requirements for submittal of a preliminary plan. The name of the subdivision is Misty Acre Drive. There was no block for approval on the plan; no Hamilton abutter's names or abutters across Western Avenue were listed on the plan. The preliminary plan was accepted at this time.

Robert Wolfe, together with engineer Clay Morin, met with the Board to discuss to discuss the subdivision plan approved by the Board for Essex Heritage Development. Wolfe said that plan was approved with a 20' road. He has just found out to go into a State road he will have to apply to the State for a curb cut. In order to receive that curb cut the road must be 24 feet in width. Plans were then presented to the Board showing the road as 24 feet. Madsen felt this was a change in road size and would therefore require a re-submittal. W. Burnham said he did not think this was a substantial change, but would check with Town Counsel on this.

George Johnson of Hancock Survey Associates, submitted a preliminary plan for Margaret Hatfield and Catherine Doyle, County Road.

Johnson said they will be asking for the following waivers:

- 1) Eliminate street intersection rounding of westerly side of proposed road and Old County Road
- 2) Allow sideline street in ersection as shown on plan.
- 3) Allow the road to be private and to be of gravel construction.
- 4) Allow the road to be constructed without curbing.

The Board checked the list,of requirements for submission of a preliminary plan. The plan was accepted.

Vickie Casey, met with the Board to discuss renovations she would like to do to cottage she is planning on buying on Wood Drive. The lot size is 15,000 square feet. She would like to add a dormer and wondered if the Board would have any concerns. She was advised to meet with the Board of Health for her concerns regarding the septic system.

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Peter Van Wyck met with the Board for a review of his definitive subdivision plan for the Turtleback Road extension loop. The list of requirements for submittal were checked. A public hearing is scheduled for October 21 at 8:00 p.m.

Wilson moved that we all read the proposed M.E.P.A. fail-safe request sent by McGregor, Shea and Doliner for Deer Run Estates. Seconded by Story, with the Board voting unanimously in favor.

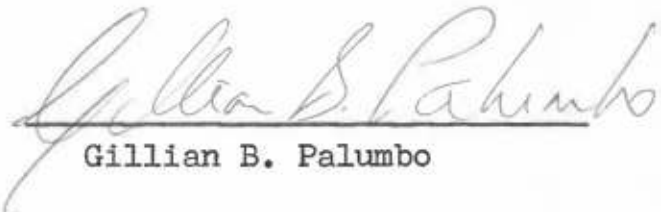
Old Essex Village - The Board discussed the application for a walk-in freezer by Arthur Spenser for his pizza/sub shop. W. Burnham said if it is placed at the front of the building as Spenser wanted to do it would obliterate one access. He did not have quite as much of a problem with it if its placed at the rear of the building. He also felt the drainage should be corrected near Burnham's Old Essex Village Restaurant.

Story said he felt it was objectionable that we had to go through the Selectmen to speak to Town Counsel. W. Burnham said this had come about because of multiple abuses by people in Town. Story said that he "felt it was not possible for the Board to do all that is necessary for them to do in two evenings a month. We are a Planning Board and we should have time to plan. I feel we should meet three evenings a month."

Madsen moved that we write to Frank Hardy requesting that Gillian Palumbo be made an Administrative Clerk to the Planning Board. Seconded Dunn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned 10:50 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Mark Glovsky - Conomo Drive
- 8:20 p.m. ... Brook Pasture Realty Trust - review preliminary plan - ~~CANCELLED~~
- 8:40 p.m. ... George Johnson - submission of preliminary plan for Dorothy Doyle, County Road ~~CANCELLED~~
- 8:50 p.m. ... Deer Run Development - review of plan
- 9:30 p.m. ... Jean Holloway, Wood Drive - Form A
- 9:45 p.m. ... Patriots Landing
- 10:00 p.m. ... Submission of preliminary subdivision plan - Western Avenue - property near Misty Acres. ~~CANCELLED~~

Essex Planning Board

August 5, 1987

Present : W. Burnham, Chairman; Frances Dunn; Michael Cataldo;
Alden Wilson; Rolf Madsen (late).

Meeting called to order 7:35 p.m.

A building permit application was received from Arthur Spencer, Chebacco Road, South Hamilton, to install an 8' x 10' walk-in freezer at the Old Essex Village, Eastern Avenue, to be placed on the street side of the building and to be set on footings. Use of building - restaurant - pizza and sub shop. Sally O'Maley asked, "Why does the freezer have to go in the front and not at the back or inside?" Spencer said it could go in the back, but it would be easier at the front. He would be putting in a fence to screen it. W. Burnham - "When we approved this it was for retail stores and no night business, I thought. Engineer Clay Morin was asked about the septic system there. He said the septic system was designed for four small food establishments. Cataldo said, "I feel we should postpone action on this until we have heard from the Board of Health. We should also have Philip Budrose come in to explain what his plans are for the first floor of the Old Essex Village." Spencer wanted it noted that there will be no video machines put in.

Wilson moved we table this proposal for a sub shop for the Old Essex Village until we get more information from Philip Budrose, Board of Health and the Fire Department, because they are breaking off the access to the fire lane. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

A building permit application was received from Mrs. Margaret Lake, Apple Street, for construction of a single family residence. The size of the lot is 20,500 square feet. W. Burnham said, "They were at our last meeting, and we are still waiting to hear from Town Counsel on this, as to whether it is a separate lot or not. Mrs. Frye asked that the Board go and review the lot. No action was taken at this time.

There was a discussion with the Building Inspector regarding occucancy permits.

A conceptual plan for a parcel of land owned by Essex Heritage Development on Eastern Avenue was reviewed. The plan is for a duplex and a single family residence, with a road off the cul-de-sac of a subdivision road going toward the Stoddard property. The plan was submitted for discussion only.

Attorney Mark Glovsky met with the Board to discuss the restrictions on the deeds on lots on Conomo Drive. W. Burnham told him it had been brought to the Board's attention that there is a duplex on one lot and one lot with two single family houses. According to Peter Ferriero, owner of one of the lots, there were no restrictive

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covenants. Glovsky said he had a list of restrictions and gave the Board Exhibit "B", Restrictive Covenants. (copy attached to these Minutes). With regard to the number of houses, Glovsky said he thought the Board had been talking about the number of house lots and not the number of dwellings. Cataldo asked, "How do you enforce the covenant?" Glovsky - "Richardson enforces the covenant as well as the property owners. They were told they could have a guest house as long as it was no more than 150' away from the main dwelling." Cataldo - "The guest houses are being used as a second dwelling." W. Burnham - "There apparently is a problem at Conomo Drive already. We have heard that there is a duplex and that a third building may be converted." Glovsky - "We still have the ability to help you enforce the covenants because we still own property up there."

Peter Van Wyck - filed a definitive plan for Turtleback Road extension for the creation of five additional lots. The Board accepted the definitive plan, with a check of \$500.00.

Lee Harwell, of C.D.E.C., met with the Board for a review of the preliminary plan for Brook Pasture Realty Trust, Martin Street. W. Burnham read a letter to the Board from the D.P.W. dated July 23, which stated the plan did not show a water main, incomplete drainage indicated, no road profile provided and no detail of road surface. Harwell said, "There is a 44' wide right-of-way with a 16' wide gravel road, 621' long, to the center of the cul-de-sac. We have contacted the Conservation Commission regarding the culvert. They had no problems with it, but wanted to see drainage calculations. The water main will be 8" cast iron. All frontage requirements have been met. The subdivision will be served by Town water. There will be separate septic systems for each lot; the services will be underground. A seasonal stream crosses the road which is the reason we are going to the Conservation Commission." W. Burnham asked the Board if they had any problems with the plan. He did not feel there were any major problems with it, but felt C.D.E.C. should address this with the D.P.W. and the Conservation Commission.

Cataldo moved we accept the preliminary plan prepared for Brook Pasture Realty Trust, 57 Martin Street, by C.D.E.C., Hampton, New Hampshire, dated April 13, 1987, finding that it meets the requirements of the submission of a preliminary plan under the subdivision control law. The motion was seconded by Wilson, with W. Burnham, Dunn, Cataldo, and Wilson voting in favor; Madsen abstained.

Deer Run Estates (Charlotte Partnership) - W. Burnham read a letter to the Board, from John Tierney addressed to the Board of Health dated July 29, 1987. Attached was a copy of Fairburn vs. Planning Board of Barnstable, 5 Mass. App. 171, 360 Ne2d 668. Donna Vorhees, of McGregor, Shea and Doliner, gave the Board a letter which contained comments on the Charlotte Partnership Special Permit application. Vorhees urges the Board to obtain the Condominium Association regulations to ensure that there is adequate

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capital to operate the wastewater treatment system, to prevent the Town of Essex from ever having to provide costs for maintenance, repair or operation. Andrew McGee of Rizzo Associates, gave the Board a letter dated August 5, 1987. McGee said, "We have reviewed the plans and submittals to date. There are two major items that warrant discussion: (1) Traffic analysis - it was found the traffic count was five times greater than that done in 1982 (49,569 vehicles and not 9,000 as stated). The whole traffic study should be done over if this is the case. (2) Drainage issue - I feel it is unclear how all the drainage off the road would get to the retention basins. If roof tops and driveways were taken into account, it would be more than the calculations done for the roadway. It is not clear from materials submitted how drainage will go to the retention basins from the roadway. It seemed to be too simplified. (3) Water Treatment Plant - A private well is located 100' away from the proposed disposal field. We would like to see an inventory of the wells plus the public water supply. If a treatment plan is installed the D.E.Q.E. will require a monitoring program, but no such controls are required for a septic system. No information has been given on soil conditions percolation rates and sizing criteria for the leaching area. A percolation rate was shown as ten minutes per inch which seems high. Wetlands issue - The buffer zone was shown on one sheet but not on other sheets."

W. Burnham asked if this material had gone to the Board of Health. McGee said he would send it to them. Attorney John Serafini, for the Charlotte Partnership said, "With regard to the method of policing and maintenance of the system, we will write sufficient safeguards into the condominium documents. There should be some method of policing the system so that the Town does not get 'stuck' with it. I feel Rizzo Associates are correct in addressing it and it will be written into the documents. Regarding the traffic study, we don't know if there have been conversations with Chief Platt, but we will check. The wastewater treatment plant should be left to the Board of Health. We will be glad to supply you with perc rates, etc., if it is required by you. The Conservation Commission will evaluate the wetlands issue. We will probably file with the Conservation Commission within the next month."

Madsen moved we meet August 26, 1987, at 8:00 p.m. to discuss Deer Run Estates; seconded by Cataldo, with the Board voting unanimously in favor. Madsen said he would also like to schedule a special meeting with all Boards on September 9. The public hearing is scheduled for September 16 at 8:00 p.m. Cataldo moved that we hold a special meeting on September 9, 1987; seconded by Dunn, with the Board voting unanimously in favor.

Gwen Vernon, Essex Realty, filed a Form A for Jeanne Holway, for property on Wood Drive. Lot 1 - 3.34 acres, frontage 190.29 feet; Lot 2 - 2.93 acres, frontage 190.29 feet.

Madsen moved that we approve the Form A application of the property owned by Jeanne Holway, located at Wood Drive, Essex, for a division of two lots. The motion was seconded by Cataldo, with the Board

August 5, 1987

voting unanimously in favor.

Greg Cefalo, Patriots Landing, met with the Board to see if Clerk of the Works, Thomas Lafoe, had given them the information they required concerning the subdivision road. It was noted that Lafoe had also sent a progress report to the Board of Health. Cefalo said gravel shoulders had been installed. The Board had received a progress report from Lafoe. Cefalo then said he would like to have an occupancy permit for units 1 and 2. Wilson moved that Patriots Landing Road meets the Town subdivision requirements and that occupancy permits be granted. The motion was seconded by Dunn, with W. Burnham, M. Cataldo, F. Dunn and A. Wilson voting in favor; R. Madsen opposed.

Charles Mulcahey filed a Form A with the Board. The Board said they would act on it at their next meeting.

Mr. and Mrs. Leif Bogen, DeSota Road - Letter was received from Lufkin and Brown stating that when a mortgage survey was done on the property the bank found that a portion of the dwelling, plus the deck and the pool did not conform to the Town setback requirements. The bank has requested a letter from the Planning Board stating that the property did not violate Town zoning laws. All abutters had signed a statement saying they had no objections to the right side of the dwelling being non-conforming to the said setbacks. Upon discussion the Board felt the property to be grandfathered. A letter was sent to the Bogens stating this, and that they could foresee no problems arising from this.

All records on actions taken against Peter Van Wyck since 1972 are requested by John Tierney. Wilson, as Clerk to the Planning Board, is checking on this.

Deer Run Estates - W. Burnham said that with regard to professional help for review of plans, etc., he has talked about this to Clay Morin, who said he would be willing to do it. Madsen felt Phil Herr ought to be contacted regarding this.

Wilson moved Madsen contact Phil Herr for any input and recommendations on Deer Run Estates. Seconded by Cataldo, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10:55 p.m.

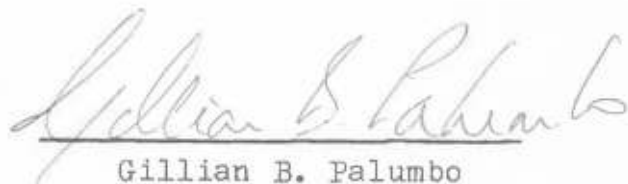

Gillian B. Palumbo

EXHIBIT "B"

RESTRICTIVE COVENANTS

KNOW ALL MEN BY THESE PRESENTS that I, FREDERICK L.W. RICHARDSON, JR., of 1500 Rugby Road, Charlottesville, Virginia (hereinafter referred to as "Declarant"), hereby impose the following restrictions upon my land located in Essex, Essex County, Massachusetts, shown as Lot 5A-1, 5B and 5C on a plan entitled "Plan of Land in Essex, Mass. Prepared for Frederick L.W. Richardson", dated December 3, 1986, and Lot 5D on a plan entitled "Plan of Land in Essex, Mass. Property of Frederick L.W. Richardson, Jr.", dated April 16, 1986, both of said plans to be recorded herewith.

1. SINGLE FAMILY DWELLING HOUSE. No building or other structure of any kind shall be erected, placed or allowed to stand on any one of said Lots except one detached dwelling house designated and used as a residence for one family only; one guest house, if allowed by the Town of Essex Zoning Regulations, which shall not exceed 1,500 square feet in living area, which shall not be further from the main house than one hundred fifty (150') feet (if detached) and which shall be of similar design with similar windows and exterior color and materials as the main residence; one garage adapted for the storage of not more than three automobiles (which may be constructed as an integral part of the dwelling house or as a detached building); suitable garden structures (including a detached building and a greenhouse); and such barns, stables, fences and other structures as shall from time to time be customarily used in connection with single-family dwelling houses situated in similar neighborhoods on similar size lots in the Town of Essex, Massachusetts.

2. SUBMISSION OF PLANS. So long as the Declarant shall continue to be the record owner of any portion of any one of said Lots, no building or additions thereto shall be erected, placed or allowed to stand on any one of said Lots, until the design, location, exterior materials and color thereof shall have been approved in writing, or this restriction is waived with respect thereto or released in writing by the Declarant. Such approval shall not be unreasonably withheld. Notwithstanding the foregoing, the design, location, exterior materials and color of any building or addition thereto erected on said Lots shall be conclusively presumed to have been approved as above required, unless within three months after the completion and occupancy of any such building or addition, there shall be pending in the Superior Court of Essex County proceedings to enforce this restriction. A Certificate executed by the Declarant and recorded with said Registry which affirms that the written approval as required herein has been given shall be conclusive proof of such approval, and shall be delivered to ~~Declarant~~ *THE RESPECTIVE OWNER OF ANY OF SAID LOTS* forthwith upon any such approval.

3. RESTRICTION OF BUSINESS USE. No business activities of any nature shall be conducted on any one of said Lots except a lawyer, physician, insurance agent, real estate broker, journalist, dentist, engineer, architect, or professional person residing in the dwellinghouse may maintain therein an office for his or her professional use and except such agricultural, horticultural, and forestry uses as may be permitted to be constructed thereon in accordance with the Zoning By-Laws of the Town of Essex.

4. RESTRICTION OF TRUCKS, ETC. No garage or any portion of any of said Lots shall be used for storage of trucks or commercial vehicles having an unladen weight greater than 6,000 pounds. Camping trailers, tents, boats, boat trailers and said trucks and commercial vehicles under 6,000 pounds, and like equipment kept upon any of said Lots must not be visible from Conomo Drive.

5. TEMPORARY STRUCTURES. No structure of a temporary character, nor trailer, tent, or shack shall be used on any of said Lots at any time as a residence, either temporarily or permanently.

6. BUFFER ZONE. No buildings, structures, personal property or improvements except fencing shall be erected, placed or allowed to stand on any of said Lots within one hundred (100') feet of Conomo Drive, within fifty (50') feet of any boundary line common to any two of said Lots, or within seventy (70') feet of the common boundary line of said Lots 5B and 5C, WHICH MEASURES 645.11 FEET AND WHICH RUNS S 04° 45' 33" W.

7. EASEMENTS FOR ABUTTING LAND. No easement or right of way for vehicular access and egress to and from Conomo Drive over any of said Lots shall be conveyed to the other of any property abutting any of said Lots, other than another of said Lots, for the benefit of such property.

8. TERM. These restrictive covenants are to run with the land until the expiration of twenty (20) years from the date of this date.

9. ENFORCEMENT. So long as the Declarant shall continue to be the record owner of any of said Lots 5A-1, 5B, 5C, and 5D, the Declarant shall have the exclusive right to enforce these restrictions and thereafter the same shall be enforceable only by any record owner from time to time of any said Lots, provided, however, it is acknowledged that record owners of any lot other than Declarant, shall not have the right to enforce any restrictions in Paragraph two (2) of these restrictive covenants.

WITNESS my hand and seal this 23rd day of December, 1986.



Frederick L.W. Richardson, Jr.

STATE OF VIRGINIA

December 23, 1986

W. M. Co., SS.

Then personally appeared the above-named Frederick L.W. Richardson, Jr. and acknowledged the foregoing instrument to be his free act and deed, before me,


Notary Public
My Commission Expires. December 29, 1986

AGENDA

- 7:50 p.m. ... John Serafini - Form A - David Sabatini, John Wise Avenue
- 8:00 p.m. ... Attorney Michael Shea for Arthur Harrington - Used Car License
- 8:15 p.m. ... Margaret Lake, Apple Street - Building permit application
- 8:30 p.m. ... Attorney John Serafini for Charles and Warren Messier - Deer Run Development
- 9:00 p.m. ... Peter Van Wyck - Review of preliminary plan
- 9:30 p.m. ... Duane Himes - for Brook Pasture Realty Trust, Martin Street - filing preliminary subdivision plan
- 9:45 p.m. ... Peter Ferriero - building permit application for Conomo Drive

Business :

Special permit fee change?

Essex Planning Board

July 15, 1987

Present : W. Burnham, Chairman; Michael Cataldo; Dana Story;
Alden Wilson.

Meeting called to order 7:35 p.m.

Wilson moved to postpone reading the Minutes of the meeting of July 1, 1987; seconded Story, with the Board voting unanimously in favor.

Fee changes - W. Burnham said, with regard to the discussion at the last meeting as to whether a public hearing was necessary to change the filing fee of the special permit application, that the general consensus of Town Counsel was that a hearing was not required, but he was apprehensive to the change of one particular section of the special permit application. He saw it as an additional tax. We are going through this as we do not have an engineer or funds to hire one, but at the moment it is on hold.

Patriots Landing - One duplex is finished and they are now looking for an occupancy permit.

Heritage Preservation, Eastern Avenue - \$40,000.00 is being given to the Planning Board as credit.

The Town of Essex is applying with other Town, Hamilton and Wenham, to set up a Water Resource District to jointly come up with regulations to cover this. They want to look at it on a regional basis.

Attorney John Serafini, representing David Sabatini, filed a Form A with the Board for Sabatini's property on John Wise Avenue. Serafini said they have approval for three lots, but are now dividing Lot 3 into Lots 3 and 4, thereby making a total of four lots. Lot 3 is 43,613 feet approximately with 170' approximately of frontage; the size of Lot 4 is 151,417 square feet approximately with 161.66 feet of frontage. The septic system has been approved for Lot No. 3. Cataldo - "At what point do you say the area is not safe until a new water pipe is put in?" W. Burnham - "I feel that is between the individual's bank and insurance company." Serafini - "The Board's jurisdiction is to say whether this plan conforms to the Town's subdivision control law."

Wilson moved that we approve the subdivision of Aliprio Sabatini, Florence Sabatini and David M. Sabatini, 299 Dodge Street, Beverly, Ma. of plan of land dated July 7, 1987, located in Essex on John Wise Avenue, finding it meets all subdivision requirements of the Town's by-laws. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Attorney Michael Shea, representing Arthur Harrington, met with the Board regarding the issuance of a Class II license for Skip's

July 15, 1987

Classic Used Cars located on John Wise Avenue. As was requested at the last meeting Shea showed the Board a parking plan and placement of the vehicle to be displayed. A letter will be sent to the Selectmen stating that the Board felt no fencing was necessary and their approval of the siting of the single car to be displayed.

Attorney James Norris, representing Spencer and Margaret Lake, met with the Board to present a building permit application for their property on Apple Street. Norris said the Lake's are planning to build a single family residence. The lot size is a little over 20,000 square feet. A plot plan was shown, and the lot in question was Lot No.2. Elizabeth Frye said, "There is a state law that a grandfathered lot must have 5,000 square feet and 50' of frontage unless the lot is contiguous. Because Apple Street is a private road the lot is contiguous with the lot across the street." A Landcourt plan dated 1966 was shown. Frye said, "You are not exempt from zoning with a Landcourt plan." Norris - "On the plan the road is shown as public, therefore, you have the lot, the road, and the lot across the street. W. Burnham - "We must get a determination that the road, Apple Street, is a public road, so I will talk with our Town Counsel for his opinion." Norris - "It would be keyed that the zoning requirements at that time would be used."

Attorney John Serafini, representing Charles and Warren Messier, for their DeerRun Development, filed a Special Permit Application with the Town Clerk today, July 15, 1987. Serafini said, "We received your letter stating what studies you required and are giving these to the Board this evening." Stephen Giosa of GHR Engineering gave the Board a plan of the development. Giosa said, "The buildings shown are four-unit buildings, twelve in number, with the exception of Unit 10 which is two units. There will be a swimming pool. The roadway will go to a cul-de-sac. All buildings are more than 100' from the wetlands, which have been delineated by I.E.P. We are in the process of filing a report to the Conservation Commission. We have spoken to the Water Department who said the maximum amount used per day is 450,000 gallons. Their capacity is 1,000,000 gallons per day. This project will draw about 10,000 to 11,000 gallons per day with 23,000 gallons maximum usage, therefore it is will below the amount of the Water Department. Regarding the subsurface sewage disposal system, we have reviewed and done a hydrological study which we are giving to the Board tonight. We have met with the Board of Health and a proposal was made to construct the sewage system in an area at the rear of the property, making it far from any wetlands. We propose to install septic tanks at each building, and pipe the effluent from the tanks to a common disposal area by means of gravity flow lines and pump stations. The proposed location of the leaching areas is at the northerly portion of the site. There will be two separate leaching areas so that there will be a resting period for one of the leach areas, thereby giving it a chance to recharge, which in turn will prolong the

July 15, 1987

life of the leaching areas. We will have a licensed hauler come in to clean and check all of the septic tanks on a six-monthly basis." Cataldo - "Who will control it." W. Messier - "The Condominium Association. A fee will be paid to have that hauler come in on a six-monthly basis." Giosa - "The Board of Health concerns were there be no impact on Chebacco Lake. Upon discussion with them we agreed to move it. We agreed to build a second leaching field, adequate in its size, so if there is a failure, we can switch it over. Storm Water control - we will have a series of catch basins on the roadway. The catch basins will direct water to storm water basins in two areas. The report shows how these detention areas function. We do have good soils for leaching the basins. All basins will have sediment sumps, and oil and grease traps. The municipal water line will follow the road and loop around. There will be no work in wetlands, but work will be done in the buffer zone, so that is why we are filing with the Conservation Commission." Mark Buckley, of the Board of Health, said "There was no agreement to this plan with the Board of Health, it was just a proposal. This type of plan was presented. Dr. Dutton was concerned whether the system should fail, and that's why this proposal was given." W. Burnham said, "Will the condominium regulations be available." W. Messier - "They haven't been written yet. We will reference any concerns to the Board." Giosa - "The length of the road is 3,100 feet, the secondary loop 1,750'." Michael Davis - "With regard to the public water system, will there be any pumping done?" W. Messier - "We have talked to the Town about the size of the line, but we haven't worked this out yet. There may be a need for a booster pump in the system, but that has not been finalized yet." W. Burnham - "Are you planning on extending gas pipes through the development?" W. Messier - "Yes, it will be an all gas development. Story - "How much will the Town have to do to maintain this?" W. Messier - "The Town will not be asked to do anything. The Town will take over the water system, but that's all." Story - "I was contacted by the Housing Authority who are interested in low to moderate income housing." Charles Messier - "When we came in with this, one of your members said there was a need for moderate income housing. You then said there were too many units, so we have now diminished it in size and therefore cannot afford moderate income housing. We would have done it if you had said go back to the ninety-eight units. We could have come in with a mix of ten moderate income housing." Cataldo - "Is the traffic study dated 1982 the most recent one." Giosa - "That's the most recent figure the Police had. We have had our engineers study it." Serafini - "We would like to push towards a public hearing as soon as we can." W. Burnham - "This is the largest project we have had so you will have to bear with us." Michael Davis asked for drawings of the units. Architect Douglas Haring shows plans of the units to the Board. Haring said the units will be wood clapboards or shingles. They will be wood framed. They will not be sprinkled, but will have smoke and fire alarms. The foundations will be concrete. There will be full fire walls in between. Electrical services will be underground. The street

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lighting will probably be mercury vapor type lighting.

Peter Van Wyck - Review of preliminary plan. The Board checked the plan with the list of requirements for submittal of a preliminary subdivision plan. Story - "I see that you do not have on the plan what these requirements ask for." Van Wyck - "I have no intention of giving lot measurements. I just did this to give you an idea of boundaries. The last plan you approved, I gave you a plan with a through road with eight lots." W. Burnham - "Are we willing to consider a two loop subdivision versus a through road." Story - "I am willing to work with two loops." Cataldo - "I prefer the through road." Wilson - "I like the two loop road." W. Burnham - "I also like the two loop road." Frye - "Without a fire road in between, because the D.E.Q.E. will not allow a road." W. Burnham - "I would like Peter to come in with a well drawn plan for each loop. As the D.E.Q.E. has forbidden a through road I don't see how we can insist." Story - "Why doesn't Peter have to come in with a complete plan?" W. Burnham - "I want to know if the Board approves of this type of project and then have Peter come in with a complete plan." Cataldo - "We have asked for a case law on this project and we should see that." Frye - "Peter has an approved plan and if the D.E.Q.E. approves then you will see a through road." Cataldo - "We are now going to look at a plan for one loop; then we sign it off; then he will come in again with another plan for the other loop, which we sign off on." Van Wyck - "I'm perfectly amenable to coming in with another plan for the loop, but I don't want you to ask for another access." W. Burnham - "Ask you lawyer for a case law for any waivers there may be."

Peter Van Wyck withdrew his preliminary subdivision plan dated June 3, 1987.

W. Burnham - "When you come in I do not want to see any evidence of any other loop on the plan. I also want you to come in with a caselaw."

Duane Himes of C.D.E.C. submitted a preliminary subdivision plan for Briar Pasture Realty Trust, Martin Street, for four lots. Lot 1 - 46,715 square feet; Lot 2 - 45,215 square feet; Lot 3 - 66,445 square feet; Lot 4 - 84,445 square feet. A building permit application had been approved for the moving of a barn which will be going to Lot 3. Himes asked about the Town taking over the road. W. Burnham explained to him the procedure that is involved for that. He will be putting side swales instead of catch basins for drainage and wondered if the Board had any problems with this. Cataldo told that from past experience the Conservation Commission does not like direct access into the brook. The Board will review the plan at their next meeting.

Peter Ferriero presented the Board with a building permit application for Lot 5A, Conomo Drive, for a single family residence. It will be a second residence on one lot, 9.65 acres in size.

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Wilson moved that the Building Inspector issue a building permit to Peter Ferriero on Lot 5A, Conomo Drive, for a single family residence, as it meets all requirements. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Cataldo moved to adjourn meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned 10:30 p.m.

Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Attorney Michael Shea - Form A
Daisy Means, County Road
Discussion on Skip's Classic Used
Cars, John Wise Avenue
- 8:30 p.m. ... Attorney John Serafini for Messiers
Special Permit Application
- 9:00 p.m. ... Peter Ferriero - building permit
Conomo Drive
- 9:15 p.m. ... John Bediz - discussion on
Richdales
- 7:50 p.m. ... William Ayer, Conomo Point Road -
Home occupation

Essex Planning Board

July 1, 1987

Present : W. Burnham, Chairman; Dana Story; Frances Dunn; Michael Cataldo;
Rolf Madsen (arrived late)

Meeting called to order 7:45 p.m.

The Building Inspector, Richard Carter, gave the Board a building permit application for Robert A. Marquis, 121 Eastern Avenue, to close in an existing roof overhang on east side of the building, which is 43' x 18'; connected to 18' x 18' new addition to the rear of the current overhang. The area of land is 43,504 square feet. There is enough area for fifty parking spaces. The Board reviewed the application, but no vote was needed as the lot was conforming.

A building permit application was received for Russell Hemeon, 50 Eastern Avenue, for 8' x 12' decks. Area of land 6,000 square feet; size of building, length 26', height 25', width 30', no. of stories - 2. Letters were received from abutters.

Dunn moved that the Building Inspector issue a permit to Russell Hemeon, 50 Eastern Avenue, for an 8' x 12' two-story deck with attached stairs, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

A building permit application was received for Keith E. Zellman, 17 Lufkin Street, to add a 16' x 24' one-story framed addition to the existing house, addition to be added to the northwest side of the existing building. The addition will be used as a family room. Size of building, length 16', height 12', width 24', no. of stories - 1. Area of land 11,000 square feet.

Story moved to issue a building permit to Keith E. Zellman, 17 Lufkin Street, to add a 16' x 24' one-story framed addition to the existing residence, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use.

A building permit application was received for Peter and Roberta DeCoste, 1 Dodge Street, to tear down an 8' x 12' sunporch and build a 9' x 19' sundeck; to replace front stairs, replace window.

Story removed that the Building Inspector issue a building permit to Peter and Roberta DeCoste, 1 Dodge Street, to tear down an 8' x 12' sunporch and build a 9' x 19' sundeck, under the provision of 6-4.2, that it not be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Cataldo with the voting in favor.

A building permit application was received for George French, 62 Forest Avenue, for a 36' x 32' addition, one bedroom, to the existing house, with a change of use from a single family to a two-family. Area of land 33,049 square feet. The Board reviewed the application but as the lot was conforming no vote was necessary.

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Patriots Landing - The Board is waiting for a report from the Clerk of the Works, Thomas Lafoe, on the status of the subdivision road.

The Board received a letter from the Board of Health asking that a Clerk of the Works be assigned to oversee the project at the Old Essex Village. Cataldo felt that it was not in the Board's jurisdiction and that it was the Building Inspector's job to check on this. Carter was advised of this matter.

Attorney Michael Shea filed a Form A, subdivision approval not required, with the Board for property of Daisy Means, County Road. W. Burnham excluded himself from the voting as he is an abutter.

Parcel A is to be made contiguous with Parcel B. Parcel A consists of 2.68 acres and Parcel B 1.33 acres. The frontage on County Road is 190 feet. Cataldo moved that we approve the plan of land dated July 15, 1986, on County Way belonging to Augustus Means for a transfer of a parcel of land from Augustus Means to Daisy Means finding approval under the subdivision control law is not required. Wilson seconded the motion, with Story, Dunn, Cataldo, and Wilson voting to approve, and W. Burnham abstaining.

Michael Shea, representing Arthur Harrington of John Wise Avenue, then spoke to the Board regarding the issuance of a used car license for Skip's Used Cars, located on John Wise Avenue. He said Harrington would like to keep one car on the side of the building, which will only be there during the day and removed at night. A sign will be put up. If the Planning Board requires screening, that will be installed. Harrington is limited to one car. The parking will be limited to the right side of the existing building towards the rear. Six parking spaces are available. The classic cars referred to on the license are Oldsmobiles. Cataldo said, "Do we consider this a retail business." Shea - "He will be using an office in the back of the building." Cataldo - "I would like to see a plan of access and egress from the lot and also a plan of the parking." Shea suggested the lobster business is a pre-existing business and therefore that parking could not be applied to this business. Cataldo - "I would like to see a hand drawn plan showing parking and exiting of the lot. As for screening, I see no need for screening for one car." Shea agreed to supply the Board with a parking plan at their next meeting.

Attorney John Serafini, representing Charles and Warren Messier, for the Deer Run Development at the rear of the skating rink, said, "We wanted to file a special permit application tonight but the engineers fell behind with the plan so we will not be filing tonight. The project has been downsized from approximately 96 units to around 50. There will be no stables built which I know concerned the Board. The wetlands issue will be taken up with the Conservation Commission. The clusters of units shown may change. The maximum grade at any point of the project is ten percent. We have flattened them out where we can. For drainage we have done the calculations to the size of the project, put in a number of catch basins and used some water detention basins, allowing it to leach out slowly. The plan shows an existing cart path, but we have not worked out how to access it as yet. There will be no work done in the wetlands. We will be bringing in a brand new water main for the project. On one side of the cul-de-sac it is very close to the existing grade, but on the other side there will be a retaining wall approximately nine feet in height. We will taper slopes 3:1 on the retaining walls.

July 1, 1987

The project will still be phased over a three year period even though we are dropping the number." Cataldo said his concern is the drainage and water supply. Serafini - "The engineers will have to discuss that with the Water Department. Cataldo - "You didn't feel you would need a treatment plant." Engineer Stephen Giosa - "15,000 gallons or above requires a treatment plant. Below that they feel it can be leached out sufficiently." W. Burnham - "On the traffic study I understand a report will be coming. Have the Environmental Protection Agency been notified?" Serafini - "We will not do that until the project is laid out." W. Burnham told Serafini that the Board had been contemplating changing the filing fees for the special permit application. The Board would like to increase the fee from \$100 when they have checked on procedure with Town Counsel, because of the cost of public hearings, advertising in the newspaper, engineering studies and planning costs, etc. You also had indicated you would provide some funding for an impartial consultant. Serafini said, "Talk to some engineers and obtain some estimates on what they would charge to check the plans. As long as we have your good faith that you will not go overboard on this we are willing to go along with it." Madsen felt the Board should get in touch with Phil Herr, who is still be retained by the Board, and have him come up with a fee for this, as they would get an unbiased opinion from him. Cataldo reminded the Board that once there is submission they only have ~~60~~ days in which to work. Warren Messier - "We will gladly give an extension to the Board if time periods conflict." Story - "In my personal opinion, I feel the leaching is in the Chebacco Watershed area. I also wonder what makes you feel you will be able to sell all of these units as there has been a softening of the housing market."

John Bediz - discussed with the Board the neon lights over the gasoline pumps at the Richdale Dairy Stores on Main Street. He felt they were not in keeping with the Town and would like the Board to approach Richdales to see if a change could be made. W. Burnham thought the way to approach it would be to send over the Building Inspector. Madsen felt the Board could not do that because the Building Inspector is the enforcing officer if someone is in violation of the building permit.

Peter Van Wyck - He said there had been a petition to keep Turtleback Road a dead end street. VanWyck asked the Board to take the terminology of a through road plan and to apply it to the plan of two loops. The plan will be reviewed at the next meeting.

There was a discussion on fee changes.

The Tri-Board Minutes were read. Story moved to accept the Tri-Board Minutes; seconded by Cataldo, with the Board voting unanimously in favor.

Madsen moved we hold a public hearing on July 15, 1987 to consider changing the special permit issuance rules Paragraph F, a filing fee of \$100.00 for each application or in the case of 6-6.9(k) - multi family dwelling, \$100 for each dwelling unit created (to cover the cost of public hearing notices, mailings, engineering fees and other necessary planning expenses which shall accompany each application. If paid by check the check shall be made payable to the Town of Essex. The motion was seconded by Story with the Board voting unanimously in favor.

July 1, 1987

W. Burnham requested a volunteer for the Municipal Building Committee. Dana Story will be the Board's representative. Cataldo is on the Committee in his position as Grants Coordinator.

The Minutes of the meeting of June 17, 1987 were read. Story moved to accept the Minutes of June 17, 1987 as read; seconded Dunn, with the Board voting unanimously in favor.

Madsen moved we send a letter to Attorney John Serafini, representing Charles and Warren Messier, requesting that due to our discussion on conceptals plans for the proposed development at the rear of the skating rink, we would request the following information of studies done: (1) water study - to demonstrate the adequacy of supply for the proposed development; (2) hydrological study of the area affected by the development; (3) traffic study of the intersection of Western Avenue and the access road; (4) study to show the impact on municipal services, i.e. schools, public safety; (5) we formally request funding by the developer to enable us to secure professional services as is necessary in the review of the development as per your agreement on April 15, 1987. The motion was seconded by Story, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded Story, with the Board voting unanimously in favor.

Meeting adjourned 10:50 p.m.

Gillian B. Palumbo

Tri-Board Meeting of Planning Board, Board of Health and
Conservation Commission for project at rear of skating rink.

June 23, 1987

Present : Board of Health - G. Thompson; Dr. R. Dutton; M. Buckley.
Planning Board - D. Story; F. Dunn; R. Madsen; A. Wilson;
M. Cataldo.
Conservation Commission - R. Borden; R. Brophy; M. Smither;
J. Ginn.

Thompson called the meeting to order. He said he had called the meeting to consider, at least Board of Healthwise, the largest project the Town has had, and wanted the viewpoints from each Board regarding sewage. A preliminary plan had been submitted to the Board of Health and was reviewed. Thompson said the only change to the plan was that the first four units do not exist. Both the Planning Board and the Conservation Commission said they had not seen this plan before.

Thompson said, "The applicant wanted to go with a septic tank for each unit which would then go into a cluster leaching area. It is being built in the heart of the watershed area. There is a brook running through the area. Also in the area is the Town's pumping station. The Board of Health has discussed quite thoroughly what should go through them, as in a mini sewage plant. The plan in front of us is all that has been presented to us. The Messiers, (owners of property), presented the plan. They will be on the Board of Health agenda at the next meeting and so would like some thoughts from all the Boards." Wilson, Planning Board, said, "The Planning Board tried to impress on the Messiers that they should have a sewage treatment plant. I do not feel they should have separate septic systems." Robert Borden - "Who monitors the sewage treatment plant?" Wilson - "That is one of the legal things that must be discussed." Borden - "The Planning Board will have to examine the Association documents. On part of that you should require some sort of control over the treatment plant, something that could be required by the Planning Board. Two Boards could require we monitor or require an annual inspection which should be the burden of the Association." Thompson - "Our opinion is to put in a mini sewage plant. One of the problems though, do we want to get into a sewage plant with outflow to Turf meadow. I would prefer to see a plant with an outflow away from the area." Ginn - "What does Title V allow with regard to cluster type homes?" Thompson - "Title V allows one septic system to one building. They also allow 15,000 gallon per day. This project will be just under." Borden - "But this will be going into a recharge area." Cataldo - "I, as a Planning Board member, was going to ask them to file with M.E.P.A." John Guerin - "I feel a hydrological study will have to be done. We do know one of the ponds runs into the lake." Thompson - "We do know they will be coming in within the next month. They have asked for 1 - 2 hours on our agenda. I would like to see a leaching type facility. They stated they were going to drill

June 23, 1987

three wells in one area, two wells in another area. There will be landscape watering, carwashing, etc. as well. The Water Department said they could supply water at this time. A possible long range study should be undertaken; with all the projects going on in Town can we afford to have all this up one end of Town. When they came before the Board of Health they said they were here to update the Board of Health on what they were doing. Their intent, I believe, was to feel out the Board to say this is what we want to do, how do you feel about it." Borden wondered how familiar the Board of Health was at looking at sewage treatment plants. Story mentioned that the Planning Board were having a planner come in, but Borden felt a land planner was not always capable of interpreting a sewage treatment plant. Guerin said he hoped the project would be done in steps; Thompson said a three year period had been mentioned. Cataldo - "How long can they keep bringing in conceptual plans before getting your approval for a treatment plant?" Thompson - "We feel we should not even discuss a sewage treatment plant until we have a definitive plan from the Planning Board." Buckley felt an Environmental Impact Report should be done before to see what the area can bear.

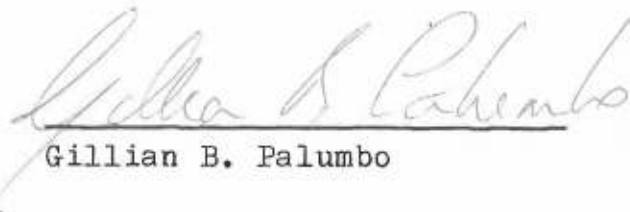
Attorney John Shea of McGregor, Shea and Dolimer, together with Andrew McGee and Lisa Eggleston of Rizzo Associates, and Ralph Wilmer, an environmental planner for McGregor, Shea and Dolimer, said they were here representing an abutter, Mr. John Donovan. Shea said, "We have been asked to participate in all meetings regarding this. I feel a little touch of realism should be added to the statements made. We concur an Environmental Impact Report should be done on this site, but it is not as easy as it sounds. We will prepare on behalf of our client a 'fail-safe' provision. At least you will have the format and language. You can submit it to your Town Counsel to see if you should submit your own. Zoning - do not be afraid to flex your muscles on this. Read the by-laws as expansively as you need to read it. Don't wait for the developer to come with his application. You tell him what you want in the application. I concur with your feelings with regard to septic systems. We have looked at them from the legal point of view. It will be problematic. How do you monitor the responsibility for maintenance, for fixing it or replacing it, if necessary. Will that be up to the Association to fund this. You should require that minimum of information, how they will fund this on a long term basis. You will find our experts differ from their experts. The problem the Boards will have is deciding who is right or wrong. I would urge the Boards to retain their own environmental firm. Some developers obtain written approval from other Departments piecemeal and then present it to the Planning Board. You need to send a clear message to all Boards that even though they have these informal meetings, they commit to nothing. Wetlands is a potential issue in this case, but may not be a deciding issue. The issue seems to be sewage, but there will be roads going over wetlands, projects

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near wetlands. The developer may agree to downscale because of the traffic impact, hydrological impact, but he may not because of the economical feasibility. I feel this meeting is a good idea and I urge the Boards to take the next step by stating to the developer what you want done, what studies you want done, talk to other Towns and colleges who have these systems in place."

Guerin - "If, with all Town Boards behind petitioning to M.E.P.A., have they ever been turned down, or have they all been citizen oriented?" Wilmer - "Mine have all been citizen oriented." Shea - "I had one where the Conservation Commission and Board of Health was behind it and it was turned down by Secretary Hoyt." Eggleston - "There is a state licensing process for septic systems over 15,000 gallons per day; it will go to the D.E.Q.E. It could also go to the D.E.Q.E. even if it is under that requirement. Ground water with a leaching system is about their only way. When licensed by the State weekly and monthly reports are required to be sent to the D.E.Q.E. and Board of Health. Some Towns do monitor it themselves. The Board of Health can go to the D.E.Q.E. for enforcement." Cataldo - "Would the Association be forced to have a policy for environmental damage?" Shea - "That is something that can be imposed as a condition in the special permit." Eggleston - "You should request they put in a basic treatment plant that deals with organics and solids. You should also be concerned with nitrates." Shea - "I urge the Planning Board to rough up a draft to consider the minimum submittal for the permit." Try to get funding for your own environmental representative. You should confirm your original request and the acquiescence; state the Board has determined that this is a minimum requirement for submittal under the special permit.

Meeting adjourned at 8:50 p.m.


Gillian B. Palumbo

Essex Planning Board

June 17, 1987

AGENDA

- 7:50 p.m. Conceptual plan for Thomas Corkery,
Martin Street (subdivision)
- 8:00 p.m. Harold Swinson - Gammage property,
Southern Avenue
- 8:30 p.m. Peter Van Wyck - Review of
preliminary plan

Essex Planning Board

June 17, 1987

Present : W. Burnham, Chairman; Frances Dunn; Alden Wilson;
Dana Story; Rolf Madsen (late).

Meeting called to order at 7:32 p.m.

A building permit application was received from Susan Talbot, 78 Western Avenue, for a two-story addition, first floor - family room, pantry, terrace; second floor - bedroom and bath. Size of building, length 18', width 18', no. of stories - 2.

Dunn moved to approve the building application of Susan Talbot, 78 Western Avenue, for a 2-story addition to existing residence, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received from Brook Pasture Realty Trust, 57 Martin Street, to move and construct barn into a single family house and home use shop in upper barn. Size of building, length 62', height 28', width 32', no. of stories - 2. Distance from street line 300', right side line 310', left side line 80', rear line 290'. Area of land 6.4 acres.

Wilson moved that the Building Inspector issue a building permit to Brook Pasture Realty Trust, 57 Martin Street, for the purpose of moving and renovation to existing barn building as described on Building Permit Application dated June 15, 1987, finding it conforms to the Essex by-laws. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was received from Stewart Doody, 138 Western Avenue for a two-car garage, 24' x 30'. Area of land 3 acres.

Wilson moved the Building Inspector issue a building permit to Stewart Doody, 138 Western Avenue, for construction of a two-car garage. The motion was seconded by Story, with the Board voting unanimously in favor.

Duane Himes, representing Brook Pasture Realty Trust, presented a conceptual plan for a subdivision on Martin Street. They plan on putting in four lots. The total area of land is 6.4 acres. The provision for maintenance was brought to Himes attention. The Board felt some contingency plan should be thought about if the Town does not accept the road. W. Burnham said he would like to see a one to two percent grade on the cul-de-sac. The grade of the road was five per cent.

Harold Swinson, representative for the property of Barbara Gammage, Southern Avenue, said he has checked with two lawyers

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who say the State minimum requirement for a lot is 50' frontage and 5,000 square feet.

Peter Van Wyck - review of a preliminary plan showing two separate loops. Van Wyck said, "D.E.Q.E. has asked me to pull up part of the road in the wetlands, as it's 10,000', and 5,000' is the allowable amount. I am going in this direction for several reasons. I feel the two loop arrangement is better." W. Burnham said he would like to see some form of access between the loops, some form of a 'backdoor'. Van Wyck said, "I want to be in control of things. Turtleback Road is a dangerous intersection. The only way to control it is to contain it. I feel Essex Park Road is the ideal place for low income housing. It's not sitting on a water supply, it has good water, good access, but I don't want a through road." Van Wyck - "D.E.Q.E. said there is no way to run a road through. They want it put back the way it was. The area for low income is approximately 16 acres and the reason it is so good is there is unlimited percing. I am aiming in my segment for the retired people. I have to refile again with the Conservation Commission, I have to have a new definitive plan to make for a workable plan. I take the position that I have two roads and not a dead end road." Madsen felt it would be a good idea for Van Wyck to substantiate his two loop roads with a case law. Madsen then said that perc site should be shown on the definitive plan. Van Wyck said the lot lines will not be on the definitive plan. Madsen said the Board then would take the worst case scenario. Madsen said, "The question is where does the 1200' for a cul-de-sac end? The D.P.W. will certainly want a circular route for utilities." Van Wyck - "I will certainly do that. The gas pipe goes down between 2'-4'." Story wondered about the impact on the water supply of 150 units. Madsen said we could ask the applicant for a water impact study. Van Wyck said, "Right now, if the Town wants low income housing I'll do my best, but I want some support. If the Board wants an engineer to check on the amount of water to be used, I can do that, but a hydrologist will be a lot of money." Madsen - "If I were to come to a public hearing, I would want to be prepared with reports from an engineer on water supply, etc. I also feel the whole Board should be here before we act on this plan."

A letter was received from the Board of Health concerning a joint meeting between the Planning Board, Board of Health and Conservation Commission for discussion on the project behind the skating rink.

Discussion on the used car license for Arthur Harrington, John Wise Avenue.

The Minutes of the meeting of May 20, 1987, were read. Madsen moved we accept the Minutes of May 20, 1987; seconded Wilson, with the Board voting unanimously in favor.

The Minutes of the meeting of June 3, 1987, were read. Story moved that the Minutes of June 3, 1987, be approved; seconded Wilson, with

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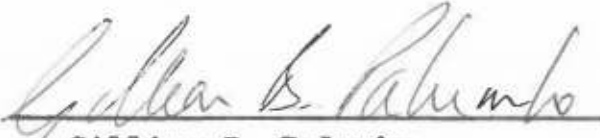
the Board voting unanimously in favor.

Fee schedule - W. Burnham would like to have a fee of \$100 per lot created. Madsen - "We could have a fee structure that for every 150' of new road created a \$200 fee be charged.

Special Permit Fees - Some communities charge \$100 per unit created.

Madsen moved the meeting be adjourned; seconded Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10.30 p.m.


Gillian B. Palumbo

Essex Planning Board

June 3, 1987

Present : Westley Burnham, Chairman; Frances Dunn; Michael Cataldo; Everett Burnham; Dana Story; Alden Wilson.

Meeting called to order at 7:45 p.m.

A letter was received from Janice Fernham regarding a mannequin on the front porch of the Sweater Shop on Main Street. It had been stated at a Planning Board meeting that nothing was going to be displayed on the porch. The Building Inspector told the Board it has been taken care of. Letters were received from Augustus Means regarding perc tests on Belcher Street. W. Burnham said he could not find anything in the By-laws that Means was in violation of Planning Board or scenic ways regulations. He felt it could concern the Conservation Commission and D.P.W. Chapter 40, Section 15C was read to the Board. It was felt Town Counsel's opinion should be sought on this.

A Building Permit application was received for Sandra Begg and David Wright, 34 Southern Avenue, to build a deck and stairway, to enter and exit house. Size - 10' x 25', height 2'. Distance from street line 65', right side line 50', left side line 25', rear line 65'. Size of building, length 25', height 2', width 10'. Area of land 12,880 square feet. There were letters from abutters, except for Charles Burnham, approving the project. Cataldo requested that Carter check to see if there is a kitchen in the addition.

Wilson moved that we authorize the Building Inspector to issue a permit to Sandra Begg and David Wright, 34 Southern Avenue, for the building of a deck and stairway to enter and exit, with the stipulation that a roof not be placed on it. The motion was seconded by E. Burnham, with E. Burnham, Wilson, Story in favor; Dunn and Cataldo opposed; W. Burnham voted present.

The Building Inspector checked with the Board whether they would have to formally approve a building permit for Timothy Hill, 21 Gregory Island Road, for remodelling within the house. The Board felt that although the lot was non-conforming a formal motion was not necessary as all work would be taking place within the house.

George Johnson, Hancock Survey, met with the Board to submit a Form A for Catherine A. Doyle, County Road, and Margaret Hatfield, 89 Sagamore Street, Hamilton, for property on Island Road, Assessors Map 23, Lot 16. Lots 1 and 2 have the required frontage; area of Lot 1 - 1.7389 acres; area of Lot 2 - 1.9496 approximately. There is an existing right-of-way through Lot 2.

Story moved we sign the plan dated April 19, 1987, as submitted by the estate of Dorothy Doyle, finding that approval under the subdivision control laws is not required. The motion was seconded

June 3, 1987

by Cataldo, with Dunn, Cataldo, E. Burnham, Story and Wilson voting to approve; W. Burnham withdrew from the voting as he is an abutter.

Johnson asked for the signature of one more Board member to be on the Margaret Lake subdivision plan, as only three members signed it. He said in order for the plan to be recorded in land Court he either has to have one more signature or an affidavit be signed stating the number of Board members present and a copy of the Minutes showing how the voting went. Cataldo signed the plan.

A Building permit application was received from Peter Ferriero, 148 Main Street, for the construction of a single family residence on Lot 5A, Conomo Drive. Area of land - 9.8 acres. Size of building, length 42', height 26', width 28', no. of stories - 2. Distance from street line 200', right side line 90', left side line 280', rear line 750'. There was discussion of the deed restrictions that were to be placed on these lots, as Conomo Drive was originally laid out to the regulations for ten houses or less. Ferriero said on his deed it stated there could be a second house built not more than 150' from the other residence, and there was to be no subdividing within twenty years.

E. Burnham moved we approve the building application of Peter Ferriero, 148 Main Street, for a single family wood frame salt box on Lot 5A, Conomo Drive. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Ferriero asked the Board if they could restrict a second dwelling. W. Burnham felt it was something they would have to discuss with attorney Mark Glovsky, Richardson's attorney for the Conomo Drive subdivision.

Harold Swinson, a Gloucester realtor, met with the Board regarding a parcel of land on Southern Avenue owned by Barbara Gammage. The lot size is 8,712 square feet with 63' frontage and Swinson wanted to know whether it was considered a buildable lot or not. He said the owner's grandfather owned it and thinks it has been in the family for about seventy years. He felt the lot was grandfathered and therefore could be built on under State law. W. Burnham felt this should be referred to Town Counsel as he thought the state requirement was 75' of frontage,

Peter Van Wyck, together with Robert Klopotoski, met with the Board to file a new preliminary plan. The new plan showed two subdivisions, one at Turtleback Road with a loop, and one at Essex Park Road with a loop. There will be an easement between the two loops. Van Wyck said he did not want to see the easement paved, so as to make it well travelled. Twelve new house lots would be created on Turtleback Road, with four existing lots. Cataldo said, "If we have a plan which we have signed and approved, I don't think we should entertain another concept. I have sat on

June 3, 1987

this Board for four years and wasted time looking at plans. We have a plan that we have reviewed and approved." Wilson said he liked the plan, but does not like the middle area. Cataldo asked Van Wyck where he stood with the D.E.Q.E. Van Wyck said, "I'm up before the Boston D.E.Q.E. It will be about a year before it is resolved. I personally feel it would be a better utilization of land with two loops." Wilson asked Van Wyck what was wrong with connecting up the two loops. Van Wyck said he was trying to avoid through traffic. W. Burnham said, "Where do you expect the through traffic to go. I cannot envision anyone using that as a through street to Manchester." Van Wyck felt there could be a maximum of fifty houses, but he didn't think he would as much as that. Cataldo asked, "If you submit a definitive plan, will the lot lines be the same?" Van Wyck - "I will submit a plan showing the road, but the lot lines may not be the same." With the submittal of this preliminary plan, the Board will have 45 days to make a decision.

Tom Griffith - he said The Kingdom owns property on Western Avenue and were willing to sell him a back acre from their lot, the present residence of Joseph Brown. He was told by the Board to speak with Leonard Woodman about a right-of-way to this rear parcel. Woodman decided not to permit Griffith to use it. Griffith said he could enter into a joint agreement with The Kingdom, so they would jointly own the land and house. Cataldo said he would like to see a parking plan for the Used Car business that Brown has, plus the residences. Brown said he doesn't feel the church will enter into an agreement with Griffith but it will probably be between Brown and Griffith, with them buying the house and land together. W. Burnham warned them that the houses would have to be sold as one parcel. The Planning Board would not be able to split them. They would have to go to the Board of Appeals for that. The project would involve the existing residence, another house with an in-law apartment.

Dana Carter met with the Board to discuss the Class II license issued to him for a business at Whitey's garage. Carter said the Selectmen had a restriction of a stockade fence which he felt would look terrible; it would also be a safety hazard. He said he would like to erect a four foot picket fence interspersed with a barrel containing shrubs. A letter was read from Chief Platt stating that a six foot fence would give a restricted view for people pulling out of the Post Office parking area. Cataldo asked how many cars Carter planned on having. Carter - Six. Cataldo - Where do you plan on putting cars from Whitey's garage. Carter - The school busses will be gone. E. Burnham said there would be enough room to park twenty cars. Cataldo felt the Planning Board had some input into the establishing of a used car business and that they should be notified before the license is issued. He also felt the Board should be provided with a site plan of parking. Cataldo asked Carter if he was going to paint prices on the car windows. Carter said no.


June 3, 1987

Story moved that it be the opinion of the Board that a fence is not required under Town By-law 6-5.6. The motion was seconded by Cataldo, with Dunn, Story, Wilson and Cataldo voting in favor; W. Burnham voted present; E. Burnham abstained from voting.

Fees schedule - W. Burnham asked the Board members to read through the by-laws to get an idea of what would be fair fees to charge.

W. Burnham moved to adjourn the meeting; seconded by ~~idea~~, Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10:35 p.m.


Gillian B. Palumbo

AGENDA

- | | | |
|-----------|-----|--|
| 8:00 p.m. | ... | Paul Gross, Turtleback Road
CANCELLED |
| 8:30 p.m. | ... | Jean Holway, Wood Drive -
Form A
CANCELLED |
| 8:45 p.m. | ... | Peter Van Wyck - review of
subdivision plans |
| 9:30 p.m. | ... | Vaughn Fullerton |
| 9:45 p.m. | ... | Robert Wolfe - copy of special
permit |
| 9:50 p.m. | ... | Clay Morin |

Essex Planning Board

May 20, 1987

Present : Rolf Madsen; Westley Burnham; Everett Burnham; Francis Dunn; Michael Cataldo; Alden Wilson; Dana Story.

Meeting called to order at 7:35 p.m.

Madsen moved to nominate Westley Burnham as Chairman of the Planning Board for the coming year. The motion was seconded by Story, with the Board voting unanimously in favor.

Cataldo moved to nominate Alden Wilson as Clerk to the Planning Board. The motion was seconded by Wilson, with the Board voting unanimously in favor.

E. Burnham moved to nominate Michael Cataldo as vice-chairman of the Planning Board. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Cataldo said he would like to have a better arrangement to get in touch with Town Counsel, than what we have had this past year.

Building Inspector Richard Carter told the Board there was to be a change in the building application of Dianne Smith, Rockport, which was approved at the last Planning Board meeting, as she now wishes to have a crow's nest on the roof.

A building permit application was received for Michael and Pamela Davis, 24 Belcher Street, for an accessory building. Size of building, length 30', width 30', no. of stories - 1. No action by the Board was necessary.

A building permit application was received for Robert Teel, Western Avenue, for the expansion of machine shop area, office area and design rooms. Size of building 90', height 27', width 48', no. of stories - 2. Area of land - three acres. Distance from street line 250', right side line 100', left side line 150', rear line 125'. 112 parking spaces are available. No bathrooms were shown on the plan.

Wilson moved that the Building Inspector issue a building permit to Teel property, 245 Western Avenue, for the expansion of machine shop area, office area and design rooms, subject to the approval of the Board of Health and the Fire Department. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

A building permit application was received for Earle Adams, 80 Martin Street, for the prospective owner, William Pascucci, to change residence to a two-family, making studio, 1-bedroom apartment in the attic, with an outside stairway on left side of the house. One bath to be added, two skylights; 2'x3' window on front of house, adding bay window in back, replacing

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existing window. Area of Land 23,000 square feet.

E. Burnham moved we approve the application of Earle Adams, or William Pascucci, 80 Martin Street, to change residence to two-family, making a studio, one bedroom apartment in attic with outside stairway for adequate access, finding it not to be substantially more detrimental than the existing non-conforming use, to the neighborhood. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Cataldo asked Selectmen John Guerin about the used car license of Joseph Brown, Western Avenue. Guerin said this was discussed at the Selectmen's meeting and the permit restrictions read; the restrictions were one car in the front and three screened. Brown is meeting with the Selectmen at their next meeting to discuss his license.

Cataldo asked the Building Inspector about the height of the new building at the Old Essex Village, property of Philip Budrose. Carter said the building was measured and the height was found to be 32 feet approximately. Questions were then raised about the piles of gravel. Carter said he thought it was to be used to fill the unpaved parking lot at the rear of the building, but a Cease and Desist Order was issued by the Conservation Commission before delivery of the gravel could be stopped. Sally O'Maley asked if there will be a fire wall between buildings. E. Burnham said the Fire Department was taking care of this; there must be a fire rating, and also the building will be sprinkled.

The Minutes of the Meeting of May 6, 1987, were read. Wilson moved to accept the Minutes as will be corrected; seconded Cataldo, with the Board voting unanimously in favor.

John Guerin met with the Board to discuss with them about a project proposed by the Executive Office of Communities and Development (EOCD), to take several towns, Essex tentatively, to have an attorney be at the Planning Board meetings to assist with subdivision plans and interpreting laws. W. Burnham asked if this would be an internship. Guerin said, "It will be a proper attorney and his license will be on every decision he makes. There will be nothing out of the pockets of the Town. It will be used as a model for other towns. He will specialize in land use planning." Cataldo asked, "Will this person be doing legal work or planning work?" Guerin - "Both. I'm not sure how he will get paid. This is a brand new program and we have the opportunity to jump in and find out. I'm not sure how much funding will be available. We should go over the present needs, future needs, some descriptions of future developments, how many subdivision approval not required and subdivision plans that have come over the past four years; this is to show, yes, we do need help because it may be overwhelming to a part-time planning board. We also need to know when the regulations were up-dated and also

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that we do not have an attorney directly on hand to answer questions. We have 45 days to make a decision." W. Burnham said, "What obligation will we be under if we accept this program?" Guerin - "I'm not sure." Cataldo - "This Board is halfway through a grant for planning. We could use this for legal work, but for any planning of land use we should use Phil Herr." Guerin - "This program is called strategic planning and it is to help Planning Boards plan." Cataldo - "Do you think people in Town are still unwilling to consider zoning?" W. Burnham - "I have no problem for filing for information. It is certainly worth looking at it." E. Burnham moved to draft a letter to the Selectmen to pursue the possibility of obtaining a grant from the State for legal consultation. The motion was seconded by Madsen, with Story, Dunn, E. Burnham, Wilson, Cataldo, Madsen voting in favor; W. Burnham voted present.

Peter Van Wyck, together with Robert Klopotoski, met with the Board to review his subdivision plan. Van Wyck said, "The decision is whether you want two loops or a through road. The people on Turtleback Road would like a loop." Dunn questioned whether the land between the two loops would be land locked. E. Burnham said there would be an easement through that area. Van Wyck said, "If we go with the two loops system, I would take out the middle section." Dunn - "Do you intend to do anything with the land between the two loops?" Van Wyck - "I will in time. Any lots would be access by each loop." Cataldo - "The fact is there is a 1200' dead end requirement in Town." W. Burnham - "My feeling is if you want to put two loops and a connecting road, it's fine by me, as long as there is a second access. With regard to the people on Turtleback Road who fear people taking short cuts through to Manchester, I don't think it is feasible that many people will." Van Wyck - "I think it's far more dangerous for someone who doesn't know the road and would slide into Apple Street. I feel it is better to have a dead end street and have those people aware of the road. I don't even plough it that well in winter." Madsen - "Peter has submitted a preliminary plan which does not show the two roads, but which we must act on tonight." The Board then reviewed the preliminary plan with Section 5.01, section 3 of the subdivision regulations. Madsen recommended that all drainage should be shown on the plan, and as there is quite a potential for development, the Board should look at the aquifer. Story said this was of great concern to him. Van Wyck then pointed out an area on the map which he felt has great potential for Town water. Van Wyck said, "There will be no individual well. We will be drawing water from the Town system all year round. The Town should look at this area as it has a good percing subsoil." Madsen felt Van Wyck should provide some data that this development will not have an adverse effect on the Town as there is potential for one hundred or more house lots or 150 units. He then asked the Board, "If this goes to a definitive stage, would it behoove the Board to ask the applicant for a hydrological study. With the potential for 150 units should we ask for a traffic study?" The Board members were polled and it

May 20, 1987

was unanimously decided that there should be a hydrological study and traffic study done. Klopotoski asked if the waivers in the plan had been discussed. The waivers were (1) 9½% grade station 5+75 to station 7+25, (2) 100' radius to join new road with existing cul-de-sac, (3) 150' radius, station 23+50 to station 30+25. The proposed width of the road is 20', except 24' wide at the spur and part way down the spur. Madsen said he was not sure if he would be happy with a 20' road, especially with the radius. Cataldo felt 24' would be better for the number of units. A poll was taken on whether the Board felt the waivers should be approved. Dunn - has no problem with them; E. Burnham - no objection to the waivers, especially Turtleback Road end; Cataldo - Waivers of radius are fine, but does not approve of a 9½% grade; Madsen - has no problem with the radius, but has a problem with the grade; Wilson - has no problem with grade or radius; W. Burnham has no problem with the radius, but would like to see the road wider on the grade. A poll was then taken on the width of the road, Cataldo feels it should be 24'; Dunn would like to see 24'; E. Burnham does not see any problem with 20', until there are spurs off it for future development; Story - 20'; Madsen - 24'; Wilson - 20'; W. Burnham - 20'.

Madsen moved to approve the preliminary plan of Peter Van Wyck, Turtleback Road, Essex, dated February 2, 1987, with the following modifications: (a) the applicant provides the Board with a hydrological study on the aquafer district; (b) the applicant provides a traffic study based upon the potentiality of the development of the subdivision (approximately 150 dwelling units); (c) approval of the following waivers: (1) 100' radius to join new road with existing cul-de-sac, (2) 9½% grade, station 5+75 to station 7+25, (3) 150' radius, station 23+50 to station 30+25; (d) a proposed system of drainage be provided to the Board. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Vaughn Fullerton, Eastern Avenue, met with the Board to discuss what he needs to do to build on his property located behind the properties of Carl Friberg and Richard Pascucci. The property is divided into two lots; one lot has no frontage; one lot also has no principal dwelling therefore both lots have now merged. Fullerton was told he should go to the Board of Appeals.

Clay Morin presented a work plan for Sagamore Circle, which is as follows: The binder coarse and finish pavement have been applied over the gravel base. Application of the pavement was within the specifications of 1½" binder and 1½" finish pavement; and the pavement width was measured to be at least 20 feet wide, including the cul-de-sac area. Restoration work has begun along the edge of the roadway. The remaining work includes completion of restoration work; placement of permanent stone bounds; completion of as-built by R. Means' engineer and submission to the Planning Board. Morin said they are now looking for the release of funds for hot topping the road. W. Burnham - "Will you be satisfied if we release


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all but 5%." Morin - "Release all but 10%." E. Burnham moved that we release all but 10% of the total monies for construction of Sagamore Circle subdivision road. The motion was seconded by Story, with the Board voting unanimously in favor.

There was a discussion on Conomo Drive. Cataldo said there are now two-family homes going in and that was not part of the agreement. It was felt the Board should ask Mark Glovsky, attorney for the Conomo Drive subdivision, to meet with the Board to discuss this.

Cataldo moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 10:35 p.m.


Gillian B. Palumbo
Gillian B. Palumbo

Essex Planning Board

May 6, 1987

AGENDA

7:50 p.m.	...	Diane Smith, Island Road Addition
8:00 p.m.	...	James Pratt
8:30 p.m.	...	Peter Van Wyck
9:00 p.m.	...	Ellen Neely - Main Street

Essex Planning Board

May 6, 1987

Present : Rolf Madsen, Chairman; Elisabeth Frye; Frances Dunn; Michael Cataldo; Alden Wilson; Everett Burnham; Westley Burnham.

Meeting called to order at 7:45 p.m.

A building permit application was received for Scott Dunsmore, Eastern Avenue, for a second story to be added to the existing structure, with no extra bathrooms or bedrooms added. There will be no changes made to the foundation. The addition is to add more room to residential home. Distance from street line 20', right side line 20', left side line 12'. Size of building, length 30', height 22', width 18', no. of stories 2. Area of land 9,248 square feet.

W. Burnham moved to approve the building permit of Scott Dunsmore, 38 Eastern Avenue, for a second Story addition, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Ronald Belisle, 39 Addison Street, for an addition to the rear of the family room and to add deck, 9' x 24'. Size of building, length 18' + 24'5", height 14', width 16'10", no. of stories - 1. Distance from street line 50', right side line 11', left side line 46', rear line 66'. Area of land 9,794 square feet.

Cataldo moved we accept the application for a building permit of Ronald Belisle, 39 Addison Street, for an addition to the rear of the family room and deck, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

Patriots Landing - Cataldo asked if they were ready for an occupancy permit. The Building Inspector said they were almost ready, but the road has to be completed first.

A building permit application was received for Dianne Smith, for property at Hardy Lane, to add an enclosed porch extending off the back of the house, with no increase in width. The replacement of all windows and to add three skylights, two on the front of the roof and one on the back roof. To remove the stucco exterior and replace it with cedar shingles. Garden shed not to exceed 8' x 16' dimension.

Wilson moved that the Building Inspector issue a permit to Dianne Smith, 10 Gap Head Road, Rockport, for an addition of an enclosed porch, extending 8' off west side of the house at Hardy Lane, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Cataldo, with Dunn, Wilson Cataldo, Madsen and Frye voting in favor. W. Burnham and E. Burnham abstained from voting.

The Minutes of April 15, 1987, were read. Frye moved to accept the Minutes with the following correction, that the Form A subdivision plan of Patriots Landing was approved on the

May 6, 1987

certification of the engineer that the new lot met the by-law and subdivision regulations. The motion was seconded by Wilson with the Board voting unanimously in favor.

Peter Van Wyck, together with Robert Klopotoski, met with the Board to review Van Wyck's subdivision plan. Van Wyck said, "Questions have come up which this Board should think about. One is whether we would be better served having a loop instead of a road. People on Turtleback Road would prefer a closed loop. Where Turtleback Road meets Apple Street it is a grade that was allowable under the codes when it was built. It might therefore benefit the Board and people in Apple Street to keep it a non-through street. As it is now, I'm going to D.E.Q.E. for a through road, which will take the better part of a year. I feel fairly comfortable that I'll get it. There are several things I could do. I could plan the road up to here and I could re-file again. I suspect the D.E.Q.E. won't have any problems with this area. If I do this part, it will allow me to start this year. In essence, there would be two loops instead of a through road." W. Burnham said, "Your hill on Turtleback Road is one reason why there should be a second access. I feel we cannot have any expansion on that road until we get a second access." Frye then read Section 7, No. 10 of the subdivision regulations to the Board and told them this was the stand the D.P.W. took that you must have a through road; that it would be a very big waiver to have. Klopotoski said, "We are not creating a dead end street if we continue the loop back to Turtleback Road." Frye also felt lots should be shown on the Essex Park Road end of the road. Klopotoski then showed the Board a conceptual plan of what the Turtleback Road end of the road would look like with a loop. There was an eleven lot proposal at the other end for multi-family housing, with another loop, so it would end up as two separate subdivisions. Cataldo felt there should be some open space between subdivisions. Klopotoski said, "The open space would probably be the pond." The Board felt this should be reviewed at their next meeting on May 20. Frye told the Board to read the subdivision regulations on preliminary plans, including utilities, etc.

Ellen Neely, 157 Main Street, met with the Board to review with them what exactly was allowed Robert Coviello on his building permit for property at 155 Main Street. Madsen suggested she speak with the Building Inspector as he was the Board's enforcing agent. Neely said she had done so, but he didn't have any plans to show her. W. Burnham felt he did not have the plans as he was waiting to hear from the Conservation Commission regarding Coviello's project.

E. Burnham told the Board there has been controversy about people at Conomo Point buying their land. The lots are in common ownership and are also non-conforming. Do we have a right to separate the lots into separate parcels or keep it

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as one parcel, owned by the Town.

Madsen moved that the Board extend their thanks to B.J. Frye for serving on the Board for the past five years; seconded Wilson, with the Board voting unanimously in favor.

Wilson said, "Does Peter Van Wyck want to put in a through road. I detest roads that do not come out somewhere, and I think we would be remiss not to have it come out as a through road at some time. The Board then discussed Van Wyck's road.

Frye moved that the meeting be adjourned; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 9:45 p.m.


Gillian B. Palumbo

Essex Planning Board

April 15, 1987

AGENDA

- | | | |
|-----------|-----|---|
| 8:00 p.m. | ... | Patriots Landing - ANR review |
| 8:15 p.m. | ... | Peter Van Wyck - review of preliminary plan |
| 8:45 p.m. | ... | Mark Bubrowski - land use attorney |
| 9:00 p.m. | ... | Review of conceptual plan of property behind skating rink |
| 9:30 p.m. | ... | Review of preliminary plan of George and Diane Bragdon |

Essex Planning Board

April 15, 1987

Present : Rolf Madsen, Chairman; Elisabeth Frye; Frances Dunn;
Everett Burnham; Alden Wilson; Westley Burnham.

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

The Minutes of the meeting of April 1, 1987, were read. Wilson moved that the Minutes of April 1 be approved as read. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Patriots Landing - Engineer John Decoulas met with the Board to discuss the approval not required subdivision plan that was presented at the last Planning Board meeting. Decoulas said the original plan had seven lots, then we went to six, and now it's seven lots again. The Board reviewed the plan. The front yard requirements were checked on Lots 7 and 3A. No perc test had been done on Lot 7 at this time, but Decoulas said he was reasonably sure it would perc.

E. Burnham moved we approve the plan of land of Patriots Landing Realty Trust dated April 1, 1987, noting that the changes in the lot lines are under the subdivision approval not required law. The motion was seconded by Wilson with Madsen, W. Burnham, Wilson, Dunn and E. Burnham voting in favor; Frye abstained.

A building application was received for Roland and Jane Adams, Belcher Street, to convert the second floor to a single bedroom apartment creating a two family residence. Area of land - one acre. All requirements were met.

A building application was received for Robert Coviello, 155 Main Street, to square off the building in the rear where existing back porch is, with an approximately 10' x 10' addition the full height of the building, (2) add full dormer the entire length of the building, approximately 38', (3) erect rear porch/deck area and stairs as a means of second exit for apartment and antique shop.

Wilson moved to approve the building permit application of Robert Coviello for remodelling and addition to 155 Main Street, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Peter Van Wyck, with Robert Klopotoski, met with the Board to review his preliminary subdivision plan. Frye said, "I feel the concept is wrong. It was discussed a long time ago and was decided it should be a through road. Peter will say he is having a through road but what he's giving you is a dead end road." Madsen said, "When we are addressing this plan, we have to do it with the potential development of the area. We have

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to address it, not on the seven house lots as shown on the plan, but what it could be. We could reasonably ask Peter for a traffic study, hydrological study and drainage details. I'm going to ask the applicant for this. There is legal precedence for doing this and I feel this is how we should address this. To adequately review this in the scope that this is, I feel we must ask for this." Klopotoski - "You should look at it as the potential it could be developed. I could easily show it that way. I don't mind the Board looking at it as a full-blown subdivision." Madsen - " I think we would be remiss in not doing this as Peter may not own this in a year." Frye - "There was talk of meeting with the Conservation Commission, D.P.W. and other Boards to discuss this." Van Wyck then said, "I would like to bring to the Board's attention the problems I have been having with the D.E.Q.E. As you may know, when I did this a second time I divided this project in half approximately where the pond is, and what has happened is the Conservation Commission turned me down on my Notice of Intent. I then went to the D.E.Q.E. for an appeal." Madsen - "I know you are having a problem with the D.E.Q.E. in that area, but that is one of the things you have to satisfy before you come to us. We have to look at this as a whole phase. If you have a problem in the middle, then you have to clear that up first before coming to us." Van Wyck - "The only reason I am here is because I wanted to make some changes in the plan. I already have an approved plan before you." E. Burnham - "We cannot approve it before the D.E.Q.E. issue is cleared up." Van Wyck - "It has been brought to my attention that maybe we should look again at the concept of having Turtleback Road with a larger loop and a larger loop over here. The problems I have with D.E.Q.E. are not correctable. To do it in the proper way it should be done this way, and I would rather do it this way than the way I have to do it for D.E.Q.E. I have been taking the time and effort to resolve the problems with D.E.Q.E. There are people who feel a through road should not be put here. I have some land that is suitable for high density housing, and it has been brought to my attention that it would be nice if I donate some land to low-income housing. There is good percing in this area, that is why I planned the high density housing. It will take approximately a year to put this through. I feel this Board ought to consider whether these roads ought to connect. People in Turtleback Road would like to see a dead end street, so they won't have to see passing traffic." Madsen - "We will discuss this next week unless you want to withdraw it." Klopotoski - "We will leave this one for you to review and also bring in another plan with another concept." The Board were asked to review the plan for the next meeting.

John Guerin introduced attorney Mark Bubrowski to the Board, who teaches at New England School of Law and has served as Planning Consultant in many towns, mainly in the Franklin area. Bubrowski said he had read Phil Herr's package and felt it was a good one. Wilson said, "My problem is this forty acres at the west end of Town. I believe we should have some type of professional help to determine the extent of the watershed."

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Bubrowski asked, "Do you have a watershed district on the books? Is it at Town Meeting? Has it been advertised?" Madsen said no. Bubrowski said, "The usual way in a dispute of this nature is for the onus to be on the applicant, to have the boundaries determined at their own expense. Other Towns have asked applicants to put a certain amount of money aside to hire a professional to review the plans. Many towns have gone this route and have adopted new and innovative regulations." Frye asked if Bubrowski liked Phil Herr's water resource article. Bubrowski said, "It is a fairly standard proposal. Some are more stringent." Guerin felt things ought to get moving on this and that they couldn't wait anymore.

Attorney John Serafini, together with Warren and Charles Messier, met with the Board for a review of the conceptual plan for the property behind the former skating rink. Serafini said, "We are trying to work with the regulations as you have now. We want to do some sensible planning with you, something that is economically feasible and something that we can be proud of. The regulations we are going under are 6-6.9(k)." Madsen - "We also have to refer to our special permit regulations as well. The concern of the Town is the overall size and scope of the project. Nothing of this size has ever come before the Town before. We also have to be realistic, as some will be for it and some will definitely be against it. We would like to have the two parties working together. We will have problems with water, whether there will be an adequate amount. Concerns are of just one access and the watershed issue. We, as a Board, are not professionals and we will have to seek help. If you give us sufficient time to work with our planners, we might end up with a decent project. Are your parties willing to work with us on a traffic study, a hydrological study, etc." Serafini - "If you have two sets of engineers working on the same project, the cost will be prohibitive. We have I.E.P. as our engineer. We have to figure out how many will be coming in and out of the road. We have talked to the Water Commissioners, who feel there is sufficient water supply. When you get into the watershed protection, an entire Town study, it obviously becomes unfair to have the cost of it fall on the applicants. We will be going before the Conservation Commission for the access road into the back lot. The issue comes up as to what degree of cross checking you wish us to undertake. From what I'm hearing, the Board wants someone to look at plans and say, yes, that looks like it is based on sound principles. I feel we should have a consensus that if we are to do this, it be based on the regulations as they are now. I think you have to rely on the good sense of the applicants. They are looking for quality." Madsen - "You are talking about a sloppy job if we do not do our job well. If we end up in litigation it will slow down the process. That's why we must have our own engineer to work on this." Serafini - "We know we have to take care of septic either by a separate sewage treatment plant or separate septic

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systems." Dunn said she would rather not see the stables in the watershed area. Serafini - "What do you consider the watershed area?" Madsen - "We really don't know." Warren Messier - "We have heard what you are saying. We know you have a lot of concerns about the watershed area." Dunn then wanted to know who would bear the expense of the water study. Serafini - "We can reasonably address this. We cannot be expected to do a water study for the whole town, but for the area we certainly can address it." Madsen - "What kind of time frames are you looking for?" Serafini - "We would like to get through the process as quickly and as comfortably as we can. We would like to get to you a definitive plan as soon as possible. We are asking the Board not to take an unreasonable amount of time. If we can obtain permits to start the project within two months or within the building season, we would like to. You have our assurances that we will not exploit every loophole we find in there." Maria Burnham - "Have you any estimates regarding water supply, how many gallons you will be using." Serafini - "It's estimated at 110 gallons per bedroom." Burnham said her concern was the supply of water. Madsen - "One of the things I intend to ask of the applicants is if the water supply will be sufficient." M. Burnham asked about an Environmental Impact Statement. Serafini - "Sometimes M.E.P.A. does not require a full environmental impact statement, sometimes it's just an Environmental Notification Form." Frye - "Is there any willingness to reduce the size of the project?" Serafini - "Obviously, if any of our studies, i.e. traffic study, water study, etc., shows it should be less, then we make it as such. There really has been no submission of a definite number of units. We are not sure where all the water lies. We may have to change, we don't know. Regarding the impact on schools, traditionally two bedroom units will virtually have no impact." Madsen - "Would the applicant be prepared to pay for some funding for professional help for this project?" Serafini - "I'm sure we would be willing to contribute. It depends on the amount of cross checking which will be done." Madsen - "Would you discuss that with your clients?" Serafini - "Yes." Madsen then asked for documentation on the number of school age children that this type of project will add to the school." Serafini then checked that there were no articles coming to the Town meeting that would change the regulations. Madsen said, "No, but the only thing we possibly can change is in the special permit application." Serafini then asked the Board to find out how much time and cost of time it would be for someone to help the Board, as long as it did not cover some overall planning for the Town.

Attorney Michael Shea, together with George and Diane Bragdon and engineer Lawrence Petersen, met with the Board for a review of the Bragdon's preliminary subdivision plan at 24 Apple Street. Madsen said he has asked Town Counsel for a legal opinion on the frontage. Frye said, "We were under the impression that the

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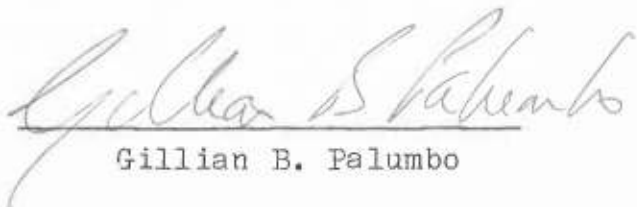
preliminary plan was dated February 18. On the site visit Mr. Petersen showed us a later plan with a change of lot configuration." Madsen then asked for the Board's feelings concerning the plan, but he did not want to discuss frontage this evening until he had heard from Town Counsel. Also the Board would be technically acting on the February 18 plan. E. Burnham - "I feel Lot 2 is not feasible as a building lot after reviewing the site, but I feel Lot 3 is a very nice lot. I feel the water problem in one area is being created from across the street." W. Burnham - "The major concern I had was frontage and drainage from across the street. We should have final drainage on the definitive plan. The corrections made to the second plan were more feasible than this plan." Wilson - "I had no problems with it." Frye - "(1) To sign the plan it must be noted as a preliminary plan; (2) Locus - the plan indicates a good deal of frontage on Apple Street which they may or may not have; (3) Identify the flow fields; (4) Names of abutters on the other side of the street." Madsen - "I feel it would behoove the Bragdens that the drainage be addressed on the definitive plan. Frye wondered on Lot 3, knowing it's steepness whether drainage would flow to the brook. Frye said her concerns with the plans are the water, having a road right next to the abutter's boundary and also the frontage. Frye then showed the Board the County Engineer's map of 1949. Frye said she doesn't see how the right to pass can be turned into a subdivision road. Shea - "You know what it looks like, it's the entrance to the property." Frye - "It doesn't give them the right to turn it into a subdivision road." Madsen asked if there was a definition of the width in the deed. Shea said no.

The applicant withdrew the plan of February 18, 1987.

✓ The Board then discussed the provision of funds for professional planners for large projects. W. Burnham felt we might need a full-time building inspector. Madsen said that under the special permit rules we have a filing fee of \$100. He felt the Board could change it to \$100 per dwelling unit instead of \$100 per filing. He also felt the Board should hire a planner and an attorney. Madsen also said that in the subdivision regulations we have \$100 per lot created. Most towns do not do it that way. For every 150' of road created on the centreline they charge \$100. E. Burnham said the Board should also get \$100 for every Form A lot we create. ✓

Dunn moved to adjourn the meeting; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned 11:15 p.m.


Gillian B. Palumbo

Essex Planning Board

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AGENDA

- 7:50 p.m. Stephen Wedlock - subdivision plan
but not a formal submission
- 8:00 p.m. Vincent Tulloch - Patriots
Landing A.N.R.
- 8:15 p.m. Review of Peter Van Wyck's
subdivision plan
- 9:00 p.m. Review of plan for skating rink -
Cancelled
- 9:30 p.m. George and Diane Bragdon - review
subdivision plan
- 10:00 p.m. Richard Durant - 72 Martin Street,
Single family to 2-family

Business :

Sign voucher

To whom it may concern - Sally Soucy must update
your by-law book.

Essex Planning Board

April 10, 1987

Present : Rolf Madsen, Chairman; Michael Cataldo; Everett Burnham; Westley Burnham; Frances Dunn; Elizabeth Frye; Alden Wilson.

The meeting was called to order at 7:30 p.m.

The Minutes of the meeting of March 18, 1987 were read. Wilson moved to accept the Minutes as read; seconded by W. Burnham, with the Board voting unanimously in favor.

Sweater Shop, Main Street - Abutters to the Sweater Shop on Main Street and Main Street residents met with the Board to voice their concern and objections to the awnings on the building. John Kane and Susan Kane, owners of the property, were also present. Madsen asked Kane about the porch on the front of the building, which was not shown on the plans which came with the building permit application. Kane said, "I added the porch. I didn't feel I needed permission. I am willing to take it down. Regarding parking, the garage is down now and the parking is ready." Mrs. Farnham said, "I have no objection to the porch. My objection is with the awnings. They say the parking is ready, but there is no sign to say the parking is in the rear." William Pascucci, 142 Main Street, said, "These people have put in a business and they have a deadline. They have had construction people parking on the street; we have not liked the way they went about things. I feel it is up to the Kane's to notify people that there is parking in the rear." Cataldo read a letter from Mrs. Perrotti, Main Street. Cataldo asked Kane, "Do you have any intention of displaying clothing outside?" Susan Kane said no. John Kane said, "The reason we chose the awning is because we thought it would look better than a neon sign. We have to show people that there is a business." Mrs. Farnham said, "None of the neighbors are objecting to the business. It is simply the large awning." Nancy Gallant said, "My husband and I were never approached that a business was to be put in there. We have no objections to the porch, just to the large green awning. Cataldo said, "The stairway was on the plan, but the porch was not. Does anyone object to the porch?" Pascucci - "I don't feel any of the neighbors have any objections to the porch. If they could just cut down on the size of the awning."

A building permit application was received for John Kane, 147 Main Street, for a front porch, 3'x7' in size on each side of the steps. E. Burnham moved we approve a building permit for John Kane, at 147 Main Street, for the addition of a porch for safety purposes, and not to be used for display, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by W. Burnham, with the Board voting unanimously in favor. Kane said the sign for the parking would be up at the end of the week.

April 1, 1987

A building permit application was received for Lot No. 5, Patriots Lane, for a resident duplex with detached garage. Size of building, length 71', height 27', width 38', no. of stories - 2. Distance from street line 27', right side line 26', left side line 60', rear line 130'.

Wilson moved that we approve the building permit for Patriots Landing Realty Trust, 214 Western Avenue, Essex, for the construction of a duplex residence with detached garage, on Lot No. 5, as shown on subdivision plan dated August 6, 1986. The motion was seconded by W. Burnham, with E. Burnham, Dunn, W. Burnham, Wilson and Madsen in favor; Frye and Cataldo voted present.

A building permit application was received for Brook Pasture Realty Trust, 57 Martin Street, to extend the existing driveway; preceded by the excavation for foundation, septic tank and services, foundation will be set and barn will be moved to new foundation for a two-family house. Area of land 6.419 acres.

E Burnham moved we disapprove the building permit application of Brook Pasture Realty Trust, 57 Martin Street, under Essex By-law 6-5.5, Erection of more than one principle structure on one lot, as it now creates more than three residential units on one lot. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

A building permit application was received for Richard E. Teel, 245 Western Avenue for an addition, needed for the expansion of production equipment and machinery. Total area of buildings, 9,700 square feet. (3 buildings). Distance from street line 240', right side line 105', left side line 130', rear line 120'. Addition, length 90', height 22', width 48', no. of stories - 1.

W. Burnham moved we approve the building permit by Teel Property II for a single story building to be used as a machine shop, located at 245 Western Avenue, finding it meets all the required setbacks. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Robert Coviello, at 155 Main Street for renovations, (1) remove side door, move entrance to street side, (2) remove two windows, replace with large multi-paned window, (3) general rehab, including painting, updating electric, plumbing, heating, etc.

E. Burnham moved we approve the building application of Robert Coviello, 155 Main Street, for renovations and installation of windows on existing residence, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use, and pending receipt of letters from abutters. The motion was seconded by Dunn, with the Board voting unanimously in favor.

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Kim Pederson, Old Manchester Road, met with the Board for an informal discussion of a subdivision of their property. They own three acres and would like to keep 1-1½ acres for themselves. The new house lot would be at the end of the driveway. W. Burnham felt a proposal should be drawn up to correct the poor design on one part of the road.

Stuart Abrams and Vincent Tulloch met with the Board to submit an approval not required subdivision plan. They will be adding one additional lot, Lot No. 7, to the Patriots Landing subdivision. Abrams said to create the additional lot they have shifted the lot lines a little. The lot lines have changed on Lot 5A, where construction is in process. Tulloch said the setbacks have not changed. The front yard footage was questioned on the new lot. W. Burnham said, "After what we have put other people through, I will not sign a plan that has a questionable lot on it." The Board felt they should review the plan and make a decision at their next meeting on April 15, 1987.

Peter Van Wyck - Madsen read Van Wyck's letter of withdrawal to the Board. Peter Van Wyck withdrew his definitive plan dated March 4, 1987, on April 1, 1987.

Van Wyck submitted a preliminary plan with a topographical plan to the Board. He said he is asking for a waiver on the 8% grade in one section and the radius of the cul-de sac. Van Wyck said the intent of the road construction is to get to the small spur the first year and then continue from that point another year. A review of the plan is scheduled for the next meeting, April 15 at 8:15 p.m.

There was a discussion on the conceptual plan submitted for the property behind the skating rink. John Guerin said the concern he has is that on a project of this size it will go in without the necessary studies being done. Guerin then wondered if this was the time the Board should seek professional help with a project this large. There will be a review of the plan at the next meeting on April 15 at 9:00 p.m.


Richard Durant, 72 Martin Street, met with the Board to discuss a change of use from a single family to a two-family. The lot is non-conforming in that it meets the area requirements of 30,000 square feet, but only has approximately 100' frontage and not the required 150'. He would put on addition to the back of the house. The total number of bedrooms would be no more than five. The septic system is a cesspool and Durant was advised to meet with the Board of Health.

A special meeting of the Planning Board will be held on the property of George and Diane Bragdon, 24 Apple Street, on Sunday, April 12 at 9:00 a.m.

April 1, 1987

W. Burnham moved to adjourn the meeting; seconded by Cataldo, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.


Gillian B. Palumbo
Gillian B. Palumbo

AGENDA

- 8:00 p.m. John Serafini - property behind skating rink
- 8:30 p.m. Review of subdivision plans - Craft Hill, Story Street
- 9:00 p.m. Review of subdivision plans Peter Van Wyck
- 9:45 p.m. Peter Ferriero - Building permit, Conomo Drive

Business :

Sign pay voucher

Essex Planning Board

March 18, 1987

Present : Rolf Madsen, Chairman; Elizabeth Frye; Francis Dunn;
Alden Wilson; Michael Cataldo; Westley Burnham;
Everett Burnham.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of March 4, 1987 were read. Wilson moved that the Minutes be accepted with the following correction, that the plan of Peter Van Wyck, submitted by Robert Klopotoski, was a definitive plan. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Walter Rich, assistant Building Inspector, gave the Board a building permit application for Dexter Tindley, Redgate Road, for an addition of a second story dormer and the replacement of first and second story windows. The lot is non-conforming. Distance from street line 51', right side line 23', left side line 21', rear line 32'. Size of building, length 40', height 30' approximately, width 22', no. of stories 2. Area of land 11,566 square feet.

Dunn moved to issue Dexter Tindley of Redgate Road a building permit to add a second story dormer and replace first and second story windows, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by W. Burnham, with the Board voting unanimously in favor.

A building permit application was received for Robert and Susan Teel, 27 Water Street, for the existing house to be connected to the existing office/studio by constructing a one story addition consisting of a (1) family room to the existing house, (2) screened porch to existing house, and (3) bedroom to the office/studio, changing a single family to a two-family. Area of land 25,672 square feet. Distance from street line 31', right side line 78', left side line 25', rear line 32'; size of building, height 17', width 43', no. of stories - 1.

W. Burnham moved we approve the building permit application for Robert L. and Susan L. Teel, 27 Water Street, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use, and subject to approval of the Conservation Commission. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Cataldo said he had two code enforcement questions for Rich, (1) the property of John Kane on Main Street, no porch was shown on the plan presented to the Planning Board, but one was added to the building, and (2) parking on the approved plan was for nine spaces at the rear of the building upon removal of an existing garage, but the garage is still there with no sign of activity. Cataldo said he would like to see these things addressed before Kane opens his shop.

March 18, 1987

Attorneys Mark Glovsky and John Serafini, together with Warren and Charles Messier, met with the Board to discuss their plans for the forty-acre tract of land the Messiers have bought, located behind the former Chaval Skating Rink. Glovsky said, "Some preliminary work for a layout of the project has been done. It is a large project and will have a large affect on the Town. The Messiers feel a subdivision is not in the best use of this land, but would like to take advantage of cluster siting stated in the by-laws. The architect is Douglas Herring and I.E.P. and G.H.R. are the engineers." Herring said the buildings will be wood frame colonials, and planned to take advantage. A pre-preliminary plan was shown to the Board. Herring said it will be a series of looped roads which will leave more vegetation. There will be groups of five houses with a garage for each house, with approximately 96 units in all. Herring feels a project of this size requires a swimming pool, a tennis court and the usual recreational facilities. It is anticipate that bridle paths will be built. The price of the units will probably be in the range of \$400,000. The road from Route 22 is 1200' to the cul-de-sac at the skating rink. The Messiers have no plans to go through hamilton and exit there, even though they own land in Hamilton. Cataldo said, "We have discussed this as one of the major watershed areas and wondered about the affect of this number, 96 septic system units in that area." Glovsky said he had just worked on a project at the Gordon Conwell Seminary with the same problem. Monitoring wells have been constructed there. Cataldo asked if they would be prepared to file with the State, with M.E.P.A. Glovsky said they would do whatever is necessary. Frye asked if they would go the special permit route. Glovsky felt the multi-family by-law is perfectly applicable to this. They could subdivide the parcel into separate projects and have special permit hearings for each. Frye said she felt they would still have to have another exit for this. Glovsky said this wasn't a subdivision, those rules do not apply. Cataldo asked if there was room to have a separate form of egress. Glovsky said they didn't feel it would look that good to have entrances within 100' of each other. Wilson said he felt that with a project of this size, a sewage treatment plant should be considered. Charles Messier said, "The Conservation Commission brought up this same issue. We broached this item to our engineer and hope we can have something like that." Warren Messier - "The main reason we are here is to try and get the views of the Board and feeling of the community so that we can have something built that we can be proud of." Cataldo - "Is there any chance of donating some of these units at less than market value for Essex residents, as it is priced out of the range of most residents." Charles Messier - "We would like to but the economics of it are not feasible." Glovsky felt there was an opportunity to consider this, that perhaps there could be another parcel that could be used for that. Michael Davis, former owner of the property, said the Housing Authority wrote to him asking him if he would consider housing for them. Davis said he wrote back yes, but never heard anything else from them. Warren Messier said, "Our other concern is that we want to keep a low

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density on this project." Glovsky - "The applicants have been in the development and construction business for a number of years, mainly single family State type developments." Warren Messier - "We didn't feel, looking at the Town, that we should come in with a subdivision road and later expect the Town to maintain it. We have brought in I.E.P. and G.H.R. Engineering Companies. Doug Herring is recognised as an excellent architect. We have also hired two attorneys who are recognised as being experts in their field. We have a partner who has built \$30,000,000 of property, who is now semi-retired." Frederick Fawcett said, "Under the subdivision control regulations, you cannot approve a plan unless engineers have certified there is sufficient water. Is the Town's water supply adequate for a project of this size?" Warren Messier - "We have contacted the Water Department and there didn't seem to be much of a problem." Madsen said he would like to take the plans and review them and come up with questions for the applicants.

The Board reviewed the preliminary plans of Craft Hill Subdivision on Story Street. The following are issues to be addressed:-
(1) access of Lot No. 1, (2) the location of perc tests on Lot Nos. 4 and 5, (3) 1% grade on hammerhead, (4) 8% grade on road, (5) drainage - more details of the area around culvert, including Lot Nos. 1 and 6 down to roadway on both sides, (6) discharge from the culverts and feeding into manhole near Station 6, and (7) construction details and visibilities where subdivision road meets Story Street.

Wilson moved that we send a letter requesting clarification of the following items on the preliminary plan of Craft Hill subdivision, (1) address access of Lot No. 1, (2) the location of perc tests on Lot Nos. 4 and 5, (3) 1% grade on hammerhead, (4) 8% grade on road, (5) drainage - more details of the area around culvert, including Lot Nos. 1 and 6 down to roadway on both sides, (6) discharge from the culverts and feeding into manhole near Station 6, and (7) construction details and visibilities where subdivision road meets Story Street. The motion was seconded by Cataldo, with Dunn, Frye, Cataldo, Wilson, Madsen, W. Burnham, E. Burnham all voting in favor.

Peter Van Wyck - Definitive Plan. Frye said she wanted to state the time periods regarding Van Wyck's definitive plan - 45 days for the Board of Health - April 18; 60 days for the Planning Board bringing it to Sunday May 3, therefore there will have to be a special meeting for the decision or make it at the Planning Board meeting on April 15. A public hearing is scheduled for April 15. A special meeting will be scheduled for April 22 to make a decision.

Frederick Fawcett read 6.01, paragraph 3 of the Subdivision Regulations regarding submission of plans to other Boards. He asked whether Van Wyck had submitted the plans to other Boards and if the Planning Board has received receipts for these plans from those Boards. If not, then the Board should deny the definitive plan at this time. Van Wyck said he couldn't say whether this had been done or not, as

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he had been away, but felt his engineer had done so. Madsen felt it would behoove Van Wyck to do this.

Cataldo said he had a question regarding the topography and that it didn't fit into the general pattern. He would rather have one whole topo plan or regional ones. Also each plan is supposed to be stamped with the architect's seal. On Sheet 2, the dimensions of the road where Van Wyck eliminated the Turtle Back Road cul-de-sac, Cataldo said he couldn't make out the figure between 2 and 3.

Van Wyck - "We had no contours of the property. If it is in the regulations, I suppose I will have to give it to you, but I question whether I have to give you a whole topography plan."

Cataldo - "How do you look at a piece of land in sections and hope to understand how it drains? Regarding the water course, how can you determine the water course with the plan in sections."

Frye - "The reason this is coming up is that you have 112 acres with a small cluster of houses and the rest of it is road. As long as there is a road going to Essex Park Road we have a right to address the whole area. An impact study is being avoided because what we have is a road plan. You can well end up with no control over what happens to this subdivision."

Van Wyck - "We are discussing the topo plan. I haven't got a topo plan, we just have a sectional of the road. You are saying you want more."

Frye - "I am concerned about the whole area and the impact on it. I would like to have an Environmental Impact Study done for the whole area."

Cataldo - "In the preliminary plan it asks for a topo plan. I feel what you have are pieces of plans which have previously been submitted."

Frye - "If the Board approves such a plan, then this end of it you would ANR it."

Madsen - "We have to look at this subdivision plan for the potential size of the project, and not just at the seven house lots as shown, but what it potentially will be."

Van Wyck - "We have to assume that there will be as many as fifty houses on it."

Madsen - "The court case restricting you to fifty houses does not apply on this plan. The reason you wanted a new filing was to go under the new regulations."

Van Wyck - "Would you feel better if I say I will limit the number of houses to fifty houses?"

Madsen - "For the whole plan."

Van Wyck - "To this point here (pointing to plan)."

Madsen - "This is a definitive plan. We have to act on this. By you not delineating the number of houses we have to decide what it potentially can serve."

Van Wyck - "I did not own this land before the court case."

Frye - "I have all the facts on it. You changed that line."

Van Wyck - "I thought it would be an advantage, to help the Planning Board by limiting it to fifty houses."

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Madsen - "You wanted to do it this way. Now you have to leave it up to us to decide on the actual number. We have to look at the drainage calculations, traffic impact study, examine it not on seven house lots that you have here, but on the potential of 100 herhaps."

Van Wyck - "You have to decide on what I suggest, fifty houses up to this point. The last part is another plan. In the spur area i have plans for low and moderate income housing. I have been working with the Housing Authority on this. The drinking water is adequate. The drainage does not go towards the lake. There is a perc site that is adequate to handle facilities, and it has good access to Route 22."

Cataldo - "How many units are you proposing?"

Van Wyck - "112 units."

Theresa Eisenhauer of the Housing Authority said, "The Town will get no further State grants without affordable housing. We have received \$936,000 to build six duplexes, twelve units. We have been told to seek Town-owned property. At Centennial Grove, the percs were not that good. Public opinion we knew would not be good and we didn't want to jeopardize the Town wells. Peter offered to give us this land. We will build twelve units with the money we have been given and Peter will build the rest. After fifteen years they will go back to Peter."

Cataldo - "Is that 112 a flexible figure?"

Van Wyck - "That's what I plan to do."

Eisenhauer - "Our concern is that we will lose this money. The time period is up in July."

Cataldo - "We have to look at this as a potential 172 unit site. Madsen said he felt the Board should meet on the site, to walk the whole plan. Cataldo felt the Board should meet with the other Town Boards to discuss this.

W. Burnham asked, "What kind of time frame are you talking about on these units?"

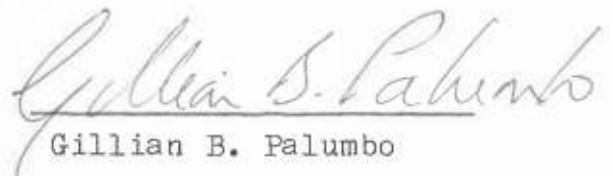
Van Wyck - "I'm not sure. I have wetlands problems, and problems with D.E.Q.E."

A site visit is scheduled for Sunday, March 22 at 9 a.m. at the cul-de-sac of Turtleback Road.

Peter Ferriero met with the Board regarding a building permit for Lot 5A, Conomo Drive. The Board reviewed the plan of the sub-division on Conomo Drive. Ferriero was told the Board needed a plot plan and diemnsions of the dwelling.

W. Burnham moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:35 p.m.


Gillian B. Palumbo

Essex Planning Board

March 4, 1987

Present : Rolf Madsen, Chairman; Elisabeth Frye; Frances Dunn; Everett Burnham; Michael Cataldo; Alden Wilson.

Meeting called to order at 7:15 p.m.

A discussion was held on the Water Resource Area. Dr. Dutton said the Board of Health is in favor of zoning and covering our own watershed. John Guerin said he wasn't sure if they should use the open-space committee for the watershed committee. He wasn't sure whether they should be separate or not. Cataldo felt they should be two separate committees, as open space is also recreational and conservation use. Guerin said he found in the Massachusetts Environmental Protection Agency regulations that there are ways of requiring a developer in a critical area to give an Environmental Notification Form; e.g. two Boards or ten citizens sign a petition. The cost is borne on the developer. Any curb cut on a State highway must require an E.N.F. Maria Burnham wondered if the Board had looked at the water resource study in regard to the Hamilton by-laws. Madsen said, "We felt we should address Essex first and have it adopted here before we go regional." Maria Burnham said, "When you make a water resource by-law you should consider what other Towns have to see if it is more stringent or not." E. Burnham said, "I'm not sure whether the hazardous waste by-law in Phil Herr's water resource zoning amendment is adequate or not." Maria Burnham said, "Wetlands recharge areas are sinkholes in the ground; water is stored there until it's taken out again by something like a well. A lot of pollution is picked up by everyday things. What should be addressed is the surface area. The MAPC has the ability to help towns like Essex get things done." Madsen said he would like to know what in the water resource regulations of Phil Herr do people not like, and what would they like to see. Cataldo said, "A letter should be sent to the Boards with the water resource article and have them give the Planning Board their input. I also feel one night should be set aside for discussion on subdivision plans between all Boards."

Cataldo said he would like to be the Planning Board representative for the open-space program.

A building permit application was received for Edwin and Laura Howard, 136 Main Street, for construction of an unheated barn with connection ell for the purpose of storage, and to enlarge the existing parking area at 165 Eastern Avenue. Size of Building, length 40⁺, height 14⁺, width 30⁺, no. of stories 1½. Distance from street line 72'⁺, right-side line 46⁺, left side line 48⁺, rear line 68'⁺.

Cataldo moved that we approve the application for a building permit of Edwin and Laura Howard, to construct an unheated barn for the

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purpose of storage, and to enlarge the existing parking area at 165 Eastern Avenue, as per plans of Robert Baxter dated November 30, 1986, finding that it meets all our requirements for parking and all setbacks. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.

A building permit application was received for Alge J. Vaitones, 6 Town Farm Road, Conomo Point, for a screened enclosure on part of the rear deck which is existing. The house is a summer cottage, and the lot is non-conforming.

Wilson moved the Building Inspector issue a building permit to Alge J. Vaitones of Haskell Street, Gloucester, for a screened enclosure on the rear deck, existing, with the approval of the Conomo Point Commissioners in their letter dated January 5, 1987, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Dunn, with E. Burnham, Dunn, Frye, Wilson and Madsen voting in favor; Cataldo voted present.

A building permit application was received for Patriots Landing Realty Trust, 214 Western Avenue, for a resident duplex with detached garage on Lot #6. Distance from street line, 75', right side line 60', left side line 40', rear line 87'. Size of building, length 71', height 27'.

Dunn moved to approve the building permit application of Patriots Landing Realty Trust, for Lot #6, 214 Western Avenue, for a resident duplex with detached garage, finding that it meets all subdivision dimensional requirements. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Madsen asked the Building Inspector if he sees a receipt from the Registry of Deeds that the plans have been filed with them for subdivision. Madsen felt that this receipt should be asked for in the future.

Paul and Valerie Langhden, 23 County Road, gave the Board a Form A for property on County Road. The Board reviewed the plans.

Wilson moved that the Planning Board approve the Form A application separating Parcel A shown on Plan of Land of County Road belonging to Augustus Means dated February 13, 1987. The motion was seconded by Dunn, with Frye, Dunn, Wilson, Cataldo, and E. Burnham voting in favor; Madsen exercised his right as chairman not to vote. The Board signed the plan.


Robert Klopotoski made a formal submission of a nine-lot subdivision plan for Peter Van Wyck. A check for \$900 was given to the Board. Forms C and D were also submitted, with no requests of waivers. The Board will review the plan at their next meeting on March 18.

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George and Diane Bragdon, together with attorney Michael Shea and engineer Laurence Petersen, met with the Board for a review of their preliminary plan for a subdivision of their property on Apple Street. Wilson said he reviewed the subdivision plan, went down the check list, and found everything complied with the exception of a name for the subdivision. Frye then asked that the frontage on Apple Street be explained. She wanted to know to whom did the triangle belong? Petersen - "Apparently, when the street was abandoned, it was never deeded to anyone." Shea said, "The portion of the road that is closed off is in my client's deed. He has a retained right-of-way." Frye said, "You are counting access from Apple Street where he doesn't have access." Frederick Fawcett said, "That was never Apple Street. I have an old map showing this." Shea - "We are not saying it's Apple Street, we are saying it's a public way." Fawcett - "How was it determined it was a public way?" Shea - "We are stating it was a road in existence prior to subdivision by-laws. It met the standards of adequacy." Shea then read the portion of the deed pertaining to this. Shea said, "We are using that as a portion of frontage. I feel that the old Apple Street being abandoned is not germane to the issue." E. Burnham said he was a little concerned with the 3.2 grade at the beginning of the road. Shea - "Even if it is an abandoned road, it was a way in existence, so he has a right to use it." Frye - "But he can't change it into a subdivision road. It's taking over the road and making it a subdivision road for themselves." Madsen asked how the Board felt about the triangle of land. Cataldo said he would like an opinion from Town Counsel regarding the deed. The Board then said they wanted (1) to see the wetlands delineated, (2) the road be given a name, and (3) the 3% grade be levelled.

The Board then had a general discussion on roads. Cataldo said that before we let a Clerk of the Works sign off on the plan, The Board should make a site visit.

Wilson moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor.
Meeting adjourned at 10:30 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. George Johnson - Margaret Lake subdivision
Apple Street
- 8:30 p.m. Clay Morin/Matt Huatala- Essex Heritage
Development
- 9:00 p.m. Peter Van Wyck - modifications to
subdivision plan
- 9:30 p.m. Lawrence Petersen - preliminary subdivision
plan - George and Diane Bragdon, Apple
Street

Business : Review Craft Hill subdivision plans

Note to Rolf - The report of the Planning
Board activities for the Annual Report
is due to be submitted to the Board of
Selectmen by March 2, 1987.

Essex Planning Board

February 18, 1987

Present : Rolf Madsen, Chairman; Elizabeth Frye; Everett Burnham;
Westley Burnham; Alden Wilson; Michael Cataldo.

Meeting called to order 7:30 p.m.

The Minutes of the meeting of February 4 were read.
Cataldo moved to accept the Minutes as read; seconded by E. Burnham,
with the Board voting unanimously in favor.

A building permit application was received for Eva and Louis Paglia, Essex Package Store, for storage and retail space. Distance from street line 41', right side line 41', left side line 51'. Size of building for additions to either side of existing structure, 13'6" x 26', 13'6" x 34'6" - length; 13'6", 13'6" - width, no. of stories - 1. Area of land 31,575 square feet. The lot is non-conforming.

W. Burnham moved to approve the building permit applied for by Eva and Louis Paglia, of the Essex Package Store, Main Street, finding it not to be substantially more detrimental than the existing non-conforming use to the neighborhood. The motion was seconded by Cataldo.

Cataldo moved to amend the motion to read that the permit will be granted pending receipt of letters from abutters. The amendment was seconded by Frye, with the voting as follows: E. Burnham, Wilson, Frye, Madsen, Cataldo in favor; W. Burnham opposed. A vote was then taken on the original motion with amendment, as follows: E. Burnham, Wilson, Frye, Madsen, Cataldo, W. Burnham in favor. Wilson asked whether the additions were being built under the Flood Plain codes.

A building permit application was received for Thomas Lane, 9 Middle Street, Conomo Point. Distance from street line 10', right side line 13', left side line 10', rear line 25'. Size of building, length 32', height 30', width 32', no. of stories 3. The application was for outside reshingling, moving two stairs, new doors, general renovations, addition of a half bath.

E. Burnham moved we approve the building permit application of Thomas D. Lane, 9 Middle Street, Conomo Point, for improvements to the camp as shown on the submitted plans, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use, based on the letter of approval from the Conomo Point Commissioners dated February 2, 1987. The motion was seconded by Wilson, with E. Burnham, Frye, Wilson and Cataldo voting in favor, W. Burnham opposed, Madsen voting present.

A building permit application was received for Robert and Cheryl Auen, 27 Harry Homans Drive, to add passive solar room to front of

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existing breezeway, 11' to 13' x 24', to add a 22' x 26' garage with a second floor, with stairway to second floor from garage and solar room. No action was needed by the Board.

George Johnson, Hancock Survey Associates, representing Margaret Lake of Apple Street, met again with the Board regarding the subdivision of Lake's property. Madsen read a letter dated February 9, 1987 from Hancock Survey to the Board. Frye then asked if Madsen if he had heard anything from Town Counsel or Attorney Henry Lucas regarding this. Madsen said there had been no correspondence from Town Counsel on this issue. Johnson asked that Frye abstain from voting on this as she is an abutter. Frye said she intended to. Johnson then said, "We have called the Town Clerk regarding Apple Street. Kirk Elwell, Chairman of the D.P.W. said the Town ploughs and maintains Apple Street." Johnson read Paragraph 4.03 of the subdivision regulations. He said, "A plan was endorsed by the Board in 1968. Lot 2 is non-conforming under present laws, but potentially grandfathered." Madsen said, "Have Land Court tell me that they treated the parcels as two separate parcels. In this and other cases, Apple Street has been deemed a private road but a public way." Johnson said, "So the Town has a public easement to Apple Street." Madsen said, "So if it is a private way, then the lots are contiguous." There was a discussion on ways of changing a private road to a public road. Johnson said that he was told by Land Court if the plan was rejected, to take the plan to them and they would take care of it. Frye wondered if in signing this, it could be written on the plan that on signing the plan it does not constitute Apple Street to be a public or private road. Johnson said he would like to look at all the Town warrants to see if there was some description of Apple Street being public. He did check for discontinuance. If a road was discontinued then it would show up on a deed. E. Burnham said, "The Land Court decided there were two lots there, but no one seems to know who owns to the middle of the road. I cannot argue with Land Court." The Form A was then given to the Board for Margaret Lake, 35 Apple Street, for subdivision approval not required for Lots 17 and 18.

W. Burnham moved that we approve the subdivision of land of Margaret Lake, of 35 Apple Street, Essex, as shown on the plan of land of October 14, 1986, under a subdivision approval not required. The motion was seconded by E. Burnham. The voting was as follows: W. Burnham, E. Burnham, Alden Wilson in favor; Cataldo voted present; Frye abstained from voting; Madsen exercised the chair's right not to vote. The plan was signed.

Clay Morin and Matt Huatala met with the Board for discussion on the Essex Heritage subdivision on Eastern Avenue. Huatala will be Clerk of the Works. Huatala said he would like to know how far along the road he is responsible for, and was told just the length of the subdivision road., Madsen said one Board member has received a call regarding the blasting, as there was concern about some of the old houses in that area. E. Burnham said all

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blasting comes under the jurisdiction of the Fire Chief. He said he had already spoken to Wolfe and the company doing the blasting as there had been some concerns. When asked about the status of the road, Morin said they have just established a road bed so vehicles can go up, but there is no gravel in at the moment. Water pipes have been put in up to 50' of the road. The D.P.W. has been there to make an inspection of all joints. Morin said the covenant which was requested by the Board is in the mail.

Robert Klopotoski, representing Peter Van Wyck, presented the Board with a new subdivision plan and with two copies each of Forms C and D. The road is a through road to Essex Park Road. Klopotoski said Van Wyck will be asking for a waiver from the 8% grade on one part of the road. When asked how many lots there will be, Klopotoski said we are creating two lots, one on either side of the road. Madsen said when we review the plan we have to review it for a development that it potentially serves, not how many lots Van Wyck is creating. The length of the road is 3,725' on the through road plus 1200' on a new road. Robert Klopotoski said, "It is my understanding that Van Wyck is willing to restrict the lots to the original number. We are probably looking at approximately fifty houses." A check was not received with the submission of the plan; Madsen said the clock does not start running until the Board receives the check. Madsen then said, "I feel Peter is not filing a complete plan. You are filing a road plan, but not a subdivision plan. Our advice to Peter would be to come in with as complete a plan as possible, but I don't see it with this plan."

Diane and George Bragdon, together with engineer Lawrence Petersen, presented the Board with a preliminary plan for a subdivision of their property on Apple Street. A review of this plan is scheduled for the Planning Board meeting on March 4, 1987.

Wilson moved to adjourn the meeting, seconded E. Burnham, with the Board voting unanimously in favor.

Meeting adjourned 10:15 p.m.

Gillian B. Palumbo

AGENDA

- 7:15 p.m. Discussion on watershed area
- 8:00 p.m. John Amato, Hancock Survey -
conceptual plan for Nicholas
Athans, Choate Street - Subdivision
- 8:30 p.m. Peter Van Wyck -modified plan
presentation
- 9:00 p.m. George Johnson - subdivision of
property of Margaret Lake
- 9:15 p.m. Review plans of Scott DeWitt
Brookside Apartments - Clay
Morin.
Clay Morin will also submit
preliminary plan of Craft Hill
subdivision

Mr. Arthur Hodges would like a letter from the
Planning Board stating his home is ^{not} in Flood
Zone area for the bank.

Essex Planning Board

February 4, 1987

Present : Rolf Madsen, Chairman; Elisabeth Frye; Frances Dunn; Michael Cataldo;
Westley Burnham; Everett Burnham; Alden Wilson.

Meeting called to order at 7:10 p.m.

The Building Inspector showed the new building permits that have been printed.

Essex Heritage Development - Madsen said he felt a Cease and Desist Order should be issued by the Building Inspector to the Essex Heritage subdivision as the Board has never received anything in writing from them concerning the covenant or their Clerk of the Works, and work has already begun on the road. Robert Wolfe has filed a definitive plan with us and subdivision regulations require that the applicant file with the Board a bond or covenant to guarantee the construction of the road.

Water Resource Regulation - The Board invited members from the Town Board to meet with them for a discussion on the watershed areas. The representatives were Damon Boutchie, D.P.W., Gordon Thompson and Dr. Dutton of the Board of Health, Edwin Perkins, Conservation Commission and Joyce Perkins of the Board of Selectmen. Madsen said, "What we would like to do tonight is to discuss some of the concerns raised by various people about our water. We felt it should be discussed with all Boards. Phil Herr, the Town planner, has done some work on a watershed district for a water resource regulation, to protect our water supply. We would like to know if we should continue to work on this." Madsen then asked Boutchie if the Town had problems with their wells. Boutchie said, "Not with contamination or quantity, but with quality. I'm not sure if this ~~water~~ water resource article is the right thing or not." Boutchie then asked why the Town boundaries were shown on the map accompanying Phil Herr's water resource regulations. Cataldo said, "Because we can only regulate it within Essex." Boutchie felt it should be done on a regional basis, but that it was a good start to be discussing it. John Guerin said he had done some research on this and felt it wasn't really feasible to do this from Town to Town, but that it was the only way we could go about it at present. Dr. Dutton said the Town of Wenham has been working on this and felt we should go to Wenham to see what we have cooperatively. Frye asked if there was anything in the article they didn't like or if it was just the map? Dr. Dutton said he liked the article, but did have a problem with the map. W. Burnham asked if the D.P.W. had any target areas for new wells. Boutchie said they had. They also are considering the Ipswich River. The State has been doing a lot of work there, and it would be cheaper to treat the river than looking for new wells. Perkins said, "The Conservation Commission didn't have a chance to read the article, but we have had discussion with the Board of Health concerning this. We have a lot of concerns and would like to see something done about it. I feel a program should be set up in Town to provide incentives for critical property so people will put large areas of land into conservation. Earl Spafford said, "Regarding section C, paragraph 1, I am a farmer and am well regulated by the State under the 'right-to-know' law. We are not doing half as much damage to the land as the normal householder does, like pouring 'drano', paint thinner, etc., down the drain. I would like to see this addressed." Boutchie - "This doesn't even take into account home heating fuel that leaches into our wells. A lot of wells have been closed because of that." Frye asked how we can

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regulate this. Madsen said we could ask Phil Herr what other communities have done with this kind of problem. Spafford felt that the whole Town should be addressed as a watershed area. Madsen asked whether an article should be put in to the Town meeting concerning this. Perkins said he felt it would be too quick to put it in the Town Meeting. He thought it should be discussed and promoted so that people will understand what it is all about. Perkins also felt the Selectmen should form a committee to start the open-space program again. The water resource regulation will be discussed again at the Planning Board meeting on March 4.

John Amato, Hancock Survey Associates, representing Nicholas Athans, Choate Street, met with the Board for an informal discussion of the subdivision of Athan's property. Amato said, "The proposal is to divide the property into two lots, Lots A and B, with a private 16' wide gravel road constructed to subdivision regulations to access Lot A. They would like to follow the existing driveway with the road, with a branch type turn-around where the cul-de-sac is. They would like to maintain it as a private road. The lot sizes are Lot A - 1.33 acres and Lot B - 1.65 acres. This road will be built up to the Town's standards of ten houses or less." There was a discussion on the configuration of the lots and their shapes. Amato said, "The length of the road is approximately 360' from the edge of Choate Street. I would like to ask for waivers from the lack of rounding on one side of the road where it meets Choate Street as they do not own the land, the branch type cul-de-sac and the curve of the road around ledge." Some of the Choate Street and John Wise Avenue residents were concerned about the water problems in the area. Amato said he felt one house with one well would not have an impact on the water. Amato then said he would like to create a covenant that the driveway cannot be used for any further subdivision. Shirley Duffy asked if the water impact, the lack of water, and the drainage could be discussed. Eric Jostrom, John Wise Avenue, said, "Less than two years ago, there were seven wells working in this area. Since that time, there have been three more wells added. Four of the first wells have since gone dry. I have had to put in a new well. Two of my neighbors have had problems. The water we did get had a very high iron content." Frye said, "One thing that will have to be shown before this can be approved is sufficient water." It was felt that was a Board of Health issue. Shirley Duffy said, "I am speaking for Miss Tucker. She had to put in a new system, and because the water was of such poor quality, other things have had to be added to the system to obtain better quality water." Everett Burnham said, "The Town should provide water down to the Ipswich line. The people in this area should get together and have an article put on the Town meeting for this, instead of telling someone they cannot do this or that with their land. Sooner or later it has got to be done." Helen Beck questioned whether there was any dimensional limitation from a driveway to a property line. She was told no.

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Peter Van Wyck and Robert Klopotoski told the Board they did not have the whole modification to Van wyck's subdivision plan because one of the plans stuck in the copying machine. They would therefore like to reschedule their presentation of the plans to the Board's next meeting on February 4th.

George Johnson, of Hancock Survey, representing Margaret Lake, met with the Board for the subdivision of her property on Apple Street. The Board read a letter from Town Counsel regarding whether a parcel of land across the street owned by Lake is considered contiguous. Johnson was told that Apple Street is not an accepted way. Madsen said, "We have treated Apple Street as a public way on a private road." Frye said, "The property owners along the road actually own to the middle of the road and therefore the two lots would merge." Johnson said his basis on the public way is from Land Court. Madsen told Johnson, "We are asking you to either show us proof of two separate parcels or to place the other parcel on the plan." Johnson was told to obtain records from Land Court to determine how the land was deeded. George Johnson withdrew his plans and initialled the Form A that he had withdrawn it. He will appear at the Planning Board's next meeting on February 18.

Scott DeWitt, together with his attorney, George Laventis, met with the Board for a review of his plans for nine additional units to the Brookside Apartments. Laventis said he felt Town Counsel's letter indicated that the public hearing should be held under a special permit type hearing, and that they would not withdraw anything. He felt the Board had a right to look at it under 6-4.2. Cataldo said, "Most of the issues addressed by the public at the hearing could not be addressed by us. The issues addressed were not those that were really affected by the additional units. I have no problem with it and it does provide much needed rental housing in Essex." Glay Morin presented plans to the Board showing the proposed fire lane. The wetlands are over 200' away. John Guerin said he did not have a problem with it now he has seen the contours, just as long as the fill is good clean fill. Scott DeWitt said, "All the septic systems are at the back and any additional fill will help any breakout. The new system is in front. Madsen said, "I suggest we turn down the application for a special permit as it does not meet our by-laws and then in turn, vote on 6-4.2, which I would vote to approve."

Cataldo moved that we deny the special permit application of Trescott and Donna DeWitt and Carwin and Elizabeth Strout for the property at 23 Story Street for permission to add nine apartments to the existing buildings, finding that it fails to meet the requirements of the Essex By-laws under 6-6.9, Sections (k)(i) Dimensional requirements, (g) minimum land area, (h) maximum number of bedrooms per dwelling, (k) minimum distance between buildings, 20 feet. The motion was seconded by Wilson, with Dunn, Cataldo, Wilson, Frye, Madsen, Everett Burnham voting

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in favor; W. Burnham voting present.

Essex Heritage Development - Clay Morin gave the Board a letter from Robert Wolfe naming his choice of Clerk of the Works as Matt Huatala of Rockport. A covenant was given to the Board. It was felt that paragraph 2 should be changed from building use and occupancy permit to just building permit. It was felt no cease and desist order should be placed on the work to the road.

A building application was received for Scott DeWitt, Brookside Apartments. Size of building 30' x 32', loft 31' x 62'. No. of stories 2 with basement. Distance from street line 350', right side line 200'+, left side line 80', rear line 225'. Area of land 203,000 square feet.

E. Burnham moved we approve the building permit application of Trescott and Donna DeWitt and Carwin and Elizabeth Strout, for the construction of two apartment buildings for Brookside Apartments, 23 Story Street, as shown on site plan dated October 8, 1986, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood, Essex By-law 6-4.2. The motion was seconded by Dunn, with W. Burnham, E. Burnham, Dunn, Cataldo, Madsen, Wilson in favor and Frye opposed.

Cataldo moved to adjourn the meeting, seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned 10:45 p.m.

Gillian B. Palumbo

Essex Planning Board

January 21, 1987

AGENDA

8:00 p.m.	....	Public Hearing - Brookside Apartments, Story Street
8:30 p.m.	....	Public Hearing - Dennis Outwater - Curb cut - Belcher Street
8:45 p.m.	....	John Canillas - Building application - Belcher.St.
9:00 p.m.	....	John Dick - A.N.R. Margaret Lake, Apple Street
9:15 p.m.	....	Dennis DiMore, Michael Stroman - Prelim. plan review - Lowe property
9:30 p.m.	....	William Febiger - subdivision off Forest Street
9:45 p.m.	....	Discussion of watershed district

Essex Planning Board

January 21, 1987

Present : Rolf Madsen, Chairman; Elisabeth Frye; Frances Dunn;
Everett Burnham; Michael Cataldo; Alden Wilson.

The Meeting was called to order at 7:30 p.m.

The Minutes of the meeting of January 7, 1987, were read. Wilson moved to accept the Minutes; seconded by Cataldo, with the Board voting unanimously in favor.

A building permit application was received for John Kane and Miriam L. Kane, 107 Eastern Avenue, for remodelling at 147 Main Street. Area of land 7,400 square feet; size of building, length 47', height 24', width 39', no. of stories - 2. The Board had granted a change of use for this property to combine residential and commercial use, Minutes of December 3, 1986. The first floor will be occupied by 'The Sweater Shop' and the second floor will be a 2-bedroom apartment.

Wilson moved that the Building Inspector issue a building permit to John F. Kane and Miriam L. Kane, 107 Eastern Avenue, for remodelling and restructuring property at 147 Main Street, as it meets the criteria of Essex by-law 6-4.2, that it is not substantially more detrimental than the existing nonconforming use to the neighborhood, with no objections from abutters. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Essex Heritage Development, Eastern Avenue. It came to the Board's attention that they had failed to come to some arrangement concerning a bond for the road. Robert Wolfe will be getting in touch with the Board with his choice. The Building Inspector was asked to keep on top of the situation until the Board gets a Clerk of the Works. It was noted that when Wolfe comes to the Board with a Building permit application, the road will either have to be up to the Board's subdivision regulations, or he must put up a bond. If he decides to go ahead without a Clerk of the Works, then he will have to show the road conforms with the approved standards by digging it up.

A Public Hearing was called to order at 8:00 p.m. on the application by Scott DeWitt and Carwin and Elizabeth Strout for a special permit under Section 6-6.9(k) of the zoning by-laws to add nine apartment units to the existing apartment buildings at Brookside Apartments, 23 Story Street.

The Board had reviewed the plans at their last meeting, January 6. The Minutes of that meeting regarding this were read. Attorney George Laventis, Gloucester, representing DeWitt and Strout said, "The charges made by the applicant were those addressed at the last meeting. We indicated we were going to add a certain amount of parking spaces, but that if we were to go by the Zoning by-laws we would need 96 spaces, which we now show on the plans."

"The fire wall extending up through the roof also has been added." DeWitt said they had figured 8½' for each space. The Board reviewed the modified plan. Frye questioned that no measurements were shown on the plan for the parking area. She said she would like to see a plan with the measurements shown. Laventis said, "The septic system plan was approved by the Board of Health on January 6, 1987. The Conservation Commission has reviewed and approved the plan. Mr. DeWitt is applying for the new units under local by-law 6-4.2 and M.G.L. 40A. This gives the Board a discretionary right to look at this plan and approve it, if it determines that the increase will not be substantially more detrimental to the neighborhood than the existing non-conforming use. Letters have been received from Mr. Frank Pizzo and Mr. Robert Getty, who are abutters, stating they have no objection to the nine additional apartment units. We have a letter from Chief Platt of the Police Department stating he could see no safety problems. Mr. De Witt asked and the D.P.W. agreed that an 8" main can be hooked into a 6" main for a fire hydrant. Also a fire lane will be added at the rear." Bruce Fortier said, "It was advertised that a public hearing would be held under a special permit application under non-conforming uses. As far as our by-laws go, you have no authority to grant it under the special permit section. You have no choice but to deny it under a special permit as it does not meet all the requirements." Laventis said, "The hearing states exactly what it is about, so it is not a fatal mistake having it advertised under 6-6.9(k)." Madsen said, "We have everyone here. There is no reason why we should not get input from the public. When we do make our decision we can turn it down under the special permit by-law and then act on it under the non-conforming laws which do apply." John Guerin said, "Will you need fill for the fire lane at the back as there are wetlands there?" DeWitt - "No fill will be required for the fire land behind buildings 2 and 3. There will be fill required behind building 1." Stephen Grimes, Story Street, asked, "Has there been any consideration given regarding a sidewalk up Story Street for the schoolchildren. The sidewalk ends at the school. I have a concern for all the children walking in the area." Diane Oliver, Story Street, said, "I wonder if any Board member went to look at the way the property drops off at the back?" Cataldo and E. Burnham said they had. E. Burnham said he felt it will resolve the problem that has been there for years. Guerin felt that all the Board members should go and look for themselves. Diane Oliver said, "You have to determine whether this will be more detrimental to the neighborhood. I feel what is there is already detrimental. To add to it would make it even more detrimental to the neighborhood." Bruce Fortier said, "I feel there are significant differences here than the minimum standards of the by-laws. I feel you should revoke the standards or uphold them to a reasonable degree." Cataldo moved we close the public hearing; seconded by Dunn, with the Board voting unanimously in favor.

The public hearing was closed at 8:40 p.m.

A public hearing was held for Dennis Outwater of Rockport for a driveway cut on Belcher Street, a scenic way. Engineer Clay Morin said the proposal is for a common driveway for Lots 6 and 7, of standard driveway width of 12'. The stonewall is one stone in thickness; some of it is falling down and some is below grade. John Guerin said he would like to see where the cut is going to be as there are two or three places where a bulldozer has gone through. Outwater said no bulldozer has gone through. The breaks in the wall were inherited from my heirs. Guerin was concerned about a cut further down the wall. Outwater said that was on his Lot No. 5, which he obtained a couple of years ago. John Canillas, who recently purchased Lots 6 and 7 said he is proposing to take the stones from the driveway cut and use them to rebuild the holes in the wall on Lot 6. Outwater said that trees were taken down when the D.P.W. improved the road. Guerin said, "As Belcher Street is a scenic way we do not want to see trees cut down."

Wilson moved that we grant a permit to Dennis Outwater for a wall cut on Belcher Street for access to Lots 10F and 10E, Map 13 of the Assessors maps; seconded by Cataldo, with the Board voting unanimously in favor.

The public hearing was closed at 9:05 p.m.

A building permit application was received for John Canillas, 23 Story Street, for Lot 6, Belcher Street, Lot No. 10E on the Assessor's maps, for construction of a new single family residence. Area of land approximately 34,000 square feet. Distance from street line 145', right side line 37', left side line 43', rear line 45'. Size of building, length 40', height 25', width 28', no. of stories 2.

Cataldo moved we accept the building application of John Canillas, for lot 10E of Assessors map, to be known as 41 Belcher Street, for the construction of a 3-bedroom, 2 bath, single family house, as presented on plans 21-89, Homeplanners, Inc., finding it meets all setback and side line requirements. The motion was seconded by Wilson, with Madsen, Cataldo, E. Burnham, Frye, Wilson in favor; Dunn opposed.

A building permit application was received for John Canillas, for Lot No. 7, Belcher Street, Lot 10F on Assessors map, for construction of a single family residence. Distance from street line 130', right side line 65', left side line 23', rear line 44'.

Cataldo moved that we instruct the Building Inspector to issue a building permit to John Canillas for construction of a 4-bedroom single family dwelling, Lot No. 10F on Assessor's map, to be known as 43 Belcher Street, as per the plan submitted. The permit shall be granted upon receipt of a second site plan by the Building Inspector. The motion was seconded by Wilson, with Madsen, Cataldo, Frye, Wilson and E. Burnham voting in favor; Dunn was not present at the voting.

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George Johnson, Hancock Survey, presented the Board with a Form A subdivision for property of Margaret Lake of Apple Street. Lot 18 was 30,000 square feet and the remaining parcel 12 acres. The lot showed all frontage on Apple Street. Lake owned a small parcel of land across Apple Street and Frye felt that if one owns across the street then it is contiguous and should be shown on the plan. Johnson said this land had already been landcourted. Madsen asked if the lot across the street been landcourted. Johnson - "I don't know." On the plan which was felt to be the Landcourt plan it showed the two lots as Parcel 1 and Parcel 2. The Board felt they should make a decision on this at the next meeting. Cataldo asked why the phraseology 'that the endorsement of the Planning Board shall in no way be construed approval of the "Private Way" shown hereon as a "way" for subdivision purposes' written on an earlier plan was not carried over onto the new plan. He said he would feel more comfortable if that paragraph was placed on the new plan. Johnson will meet with the Board at their next meeting on February 4.

Dennis D'Amore, Michael Stroman and Clay Morin met with the Board for a preliminary plan review of the Craft Hill subdivision. D'Amore said they would like another revision to the plan. They want to move the hammerhead down 60' and therefore hold it down to a 2% grade. They also feel they can make the 8% grade. One portion of the hammerhead could be 3%; it could be made 2% but they didn't think it was that critical. They will be changing the lot configuration of Lot 6, but they still have enough area to maintain the 40,00 square feet. The Board was polled for their feelings on the grade. E. Burnham - felt the hammerhead and the 8% grade was a good plan; Cataldo - felt the grade should be limited to 8% and have a 1% grade on the hammerhead; Wilson - If they flatten down the hammerhead, I can go with the 8%-10%. If they can have 8%, good, but I will go with 10%; Frye - 8%; Dunn - preferred the 8% grade. It was felt the whole of the hammerhead should be at 1%.

William Febiger met with the Board for an informal discussion regarding the subdivision of his parents land off Forest Street. Febiger said the frontage would be on his parents driveway. The road into the lot would be longer than the 1200' as specified in the subdivision regulations for a dead end road. It was felt that where the dirt road started should be the beginning of the driveway. He was advised to go to the D.P.W. and get a letter from them stating exactly how far they maintain the road.

George Johnson came before the Board again regarding the property of Margaret Lake. A decision will be made at the Board's meeting on February 4.

Water Resource Area - Madsen said one of the things Phil Herr has worked on was the concept of a Water Resource Area. He felt

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it should be addressed. The Board discussed it and felt this should be something to be discussed with all Town Boards. It was felt a district should be defined, where we are now drawing our water and make the area for a house lot larger, so it will reduce the density of septage from leaching into the area.

Cataldo moved to adjourn the meeting, seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10.40 p.m.

Gillian B. Palumbo

Essex Planning Board

January 7, 1987

Agenda

- 8:00 p.m. Review of Brookside
Apartment plans
- 8:30 p.m. Joseph Arena - Brentwood
Development - Property at
rear of Red Barrel Pub.

Business :

Preliminary plan of Low property on Story
Street.

Essex Planning Board

January 7, 1987

Present : Rolf Madsen, Chairman; Frances Dunn; Elizabeth Frye;
Alden Wilson; Everett Burnham; Westley Burnham.

Meeting called to order at 7:30 p.m.

The Minutes of the meeting of December 17, 1986 were read. Wilson moved to accept the Minutes of the meeting of December 17, 1986. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.

The Minutes of the meeting of December 30, 1986 were read. Madsen said a correction should be made, namely that Serafini had said he did not understand what the problem was regarding the signing of Peter Baughn's plan, that it should have been a 'walk through'. Madsen's reply was that no Form A that comes before the Board is a 'walk through'. E. Burnham moved we accept the Minutes with the correction. The motion was seconded by Dunn, with the Board voting unanimously in favor.

At this point, Madsen asked E. Burnham to chair the meeting.

A building permit application was received for John and Eugenia Mitchell, R162 Main Street Wenham, for the construction of a 2-family duplex at 90 Southern Avenue. Distance from street line 175', right side line 26', left side line 20', rear line 52'. Size of building, length 52', height 32', width 36', no. of stories - 2½. Area of land, 33,485 square feet.

W. Burnham moved we approve the application of John and Eugenia Mitchell, and Roger and Fran Pierce, R162 Main Street, Wenham, Mass., for a 2-family residence located at 90 Southern Avenue, finding it meets all zoning by-laws. The motion was seconded by Dunn, with the Board voting unanimously in favor.

The Board reviewed the plans for Brookside Apartments, Story Street. At this time E. Burnham relinquished the chair to Madsen. Scott DeWitt, together with attorney George Laventis, were present. Laventis said there is a state law which allows for pre-existing non-conforming structures to be altered or extended providing the special permit granting authority rules the change will not be substantially more detrimental to the neighborhood than the existing use. Madsen said, "I am aware of this. The Board will be acting on this as a non-conforming lot. The things to be addressed are parking, as it will have a direct effect on the neighbor, and the safety factor." DeWitt said, "At present there are 67 spaces, and I will add 16 extra for a total of 83. There are 25 2-bedroom units, 5-1-bedroom units, and I am proposing to add nine more bedrooms." Madsen said, "We would not want parking on the street. If you were to bring the parking area up to the required amount, if it were not non-conforming, where would you put it?" DeWitt said, "I have room to provide the additional parking. At present only the back lot is marked, the

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front isn't, so it's a bit haphazard at the moment. We are adding 16 spaces for the nine units, which will be right in front of the building." Dunn said, "Where will the new septic system be?" DeWitt - "It will be in front and was approved by the Board of Health last night." Madsen then asked how the Fire Department felt about the distance between the buildings. E. Burnham, who is the Fire Chief, said that DeWitt had agreed to put a fire stop between two of the buildings. One building is far enough away but he had still agreed to put in a brick wall. DeWitt said they would also put in a fire lane at the rear. Madsen said he would like to have a sign off from the Fire Department. DeWitt said he had also spoken with Chief Platt of the Police Department who approved the plan. The public hearing is scheduled for January 21, 1987 at 8 p.m.

The Low Property, Story Street - The plans for the subdivision were reviewed. Madsen said, "When we adopted our subdivision regulations we adopted an 8% grade. If we give a waiver on that, then it has to be given with a very good reason. If the Board members feel the 8% grade is too restrictive, I feel we should change the regulations and not keep granting waivers." W. Burnham said, "The only thing about the 10% grade here that I do not like is the accessing of lots. I also do not like the 4% grade on the turn-around." Madsen said, "We granted a 10% grade on Conomo Drive, but there were no lots accessing on to it."

Thomas Lane, Conomo Point, met with the Board for approval to reside in his house at 9, Middle Street, Conomo Point, year round. Lane said he had received approval from the Board of Health this week for a cistern that was installed. The Board of Health, in turn, recommended he meet with the Planning Board regarding year round occupancy. W. Burnham said, "After we approved Walter Mears' application, Town Counsel said verbally we had no right to approve the building application. Before we go ahead with this, we should check with Town Counsel concerning this." Lane was told he would have to go before the Conomo Point Commissioners for their approval and before the Building Inspector for a year round occupancy permit.

W. Burnham moved to adjourn the meeting. The motion was seconded by Wilson, with the Board voting unanimously in favor.

The meeting adjourned at 9:15 p.m.

Gillian B. Palumbo

AGENDA

- 7:50 p.m. ... Kim Pederson, Old Manchester Road
- 8:00 p.m. ... Public Hearing - Pine Ridge subdivision
- 8:30 p.m. ... Mr. Bennotti, Aprilla Farms, John Wise Avenue
- 8:50 p.m. ... Jeff Walsh - property on Main Street
- 9:00 p.m. ... Clay Morin - to sign plan of Misty Acres Trust
- 9:05 p.m. ... By-Law Committee
- 9:30 p.m. ... Dexter Rust - property at 129 John Wise Avenue (formerly Crocker's)
- 9:40 p.m. ... Peter Van Wyck - submission of modifications to Turtlewife subdivision plan

Essex Planning Board

December 7, 1988

Present: W. Burnham, Chairman; Everett Burnham; Frances Dunn;
Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson.

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

A letter was received from John Lambros of Choate Street regarding his land which is under Chapter 61B. A public hearing is scheduled for January by the Board of Selectmen.

Kim Pedersen, Old Manchester Road, met with the Board to discuss breaking off a one-acre parcel from her property. W. Burnham told her that a year ago the Board had indicated to her that once the road was upgraded then they could consider a Form A, subdivision control not required. Pedersen said that it had not been noted in the Minutes and she felt it should have been. W. Burnham said it did not matter if it was in the Minutes or not, because until her road was upgraded, the Board could not consider the Form A. W. Burnham suggested Pedersen talk to the Department of Public Works to see what their minimum standards were.

A public hearing was called to order relative to a proposal for a subdivision of land in Essex, located on Pond Street, as shown in a definitive plan submitted by Wheeler Street Riverside Trust. The subdivision is called Pine Ridge.

Ronald Ober and Charles Richard formally withdrew their plan. Madsen moved to accept the withdrawal of Pine Ridge Subdivision plans dated September 8, 1988. The motion was seconded by Story with the Board voting unanimously in favor. Ober and Richard gave the Board a letter requesting a waiver of the filing fee. Madsen said that waiver should be submitted as a waiver with the submittal of the new plan. Madsen moved to close the public hearing; seconded Story, with the Board voting unanimously in favor.

Norbett Bennotti, owner of Aprilla Farm, John Wise Avenue, met with the Board to discuss his proposal to divide the property into two parcels. One lot will contain the barns, and will be approximately 12 acres in size. Bennotti presented plans with his Form A, but the Board told him that the plan as presented was improperly drawn as it did not show the remaining lot's dimensions and area. Also both lots were not properly identified. Bennotti was told to return with a more complete plan.

Engineer Clay Morin met with the Board for their signatures on the definitive plan for Scot's Way subdivision. There was a discussion on the noise barrier.

December 7, 1988

Story moved we sign the Scot's Way definitive subdivision plan providing the proposed noise barrier of white pine, set at fifteen feet (15') in center, two rows offset, placed as shown, be at a minimum of of eight feet (8'), also noting that the plan has been certified by the Town Clerk, Sally Soucy, free of appeal of the twenty-day appeal period. The motion was seconded by Ginn, with the Board voting unanimously in favor. The Board signed the plan.


Jeffrey Walsh met with the Board to discuss changing the former Parlotta residence on Main Street into an antiques shop. Walsh said he would like to move the house back approximately 45 feet and provide parking in the front. He also would like to add on a wing to one side. He asked the Board of the possibility of using the first floor as an antiques shop and the second as an apartment. There was a discussion on the mixed use which the Board felt they could not approve. The Board also discussed parking and it was felt that Walsh would need approximately twenty parking spaces.

Michael Cataldo and Rebecca Linhart of the By-law Review Committee met with the Board to provide them with an up-date of their discussions. Cataldo said they have been studying the Home Occupation by-law and how to make it more workable. W. Burnham asked that the Board review the home occupation format which the Committee provided. Cataldo said the By-law Committee would also like to review 1) the issue of including ^{non-}tidal wetlands, 2) enforcement officer issues, i.e. no penalties for violating by-laws, and 3) watershed district.

Dexter Rust met with the Board to discuss his proposed purchase agreement of two pieces of property located at 129 John Wise Avenue. He would like to put his awning business in the barn and live in the residence. The Board told him the present owner had legally divided the property into two separate conforming lots and the proposed use would conform with Town by-laws.

Peter Van Wyck submitted the modifications to his definitive subdivision plan for Turtlewife Loop. The Board accepted the submittal of plans.

Madsen moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor. Meeting adjourned at 10:10 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Stuart Abrams, Patriots Landing
Walkway to lake
- 8:30 p.m. ... Pine Ridge Subdivision -
Cancelled
- 9:00 p.m. ... Misty Acres Trust - Scot's Way
Subdivision
- 9:30 p.m. ... Low Hill Subdivision - Clerk of
the Works - discussion of project

Business :

Decision on Peter Van Wyck's subdivision plan

Essex Planning Board

November 16, 1988

Present : Westley Burnham, Chairman; Everett Burnham; Frances Dunn; Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:45 p.m.

The Building Inspector submitted a building permit application for Michael and John Byrne, 234 Western Avenue, for construction of a building for storage of their equipment. Size of the building is length 80 feet, height 25 feet, width 40 feet, with two stories. W. Burnham - "What is the intent of the second floor?" Michael Byrne - "For our own offices of our company." Story - "We approved you initially on the basis of a home occupation, which I felt was stretching it a bit." Dunn said she would rather see just the one floor for equipment. She also thought it was stretching the home occupation by-law a bit with a second floor. W. Burnham - "We cannot authorize you to run a business from that property as it came in under a home occupation. There isn't a mechanism to do this. If you start stretching beyond the home occupation we will have a problem." Byrne - "Most of the employees leave the premises." Madsen - "A business is based at the corporate address. This has twelve people on the payroll." W. Burnham explained to Byrne that the Board could not deny him an accessory building, but problems could occur if offices were placed within the building. Ginn asked what color the building will be. Byrne said it would be made of Texture 1-11, and it would be white, the same color the house would be. Ginn then asked if the building is advantageous for Byrne's business or if it was something that could be screened. Byrne - "I do not want it to be seen. I guarantee it will be the nicest area on Western Avenue when we are through." Ginn - "Whose easement is at the back of the property?" Byrne - "That belongs to Filias, owner of the apartments."

Wilson moved that the Building Inspector issue a building permit to Michael and John Byrne, 234 Western Avenue, for construction of an 80' x 40' accessory building, as shown on plan dated November 16, 1988. The motion was seconded by Dunn, with W. Burnham, E. Burnham, Ginn, Dunn, Madsen and Wilson in favor; Story opposed.

The Board reviewed the definitive subdivision plan of Peter Van Wyck called Turtlewife Subdivision. It was noted that the wetlands were not delineated. Waivers were requested for radius from 200 feet to 175', station 31+30 to 34+90, and side slopes, station 14+25 left to 16+25 and station 18+10 to 20+25. A 2' wall was suggested for stabilisation of the side slopes. Drainage calculations were discussed. Ginn suggested if the Board is concerned, then have calculations submitted for the

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potentiality of the development. Sidewalks should shown or a waiver requested of the sidewalks. Concerns to be addressed were the bridge in the road and Board of Health concerns. Applicant failed to provide a layout of utilities. The water line should be 12". Board of Health said there was no perc information such as location, dates and results of soil testing indicated on plans. The bridge is not adequate. Easement approval from Tenneco was not given and construction details over the gas line for Mass. Department of Public Utilities was not shown.

The Board reviewed the definitive subdivision plan of Misty Acres Trust known as Scot's Way. A letter was received from Warren and Charles Messier, abutters to the property, requesting the Board require the applicant to provide an access way to the common boundary line of their property. Because of concerns from other abutters, the Board discussed limiting the hours of business. W. Burnham wondered if the Board could request a covenant on the hours of business. Madsen said they could. The Board then discussed the concerns of abutters in Hamilton. Letters read into the meeting were from Eugene and Kathleen Barnes, Blueberry Lane; Richard and Nancy Randall, Blueberry Lane; James and Margaret Fitzgerald, Blueberry Lane; Joel and Sherril Horvitz; and Candace Wheeler, Planning Coordinator of the Hamilton Planning Board. The Board requested sound barriers be placed between the subdivision and the abutters on Blueberry Lane. Also a covenant was requested on Lot No. 1 regarding the driveway of Walter Redding.

Madsen moved that we approve the definitive subdivision plan of Scot's Way, off Western Avenue, with modifications as follows:

- 1) Specific measures to be taken, to be indicated on the plan, to reduce noise between Lots 3, 4, 5, and abutters to the west;
- 2) compliance with the Order of Conditions, D.E.Q.E. No. 21-180, dated October 18, 1988, issued by the Essex Conservation Commission; and 3) a performance guarantee to be agreed upon and a Clerk of the Works, to be paid for by the applicant and approved by the Essex Planning Board, prior to commencement of construction. The motion was seconded by Wilson. The voting was as follows: Wilson - in favor, as it meets our regulations with the modifications; E. Burnham - in favor, as it is a good use of the property and meets the subdivision requirements; Madsen - in favor; Story - opposed. I have no argument with the plans, but I think it is a mistake for the Town to put a plan of this kind within the watershed area of Chebacco Lake; Ginn - in favor of the project; Dunn - in favor; W. Burnham - in favor, finding it meets all the subdivision regulations. I feel the watershed is adequately protected by M.G.L. with the provisions elicited. I feel we have protected the residential neighbors. The motion carried with six in favor and one opposed.

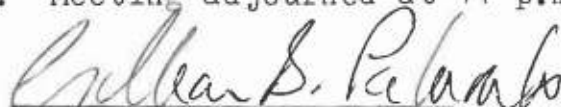
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Low Hill Subdivision - Clay Morin and Michael Stroman met with the Board to introduce James Staline who will be Clerk of the Works for Low Hill subdivision. Staline is the former Department of Public Works Superintendent for the Town of Hamilton. The Board discussed with Staline what they expected of him as Clerk of the Works, such as written reports given to them at each meeting so they are apprised of the progress. Stroman indicated to the Board they would like to start selling off the lots after seventy-five percent completion of the road.

Peter Van Wyck, Turtlewife Subdivision - Definitive plan

Madsen moved the Board deny the plan of Turtlewife Loop for the following reasons: 1. Regulation 6.02 Paragraph 11 - Boundaries of the wetlands were not delineated as defined by Essex By-law 6-10, Wetlands Districts; 2. Approval of the Massachusetts Department of Public Utilities and Tenneco Gas Company, where the road crosses the Tenneco Gas easement, was not documented; 3. Drainage calculations for the maximum potential development of the site were not provided; 4. Utility layouts for water, gas, and electricity are not drawn on the plan; 5. The requirements of 6.01-1, Paragraph L and 6.02, Paragraph 12 - requirements for proposed drainage, test pits, borings, etc., are not indicated on the plan; 6. 6.05, Paragraph 2 - requires Conservation Commission review prior to any definitive plan approval by the Board. The required Notice of Intent is not documented to have been filed with the Commission; 7. 6.06-1, Paragraph B - requires determination that the proposed development will not create an unwarranted safety hazard. The present condition of the bridge over the Alewife Brook on the access road known as Essex Park Road, in its present state, is inadequate for the proposed development; 8. Under 6.02, Paragraph 1 - a development's name is inappropriate if there is a similarity of name to another road within the Town of Essex; 9. All requested waivers, i.e. reduction of radius from 200' to 175', and side slopes, station 14+25 left to 16+25 and station 18+10 to 20+25, are denied due to inadequate explanation for their need. The motion was seconded by Story. The voting was as follows: Dunn - in favor of the motion, for the above reasons; Ginn - in favor of the motion for the above reasons; Story - in favor of the motion, finding myself in full agreement with the above reasons; E. Burnham - opposes the motion. I am in favor of approval of the plan with modifications, which would be much more workable with the Board; Wilson - in favor of the motion for the above reasons, and for lack of information and incomplete plans; Madsen - in favor of the motion for the above reasons. The motion carried with five in favor of the motion to deny the subdivision plan; one opposed, and the chair reserved the right not to vote.

Story moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor. Meeting adjourned at 11 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Patrick Flynn, building permit application
- 8:30 p.m. ... Donald Metcalfe - signatures on plan for Land Court
- 8:40 p.m. ... Charles Richard - Pine Ridge subdivision
- 9:30 p.m. ... Discussion of Peter Van Wyck's subdivision plan

①

Asif. Rose, Alder

△ Present with, Pat, Joe, Dana
November 2

BlDG permit application submitted
by Michael and John Byrne.
23 1/2 Western Ave.

~~Use of BlDG storage for
equipment / Company office~~
Distance from street line 145'
R.S. line 84', L.S. line 20',
New line 22'

Size of BlDG. Length 80'
Length 26', Width 60',
No of stories 2.

Area of land 38 000 sq ft.
Construction storage BlDG for
equipment - a 2nd story will
be used to house company
offices.

The BlDG permit application
was tabled until the next
meeting.

John Goodwin - registered
Surveyor, for Donald Metcalfe

He asked the N.S.D. to endorse the plan
so that it can be filed in Land Court.

met with re
150

2

Rep have seen some changes ^{since}
since 1987 by the Bd.

The New bandon ^{is} down
centre of ~~the~~ ^{stream} called
with both. There was a
controversy ^{made on} of ownership

That's all he said he is
trying to straighten out the
piece, as he pays taxes
on this.

Subdividing

Yes It is my understanding that
you as a registered surveyor
can put your stamp on it and
submit it to go out

Opinion that is not how the court sees
it. In order for it to be
acceptable to the court it
must be signed by the Bd.

Yes you are asking me to put
my signature on a plan
which is obviously non-conform

③

~~the~~ with no labelling on the
LR

Madsen Currently how are the deeds
here worded. Are these
currently existing as a
separate IR.

Goodwin

~~Relif~~ → LR 2 is a separate IR
Relif So by signing this we are
endorsing that the IR
exists

Goodwin

Relif So what creating a subdivision
we can't do it.

Goodwin The purpose for preparing the plan
is for arguing.

Madsen You are asking us to sign a
line I am not comfortable
signing this line which has been
altered. Also by signing this
we are creating ~~an~~ LR 3 and
I don't think we can ~~legally~~ legally
create LR 3.

Goodwin If I bring such a new line

do I stand a chance of getting it a plan signed.

Rolf wants to ask John Kennedy regarding the signing of approval with required plans.

Charles Messer gave the BD a written comment regarding Set's Way subdivision

Pine Ridge - Ron Ober / Charles Ridge Meland

debuter
subdivision
plans
not
w/

Charles met with the BD to discuss the ~~plans~~ ^{architect} Gene Hayes' ~~submittal~~ ^{note} plan with some changes

The BD has been shorted by 200' The BD felt that change ^{might} be more than a slight modification as stated in the regulations.

but there's no doubt that you have gone beyond a slight modification.

On the new ~~the~~ plan there are

eight lots:

^{Over}
The other side of the stable
area could be separated
~~from~~ as a separate lot.
He so felt it could not be
done unless ~~it~~^{the lot} was 40,000
sq. feet. in size

At the time we had a PTH
on December 7. for the Ridge
subdivision. Sounded Alder Allen farm

We had a ^{by the} discussion on Peter Van Wyck's
plan for Tanglewife Loop
~~It was~~ ^{one} ~~the~~ ^{is} ~~an~~ ^{adequate}
access to subdivision ^{or} ~~bridge~~ ^{and} ~~etc~~
is not adequate.

you moved to adjacent
Sounded Alder
Allen farm
10, 30, per

Essex Planning Board

October 19, 1988

A G E N D A

8:00 p.m. ... Public hearing - Misty Acres
Trust

9:00 p.m. ... Public hearing - Peter Van Wyck

Essex Planning Board

October 19, 1988

Present: Westley Burnham, Chairman; Frances Dunn; Joseph Ginn; Everett Burnham; Alden Wilson; Dana Story; Rolf Madsen (8:00 p.m.)

Meeting called to order at 7:45 p.m.

Building Inspector Richard Carter resubmitted the building permit application of Richard Teel, 245 Western Avenue. Part of Teel's building is located in Hamilton and the Board had requested that the building permit application be submitted to Hamilton Planning Board for their approval.

E. Burnham moved to approve the building permit application of Richard Teel, 245 Western Avenue, for the addition of a second story to the existing property, subject to Board of Health approval for additional restrooms and subject to approval of the Hamilton Planning Board for the rear part of the building which is located in the Town of Hamilton, finding under Essex By-law 6-4.2 that the proposed alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Wilson, with W. Burnham, E. Burnham, Dunn, Ginn, Story, and Wilson voting in favor.

A Public Hearing was held at 8:00 p.m. relative to a proposal for a subdivision of land in Essex known as Scot's Way, off Western Avenue, applicant Misty Acres Realty Trust. Engineer Clay Morin represented the applicant.

Morin said, "We have gone to the Conservation Commission and the Department of Public Works and have made revisions to the plan as well as the final drainage calculations. The detention basin is based on a 100 year storm. Two lots are on Western Avenue, normally coming under a Form A. The remaining ten lots are on the subdivision road known as Scot's Way, making a total of twelve lots on approximately twelve acres of land. Sheet 2 shows the construction plan and cross-section of the roadway, a 24' wide pavement with a minimum of 12" of gravel. In discussion with the D.P.W. we had originally suggested an 8" water line, but they would like a 12". We have not come to a decision as to whether it will be 8" or 12". The length of the street is 1100 feet to the throat of the cul-de-sac, then with the loop coming back makes it 1700 feet. As a matter of information we do have to replicate some wetlands. The general flow is down and hooking around behind the Package Store. The size of the

pipe and outlet is contained in the drainage calculations." Note: The revised set of drainage calculations have not yet been filed with the Town Clerk. Letters were received from the D.P.W. and Board of Health and read into the meeting. John Guerin, Chairman, Board of Selectmen - "I am curious as to the use of the property. If the buildings are of large areas and the water is no longer able to drain in that area it may become run-off instead of draining. It may have an impact."

W. Burnham - "There are no building permits for this property at present. As far as the exact buildings we have by-laws for that, and that will be addressed when the individual building permits are brought in."

Morin - "With regard to the run-off, we assumed a certain coverage of the parking areas and pavements and put that into the calculations, which they call the peak run-off. It was designed to direct run-off to the ponding area and then to the drain."

Joseph Brown asked if the stone wall shown is the existing stone wall. Land Surveyor Paul Donohoe told him it was.

Kathleen Barnes, Blueberry Lane - "I would like to have a definition of what light industry is. I understand tractor-trailers could be there which does not, in my opinion, define light industry. Also why does the road have to be so large if it is light industry?"

Barnes was told the Planning Board does not have a definition of light industry, but has by-law uses.

Nancy Randall asked if there was anything in the by-laws that could control the noise level.

Madsen - "Yes and no. If it falls under Special permit categories then we can have input into noise, but if not we have nothing in the regulations to stipulate any controls."

Vince Tulloch, Western Avenue - "It seems to me that at the skating rink there was going to be a gravel hauling business and you were going to restrict the time to 7 a.m."

Madsen - "That was under a Special Permit."

Jonathan Janes, Chebacco Lane, Hamilton, - From Lot 9 over I will be selling those lots to Ronnie Strong. Lot 10 will generally be left as conservation. My office is on Lot 11 and I have Lot 12. I have had an interest shown from a tree nursery."

Nancy Randall - "Could you explain to us where this project is with regard to approval?"

W. Burnham outlined the process. Randall also wanted to know about the appeal process.

John Guerin - "I feel there will be the potential of a lot of traffic coming from there, and I hope, therefore, that the site distances and a sign of trucks entering will be

considered."

W. Burnham said it was his intention to leave a period of time open for written comments until November 2 for the public, D.P.W. and Conservation Commission. Madsen wondered if a traffic study had been done and taken the worst case scenario of what could be on the lots.

Story moved that the hearing be closed. The motion was seconded by Dunn, with the Board voting unanimously in favor. The hearing closed at 8:40 p.m.

Old Essex Village - It was noted that the Board of Health has a problem with the square footage and the septic system.

Minutes continued to Page 4.

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A public hearing was held at 9:00 p.m. relative to a proposal for a subdivision of land in Essex, located on Essex Park Road, submitted by Peter Van Wyck.

W. Burnham read a letter into the meeting from the D.P.W. A letter from the Board of Health and Health Agent, Linda Wimer, was also read into the meeting. Robert Klopotoski, surveyor and designer of Survey Associates, Gloucester, representing Peter Van Wyck, said, "The proposal before you tonight is basically an extension of Essex Park Road, which is a road approved by the Planning Board several years ago. Essex Park Road will be extended for about 300 feet in a straight line, at which point the road will loop back on itself. The road configurations for Essex Park Road up along the gas line is the same configurations as proposed previously in other subdivision plans. There is a total of 4,300 feet of street to be constructed." W. Burnham - "A site visit was held and we did go up and walk the property for informational purposes." Elisabeth Frye, abutter, - "Where are the houses? How many are planned for this subdivision? In other words, have you got a subdivision plan or a road plan?" W. Burnham - "There are four lots." Frye - "Is the Board aware that the D.E.Q.E. is requiring an Environmental Impact Report on the whole business - the brook which has been cleared and up near the lots you have been approving at the other end. And you are involved in the wetlands by-law. Although that is Conservation and State, it is also you. Have you looked at this area that has been cleared over here behind Pond Street?" W. Burnham - "You mean the work that was approved by the Conservation Commission." Betsy Fawcett - "It was appealed by the D.E.Q.E." W. Burnham - "I'm not aware of an appeal, no." Frye - "It was appealed by the D.E.Q.E. not an individual. David Elwell can tell you better about the bridge on Essex Park Road than I. I don't see why the Town should pay for the repair of this bridge for this developer's subdivision." W. Burnham - "The question is, can we deny a man his right to subdivide because the Town has been remiss in maintaining this bridge?" Frye - "It was my understanding that the D.P.W. picks what they think is the most needy, and other than that you have to wait." W. Burnham - "We will take that up with the D.P.W. and ask them for their evaluation of the bridge." Madsen - "Is there a problem with the bridge?" David Elwell, abutter, - "When the Town built that they put in two 5' culverts. I understand they are only good for twenty to twenty-five years, and they are rusting out. When they put them on they didn't put abutments on the edges and now they are washed out." W. Burnham - "I don't disbelieve you, but I'm not qualified to make a decision as to whether the bridge is in good shape or not." Fawcett - "If the subdivision were approved and the bridge had to be rebuilt, it would obligate the Town to all kinds of unforeseen liability and expense. The Executive Office of Environmental Affairs is requiring an Environmental Impact Report on not just this area but the area of Turtleback Road combined with it." Frye - "It is my understanding you have to deem whether or not that road is adequate. Granted the Town has an obligation to fix it at some

October 19, 1988

point as it needs to fix several other roads, but at this point you have to deem whether that is going to be adequate with the load he puts on it." W. Burnham - "I am going to request from the D.P.W. an evaluation of the bridge and with that we can base our assumption as to whether the road is adequate or not." Fawcett - "There has got to be a very careful analysis of the work up there which will, perhaps, increase run-off, and any development there will increase the runoff and might have deleterious effects on the downstream abutters and might cause siltation into the Alewife Brook." Elwell - "How much of this road is in wetlands now?" W. Burnham - "I don't know." Madsen - "The wetlands should be delineated on the plans." Klopotoski - "The specific delineations have not been made on the plan. They are, where the wetlands exist, marked as such, but without specific delineation. There is a portion of the road at the beginning of Essex Park Road which must cross the wetlands. There is a small portion of the road about 1,000 feet up from Essex Park Road which abuts the wetlands. Most of the remainder of the road is away from wetlands, except for a piece which runs along the border in the vicinity of station 11-14." W. Burnham - "In lieu of no correspondence from the Conservation Commission, is there a Notice of Intent being acted upon or in their realm at the moment?" Peter Van Wyck - "We were going to file with them after we went through the Planning Board meeting. It's just a step by step procedure." W. Burnham - "Any approval prior to a signing is going to involve at least an Order of Conditions and approval from the Conservation Commission." Klopotoski - "The Conservation Commission is supposed to be the last Board. If we at least get the filing done here, get the comments out of the way, get the recommendations of the various Boards, there corrections of the plans, file with the Conservation Commission and try and get action while the action is still being taken by the Planning Board. At least the two Boards are looking at the same set of plans." W. Burnham - "As a clarification, though, we are not going to approve these until we have the final input from the Conservation Commission, so if you are waiting for our approval...." Klopotoski - "We are not waiting for approval. We are waiting for recommendations on some of the details." Madsen - "I have a problem with this method because this is a definitive plan." W. Burnham - "There was no preliminary plan filed with this." Klopotoski - "The Conservation Commission will take place as soon as I can straighten out the specific details." Van Wyck - "Why don't you do your action subject to the action of the Conservation Commission?" W. Burnham - "When we approve it I would prefer that it have gone the route where any modifications would or would not be required. Before we take any final action on this I will request that a Notice of Intent and at least a preliminary finding from the Conservation Commission be issued to us, or at least an opinion." Ginn - "With these plans, I don't believe they will be adequate for the Commission to make its determination. There is a lot missing from these, so what that will mean is that he is going to have to upgrade his plans, which means a new set of plans will have to be made. Or is Peter going to file two different sets of plans, one for the

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Conservation Commission and one for the Planning Board."
Van Wyck - "These plans are drawn for the purposes of the Planning Board. What we will do is to map and flag the wetlands."
Fawcett - "The Planning Board should know the D.E.Q.E. has an enforcement order against Mr. Van Wyck for all his land within 100 feet of wetlands, and you should also ask him when he plans to file an Environmental Impact Report which the State has required." W. Burnham - "Your concerns with the D.E.Q.E. and the various orders he is under are accepted. What we have in front of us is a subdivision request which is a separate procedure under Mass. General Laws, with specific items, which, as far as another agency taking legal action against him, I'm not sure we can deny him." Fawcett - "You wouldn't want to be a party to an illegal action." W. Burnham - "That's what I'm trying to avoid." Story - "I'd like to ask Mrs. Fawcett exactly what that means, that the D.E.Q.E. has an enforcement order." Fawcett - "It means that he cannot do any work on land owned and controlled by him, land subject to M.G.L. Chapter 131, Section 40, the Wetlands Protection Act." W. Burnham - "What you have just stated is that he is not allowed to work. It doesn't mean we cannot approve things on paper to set it up. From what my understanding is, he cannot go up and commence construction until he clears up these matters. Our obligation to work his way through the subdivision control procedure is to go through this; we are still shovelling paper at this point. It is when he starts construction he falls under the jurisdiction of those orders and stipulations and other things outstanding on his behalf." Fawcett - "Does the clock start running tonight?" W. Burnham - "The clock technically started running February 17 on this, which, if it hadn't been for extensions and other considerations to try and deal with other problems which have arisen on this plans, it technically would have already been approved." Fawcett - "Is this the same plan that was filed in February?" W. Burnham - "Yes." Wilson - "Do we have a piece of paper with an official signature that verifies the statements Mrs. Fawcett is making?" Madsen - "It's immaterial. At a public hearing anyone can say what they want." W. Burnham - "In my hand I do not have any official notification. I have a stack of Environmental Notification Forms. Which forms are specifically active at this time I do not know." Ginn - "It is our understanding with the Conservation Commission from Peter's new pond which was recently constructed D.E.Q.E. is going to be asking for an E.N.F. on the property towards Pond Street. That was according to the conservation Bob Borden had with Jim Sprague." It was noted that the site visit was made on the seventeenth of September. Frye - "Having made an on-site inspection, don't you agree there is a potential for flooding of houses along Alewife Brook behind houses on Western Avenue?" W. Burnham - "We'll take that under consideration." David Elwell - "Is there going to be a Clerk of the Works on the road?" W. Burnham - "Yes. That's one of the requirements." Madsen - "The plan could use a little bit more work." Van Wyck - "What besides the wetlands information would you like to see on it?" Madsen - "What the D.P.W. has concerns about." Fawcett - "There is a piece of publicly held land up in here near Mr. Perkins which is owned

October 19, 1988

by the Town of Essex, and belongs to the people, and I suggest strongly that it be delineated on all plans having to do with anybody's projects in this area."

Klopotoski - "For the record, a piece of Town property does abut Mr. Perkins but does not abut any of the property of Mr. Van Wyck shown on this plan."

Frye - "The reason I feel they should be on there is because Deer and Hemlock Ponds are so important to this project."

Fawcett - "When does the clock start running?"

W. Burnham - "The clock started running February 17. We are on borrowed time. I haven't discussed it with the developer as to what we are going to come up with as a new dead line date for action. As of now, we are on an extended time frame due to other circumstances which arose through the spring and summer."

Madsen - "I feel we should set a date this evening."

Van Wyck - "If you let us know what items should be on the plan, we will update the plans to take care of the D.P.W.'s concerns. That seems to be the major concern, lack of information on the plans."

Ginn - "Would you feel comfortable going to the Conservation Commission with those plans?"

Van Wyck - "Yes, I would."

W. Burnham - "Are you planning on submitting this set of plans to the Conservation Commission?"

Klopotoski - "Yes."

Madsen - "I don't think we have any choice. The plans submitted at the public hearing are the plans we have to act on. We cannot take another set of plans given to us with revised sheet 2 and insert that into the plan after the public hearing. We have to make a determination on what is on the table only, and if we do anything else but that we are remiss on what our duties are."

Klopotoski - "Before the plans go to the Conservation Commission I want to get all the details worked out and come up with reports such as the D.P.W. and anything else which was mentioned tonight, such as wetlands. I would request the Planning Board extend the public hearing for whatever is the next time they would like to see the plans, so I may add to the plans before you the modifications and the various recommendations that you are asking for. They will become a part of the public hearing."

Madsen - "The Conservation Commission's response in this public hearing is no comment. The Fire Chief is no comment, the Police Chief is no comment. We have two responses and the rest are no comment and that is how the public record should read. The applicant chose not to choose the preliminary plan process on this plan. The whole aspect of the preliminary process is to give the opportunity to the developer to force a finding by the Board, to take our finding back and make the revisions so his definitive plan, in theory, will go through with an approval. I don't think we can take any revisions. What I want to act on is the original filing only. If the Board chooses to act with an approval with modifications and that's the direction we want to go in, we can do that."

Van Wyck - "I would like to point out that the preliminary plan is much less detailed than what I have here. These are really quite detailed plans. As a developer, you can turn it down and I have the right to make remedies and

October 19, 1988

resubmit it."

Klopotoski - "If you deny the plan for lack of information you are going to have to state what the information is that is necessary and then you are really stuck with a resubmittal showing whatever reasons you can come up with for the denial, and those are the only considerations you may make in reconsidering that resubmission. I would much rather get the best set of plans on the table as is possible, so we may have concrete and definitive reasons for approval or denial."

Madsen - "Then why don't you withdraw the plan and resubmit a new plan?"

Van Wyck - "We want your input. We would like a written letter stating what you would like to see in it."

Story - "What you are saying is making a preliminary plan of this?"

Madsen - "I would suggest you take a copy of the Minutes and you can just go from there."

Frye - "I think that Peter, in preparing these plans for you, should go right through his regulations and you as a Board looking at them, should go through your regulations to make sure everything has been addressed."

Madsen moved to close the public hearing; seconded by Dunn, with the Board voting unanimously in favor. The public hearing closed at 9:50 p.m.


W. Burnham asked if thirty days was adequate as a deadline date. Van Wyck agreed to the extension.

The deadline date for a decision on this submittal was set at November 18, 1988.

Wilson moved to adjourn the meeting; seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned at 10:05 p.m.

Respectfully submitted by:



Gillian B. Palumbo

Essex Planning Board

October 5, 1988

AGENDA

- 8:00 p.m. ... Michael Davis - sign a plan
- 8:30 p.m. ... Dexter Rust - change of use of
property on Main Street
- 8:45 p.m. ... Marilyn Heath
- 9:00 p.m. ... Art Spencer or representative -
Sand Bar Pizza

Essex Planning Board

October 5, 1988

Present: Westley Burnham, Chairman; Everett Burnham; Frances Dunn; Joseph Ginn; Rolf Madsen (came late); Dana Story; Alden Wilson.

Meeting called to order at 7:55 p.m.

Michael Davis met with the Board to submit a Form A plan, subdivision approval not required, for two lots off Western Avenue.

Dunn moved to approve the Form A application, subdivision approval not required, of Natalina Davis, plan of land dated September 27, 1988, for the creation of two conforming lots off Western Avenue, finding this meets all the requirements of the Essex Subdivision Regulations. The motion was seconded by Wilson, with W. Burnham, E. Burnham, Dunn, Ginn, Story and Wilson voting unanimously in favor. The Board signed the plan.

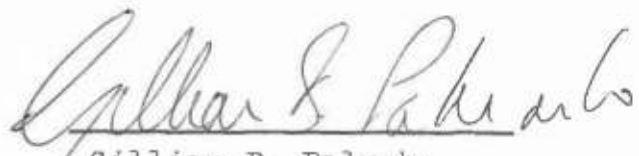
Mrs. Spencer, representing Arthur Spencer of Sandbar Pizza, Eastern Avenue, met with the Board to discuss a proposal to move the video store and pizza shop to property on Main Street, the site of the old Richdale Store. Spencer said they want to remove the large rock to create parking. It was suggested they check the by-laws for parking and also check with the Conservation Commission, Board of Health and Department of Public Works first.

The Minutes of the meetings of July 6, July 20, August 3 and September 7 were read.

Dunn moved to approve the Minutes of July 6, July 20, August 3, and September 7, 1988. The motion was seconded by Ginn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting, seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 9:00 p.m.


Gillian B. Palumbo

AGENDA

- 7:50 p.m. ... Susan Carter - building permit application,
Brook Pasture subdivision
- 7:50 p.m. ... Maurice Roberts - covenant for Brook
Pasture subdivision
- 8:00 p.m. ... Noah's Hill preliminary subdivision plan
review
- 8:10 p.m. ... Submission of definitive subdivision plan
for Pine Ridge, Pond Street
- 8:15 p.m. ... Paul Russell, Gullwing - building permit
application
- 8:30 p.m. ... Michael Cataldo - zoning committee
Cancelled
- 9:00 p.m. ... Essex Reach preliminary subdivision plan
review
- 9:15 p.m. ... Dexter Rust, property on Main Street

Business:

- Discussion on Deer Run Estates
- Peter Van Wyck's public hearing date
- Ronald Strong's public hearing date

Essex Planning Board

September 21, 1988

Present : W. Burnham, Chairman; Frances Dunn; Everett Burnham; Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

Robert and Susan Carter submitted a building permit application for construction of a single family residence on Lot #2, Brook Pasture Road, off Martin Street. Area of land 46,000 square feet; distance from street line 66± feet, right side line 30± feet, left side line 45± feet, rear line 180± feet, no. of stories - 1½.

Wilson moved that the Building Inspector issue a permit to Robert and Susan Carter, 12 Honeysuckle Road, Gloucester, for the construction of a single family dwelling on Brook Pasture Road, as it meets the existing by-laws. The motion was seconded by Ginn, with the Board voting unanimously in favor.

W. Burnham read an extension agreement from attorney John Serafini for the Charlottee Partnership, Deer Run Estates, which reads as follows:-

"We, the Applicant, Charlottee Partnership agree with the Essex Planning Board to an extension of time through December 30, 1988 for action by the Board on the Applicant's application for a special permit under 6-6.9(k) of the Essex Zoning Bylaw for the premises owned by said partnership off Western Avenue in Essex (Assessor's Map 8, Parcel 52C)." The extension agreement was dated September 13, 1988, and signed by John R. Serafini, Attorney for the applicant. W. Burnham signed the agreement for the Planning Board at this meeting, after Madsen moved to grant the said request. The motion was seconded by Wilson, with the Board voting unanimously in favor.

The Board reviewed the preliminary subdivision plan of Noah's Hill, off Addison Street.

Madsen moved to approve the preliminary subdivision plan of Noah's Hill with the following additions required to be on the definitive plan: 1) Definitive lot lines for entire lot; 2) All abutting property must have owners indicated on the plan; 3) Name of subdivision and road on plan; 4) Lacks the required block for signatures; 5) Preparer's name and seal on the plan; 6) Names and widths of all adjacent streets, right-of-ways and/or easements; 7) All lots must be clearly numbered in consecutive order; 8) Drainage systems must be shown; 9) Complete topographic data, and denial of the following waivers: 1) shoulder requirement if ledge is more extensive than expected, 2) fire hydrant requirement, and 3) the minimum turning radius of 200 feet to approximately 125 feet. The motion was seconded by Story, with the Board voting unanimously in favor.

The Definitive subdivision plan for the Pine Ridge subdivision, off Pond Street, was submitted to the Board. A check for \$1600 was submitted with the plan.

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Paul Russell, of Gullwing, Western Avenue, submitted a building permit application to the Board for a proposed addition to Unit 2 of Alewife Condominium. Russell had been told at a previous meeting to give the Board a plan of parking, which he submitted. There are sixty-two existing spaces with a proposed eighty new spaces, making a total of 142 cars which can be parked.

E. Burnham moved we approve the application for a building permit for PMR Realty Trust, Western Avenue, for the construction of an addition on the rear of the building consisting of 11,000 square feet on the ground level and 3,500 square feet on the second floor for office space and storage. The motion was seconded by Madsen, with the Board voting unanimously in favor.

Confirmation was received of the revised plan for Scot's Way (Misty Acres Realty Trust.)

The Board reviewed the preliminary plan of Essex Reach subdivision, Phase II.

Madsen moved we approve the preliminary plan of Essex Reach, Phase II, with the following modifications: 1) The road be reduced to 1200 feet in length as per the subdivision regulations, 2) there be no more than an 8% grade on the road, and 3) cul-de-sac grade be no more than 2%. Further, the plan requires a full list of all abutters, 2) full list of known easements and/or right-of-ways, 3) recording of widths of adjacent streets, and 4) further drainage information as it affects the abutters. The motion was seconded by Wilson, with W. Burnham, E. Burnham, Ginn, Madsen, Story and Wilson voting in favor; Dunn was not present at the voting.

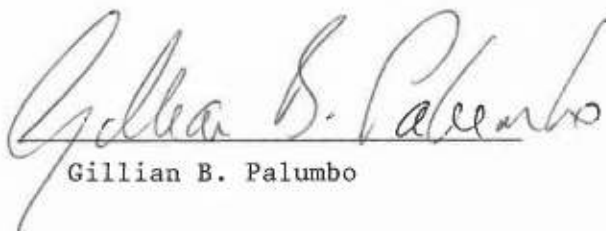
Dexter Rust met with the Board to discuss a change of use at 154 Main Street, the property of his grandmother. 154 Main Street is a duplex with different owners for each half of the building. The Board felt they could not make a ruling on this at this time until a review of the by-laws had been made.

Madsen moved to hold a public hearing for Scot's Way subdivision on October 19 at 8:00 p.m. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Madsen moved to hold a public hearing for Turtlewife Loop subdivision on October 19, 1988, at 9:00 p.m. The motion was seconded by Ginn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Attorney Michael Shea representing
Gus Means, Jr., Belcher Street -
resigning of plan
- 8:30 p.m. ... Ron Graham, Prosepct Street -
building permit application
- 8:45 p.m. ... Paul Russell, Gullwing, Western
Avenue - building permit application
- 9:00 p.m. ... Mark Davis, regarding property at
17 Maple Street
- 9:15 p.m. ... Clay Morin - re: Ronald Strong
definitive subdivision plan

Essex Planning Board

September 7, 1988

Present : Westley Burnham, Chairman; Everett Burnham; Francis Dunn; Joseph Ginn; Rolf Madsen; Dana Story.

Meeting called to order at 7:45 p.m.

A building permit application was submitted to the Board for Peter and Lydia Sherwood, 246 Western Avenue, for an addition to the existing residence. Addition length 14', height 18.5', width 10.75', no. of stories 2. Area of land 22,364 square feet; distance from street line 74', right side line 19.73', left side line 65.5', rear line 57'. Size of building 26.5', height 19.75', width 24.5', no. of stories 2.

E. Burnham moved we approve the application to put an addition on the existing residence of Lydia Sherwood, 246 Western Avenue, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story, with the Board voting as follows: W. Burnham, E. Burnham, Dunn, Ginn, Story in favor; Madsen absent.

A building permit application was submitted to the Board for Salvatore Auditore, 38 South Avenue, for the addition of a 12' x 16' deck to the rear of the residence .

Story moved that a building permit be granted to Salvatore Auditore for a 12' x 16' deck, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Ginn, with W. Burnham, E. Burnham, Dunn, Ginn, Story voting in favor; Madsen was absent.

A building permit application was submitted to the Board for Stephen Congdon and Pamela Stone, 81 Southern Avenue, to remove two existing walls, rebuild rear wall adding 8' toward front of house.

Ginn moved we approve the building permit of Stephen Congdon and Pamela Stone, 81 Southern Avenue, Essex, for the repair of the back of the house and installation of french doors, windows and a deck, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was submitted to the Board for Kurt A. and Mary Wilhelm, 28 Western Avenue, for the construction of a 26'6" x 32'6" attached garage. Distance from street line 65', right side line 33', rear line 70'.

September 7, 1988

E. Burnham moved a building permit be given to Kurt and Mary Wilhelm, 28 Western Avenue, to build a proposed garage 26'6" by 32'6" finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Madsen, with the Board voting unanimously in favor.

Attorney Michael Shea met with the Board to have the plan of Augustus Means, Jr., Belcher Street, resigned. Shea said when the plan was taken to the Registry of Deeds for filing, the ink was found not to be indelible, and therefore was not acceptable to the Registry.

Madsen moved we resign the plan of land of Augustus G. Means, Jr., Belcher Street, Essex, dated January 6, 1988, due to a scrivener's error. The motion was seconded by Story, with W. Burnham, E. Burnham, Dunn, Madsen and Story voting in favor; Ginn voted present.

A building permit application was submitted to the Board for Timothy and Jane Hill, 21 Gregory Island Road, for a proposed full second story addition. The foot print will not change. Size of the building, length 52', height 22', width 26', no. of stories 2.

Ginn moved that Timothy and Joan Hill, 21 Gregory Island Road, be issued a building permit for renovation of their single family home to include repair of existing single story, and addition of a full second story on the original footprint and foundation, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood.

A building permit application was submitted to the Board for Ron Graham, 6 Prospect Street for the construction of a 20' x 67½' wood frame addition consisting of 2½ baths, three bedrooms, living area, laundry room, two-car garage, full basement. Distance from street line 12', right side line 163', left side line 13', rear line 42½'. Size of building - height 42+', height 16+', width 18½+', no. of stories - 2. Area of land 19,400 square feet.

E. Burnham moved we approve the building permit application of Ron Graham, 6 Prospect Street, for the construction of a 20' x 67½' addition as per attached plan, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Madsen, with the Board voting unanimously in favor.

A building permit application was submitted to the Board for Albert Sivo, 54 Martin Street, for construction of a 24' x 22' addition.

Ginn moved that Albert Sivo, 54 Martin Street, be issued a

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building permit for a 24' x 22' addition to be a garage with a small room attached to existing house, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood, the permit to be issued contingent upon Board of Health approval, and letters from abutters. The motion was seconded by Dunn, with the Board voting unanimously in favor.

A building permit application was submitted to the Board for PMR Realty Trust, 106 Western Avenue, for an addition to Unit 2 of Alewife Condominium. The second floor will be office space and storage for spare parts. The land coverage of the building is 61,707 square feet, with Unit 1 - 23,231 s.f., unit 2 - 25,940 s.f. and unit 3 - 11,936 s.f. Area of land - 252,240 s.f. Madsen said he would like to see that there is adequate parking and to see it delineated. Gullwing has twenty-three employees. The Board tabled their decision on the permit until their next meeting on September 21.

Mark and Karin David met with the Board for a discussion on their proposed purchase of 17 Maple Street. David would like to remodel the entire interior and make it a three-bedroom single family dwelling. The Board felt no finding by them was necessary.

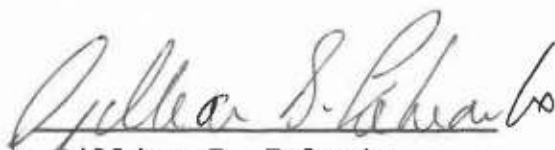
Ronald Strong and Jonathan James submitted to the Board their definitive subdivision plan for property on Western Avenue. A check for \$1900.00 was submitted with the plan.

John Serafini, attorney for the Charlotte Partnership met with the Board for an informal discussion regarding a letter sent June 19, McGregor, Shea and Doliner's rebuttal and Serafini's reply to that rebuttal.

Madsen moved to hold a special meeting for the purpose of a site visit to Essex Reach at 8:00 p.m. followed by a site visit to Peter Van Wyck's subdivision, Turtlewife Extension. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.


Gillian B. Palumbo

Essex Planning Board

August 3, 1988

AGENDA

8:00 p.m. ... Peter Van Wyck - submission
of Form A for Turtleback Circle

Business:

Review of preliminary plan of Noah's Hill, off
Addison Street

Review of preliminary plan of Essex Reach,
Eastern Avenue

Essex Planning Board

August 3, 1988

Present : Westley Burnham, Chairman; Joseph Ginn; Rolf Madsen;
Alden Wilson.

Meeting called to order at 7:45 p.m.

A building permit application for Lydia and Peter Sherwood, 246 Western Avenue, for an addition to an existing single family residence, was submitted to the Board. The area of land is 22,364 square feet. The right side setback is being reduced from 19.75 feet to 9 feet. Letters had not been obtained from the abutters, so the Board took no action at this time.

A building permit application was submitted to the Board for Richard and Mary Ellen Moore, 114 Southern Avenue, for the addition of a deck, length 30', height 20', width 12', no. of stories - 1. Distance from street line 70', right side line 70', left side 72'.

Madsen moved we approve the addition of a 30' x 12' deck for Richard F. and Mary Ellen Moore, 114 Southern Avenue, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was submitted for Vernon Fullerton, 156 Rear Eastern Avenue, for an addition to an existing building. The area of land is approximately two acres. The Board received a letter of complaint from a neighbor stating that Fullerton had built an addition to his house which was too close to the lot line and that the addition is being used for a business. The Building Inspector was asked to check on the lot lines and area of land to see if Fullerton could be extending beyond a home occupation.

Peter Van Wyck submitted to the Board a Form A application for the division of four lots on Turtleback Circle. One of the lots shown, Van Wyck said, will be deeded for Conservation purposes, but the Board said that lot must be considered a house lot as it meets all the requirements. It must also be included in the total of twelve lots Van Wyck is allowed for Turtleback Circle. The lots are: No. 21 - 41,286 square feet; No. 22 - 48,486 square feet; No. 23 - 69,115 square feet; No. 24 - 83,529 square feet.

Ginn moved to approve the plan submitted by Peter Van Wyck, for a Form A subdivision of four lots, Nos. 21, 22, 23, 24, off Turtleback Road, as per plan dated August 2, 1988, finding approval is not required under the subdivision control law. The motion was seconded by Madsen, with the Board voting unanimously in favor. The Board signed the plan and a check was received for \$400.

August 3, 1988

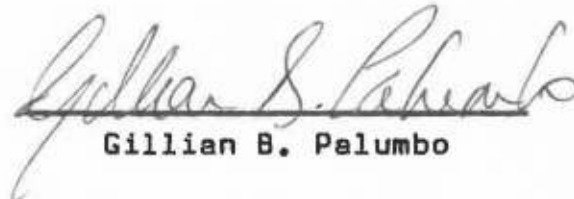
The Board reviewed the preliminary subdivision plan of Noah's Hill, property of William Tyler, off Addison Street. The Board noted that the lots outside of this subdivision were not shown on the plan. The list of waivers are: (1) the shoulder requirement of the road, if ledge is more extensive than expected; (2) the fire hydrant requirement; (3) the minimum turning radius. A site visit will be made to the property on Saturday, August 27 at 9:00 a.m.

Essex Reach subdivision, Eastern Avenue - The Board reviewed the preliminary subdivision plan for seven lots, with an open space lot of 37,000 square feet which was not numbered. The Board said that lot would require a number. A site visit will be made to the property on Saturday, August 27 at 8:00 a.m.

Wilson moved to forego the August 17 meeting and meet on September 7 at 7:30 p.m. The motion was seconded by Madsen, with the Board voting unanimously in favor.

Ginn moved to adjourn the meeting; seconded by Madsen, with the Board voting unanimously in favor.

Meeting adjourned at 9:45 p.m.


Gillian B. Palumbo

Essex Planning Board

July 20, 1988

AGENDA

- 8:00 p.m. ... Michael DiGuiseppe - submittal of preliminary plan for property off Eastern Avenue
- 8:30 p.m. ... Zoning by-law advisory committee
- 8:50 p.m.* ... *Dana Carter*
- 9:00 p.m. ... Stephen Roberti, Maple Street
- 9:15 p.m. ... Ronald Strong - action on prelim. plan
- 9:30 p.m. ... James Monahan (Tyler property)

Essex Planning Board

July 20, 1988

Present : Westley Burnham, Chairman; Frances Dunn; Joseph Ginn;
Alden Wilson.

Meeting called to order at 7:50 p.m.

The building inspector submitted a building permit application for Michael and Lorraine Berberian, 129 John Wise Avenue, for the construction of a 3-bedroom single family residence. Area of land 30,000⁺ square feet. Size of building, length 62', height 23', width 58'; no. of stories - 1½.

Ginn moved that the Planning Board approve the plan for a house on Lot #3, property of Michael and Lorraine Berberian, located on the corner of John Wise Avenue and Island Road, finding it meets all the requirements of the Essex By-laws. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Michael DiGuiseppe, Essex Reach subdivision, Eastern Avenue, submitted a preliminary subdivision plan for seven lots for single family homes or one duplex per lot, the property being located behind the Old Essex Village. DiGuiseppe said the property is presently owned by the Eben Creek Realty, which is Philip Budrose, owner of Old Essex Village. DiGuiseppe said he has the option to buy it if the approval goes through. The homes would be in the 300,000 to 400,000 dollar price range. The Board questioned DiGuiseppe regarding a newspaper advertisement which states two options for the 20-acre parcel, single family homes or multi-family homes, with all lots perced. Burnham said he had received telephone calls on this, from people who objected to the land being shown for sale, with a plan of the property, before approval being given by the Planning Board. A neighbor of the property said he had some doubts about the certification of some of the percolation tests, but Burnham said this could be raised at the public hearing.

Zoning By-law Committee - Michael Cataldo and Rebecca Linhart, members of the Zoning By-law Committee, met with the Board to discuss the appointment of members to the committee. They will meet with the Board again at their second meeting of September. Burnham said he would like to see for the next Town Meeting special permit regulations regarding residential/business areas. He would like more definition of home occupations. Burnham said he would also like to see a map colored to show what areas are left to work with.

Dana Carter met with the Board regarding a small parcel of land on Maple Street. Carter said it changed hands in 1964. It has

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had other deeds, but simply because of a name change on the deed, but it has remained under the name of Helen Stuart Ferris since 1964. Burnham said they had to have proof that it was not in common ownership before the zoning by-laws came into effect.


The Board reviewed the preliminary subdivision plan of Ronald Strong for a twelve lot subdivision at 227 Western Avenue. The total area is approximately 14 acres. The length of the road is 1100 feet plus the cul-de-sac. The lots will be for commercial use.

Wilson moved we accept the preliminary subdivision plan of Misty Acres Trust, Ronald Strong trustee, at 227 Western Avenue, plan dated May 7, 1988. The motion was seconded by Ginn, with the Board voting unanimously in favor.

James Monahan submitted a preliminary subdivision plan for three house lots for property belonging to William Tyler, off Addison Street.

Wilson moved to adjourn the meeting; seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.


Gillian B. Palumbo

AGENDA

- 7:30 p.m. ... Michael Berberian - Form A. 129 John Wise Avenue/Island Road
- 7:45 p.m. ... Michael DiGuiseppe - submittal of preliminary plan for property behind Old Essex Village
- 8:00 p.m. Joseph Brown - request for information about use of combination residential/business use.
- 8:15 p.m. ... Christopher Phillips - submittal of Form A.
- 8:30 p.m. ... Deer Run Special Permit Action
- 9:00 p.m. ... David Killebrew - informal discussion of subdivision, Rocky Hill Farm, Apple Street
- 9:15 p.m. ... Story/Desmond, Western Avenue
- 9:30 p.m. ... Jim Monahan - submittal preliminary plan
- 10:00 p.m. ... Michael Cataldo, open space committee

Essex Planning Board

July 6, 1988

Present : W. Burnham, Chairman; Everett Burnham; Frances Dunn; Joseph Ginn;
Rolf Madsen (7:46 p.m.); Alden Wilson.

Meeting called to order at 7:35 p.m.

Building Inspector Richard Carter submitted a building permit application for Richard and Pamela Merullo for a single family residence on Apple Street (Margaret Lake property). Distance from street line 53', right side line 33', left side line 80', rear line 31'. Size of building length 56', height 27'6", width 28', no. of stories - 2.

Wilson moved the Building Inspector issue a building permit to Richard and Pamela Merullo, 15 Eastern Avenue, Essex, for the construction of a residence on Apple Street, the lot deemed buildable by the Board of Appeals on December 9, 1987, as the building meets all setback and side lot requirements. The motion was seconded by E. Burnham, with W. Burnham, E. Burnham, Dunn, Ginn, and Wilson voting in favor; Madsen was not present at this time.

A building permit application was submitted for James Richardson, Island Road for the construction of a single family residence. Distance from street line 66', right side line 23', left side line 130', rear line 272'. Size of building, length 52'3½", height 30', width 16'2½", no. of stories - 2. Area of land 1.87 acres.

Wilson moved the Building Inspector issue a building permit to James Richardson, Island Road, Essex, for the purpose of construction of a new house and semi-attached garage, finding the setbacks meet with the Essex by-laws. The motion was seconded by Dunn, with W. Burnham, E. Burnham, Dunn, Ginn and Wilson voting in favor; Madsen was not present at this time.

A building permit application was submitted for David Sabatini, Lot 4, John Wise Avenue, for construction of a single family residence.

E. Burnham moved we approve the building permit application of David Sabatini, 299 Dodge Street, for a three-bedroom residential home on Lot 4, John Wise Avenue, as shown on plan of land dated June 10, 1987, subject to final approval of the Conservation Commission and the Board of Health. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A Form A subdivision approval not required was submitted to the Board by Michael Berberian for property located on the corner of John Wise Avenue and Island Road. Lot 1 - 32,197 square feet with frontage on John Wise Avenue; Lot 2 - 31,447 square feet with frontage on John Wise Avenue; Lot 3 - 34,081 square feet with frontage on Island Road. Berberian said the lots have had percolations tests done and he will be drilling two more wells. At present he has no plans for Lot 2. James Richardson, Island Road, wondered if there was a need for a full ground survey of a subdivision of this type. The subdivision was based, he said, on plans of record which maybe dated. Berberian said the property had been surveyed. There was a 100' discrepancy between

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his boundary and that of the Story's, which has now been resolved.

Madsen moved we approve under the subdivision control law the plan of land of Michael P. Berberian, plan of land dated June 30, 1988. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Michael DiGuiseppe, Manchester Properties, who had planned to submit a preliminary plan for property located behind the Old Essex Village told the Board he would like to reschedule his submittal to the next meeting, as he did not have the correct list of abutters.

Christopher Phillips, 74 Eastern Avenue, submitted a Form A application to the Board to make a slight amendment to the original plan. Phillips said it involved the transference of approximately 5,500 square feet of land to his daughter's property to allow a change in the driveway.

E. Burnham moved we approve under the subdivision control law not required the application of Christopher H. Phillips, 74 Eastern Avenue, for the transference of land, drawn by Hancock Survey, dated October 29, 1987. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Deer Run Estate - John Serafini, representing the Charlottee Partnership, met with the Board for their decision on the Special Permit Application. The Board had asked Town Counsel's opinion of a paragraph of Section 6-6.9(k) as follows: "All proposed multi-family conversion to three family, and multi-family and/or apartment land use be required to provide the Board of Health with a septic system plan to be approved before permits are given." W. Burnham read Town Counsel's opinion into the meeting. Serafini said he felt John Tierney's opinion did not fit the situation. He felt the permits referred to in the by-law were building permits and not special permits. Serafini then reviewed the reasons they change from septic systems to a treatment plant. He said because they went over the 15,000 gallons, the Board of Health had no jurisdiction over granting a permit; it had to come from D.E.Q.E. He felt because they were awaiting the state permit it was outside of the local Board of Health jurisdiction and therefore the above by-law did not apply. He feels enough safeguards have been drafted into the conditions. He then said, "Let's get the project into the courts. Forget about Town Counsel's opinion. I feel the Board has had enough information to vote on it. Vote on the project; let it go to the courts and have them make the decision. I think the Board can make a credible case as to why this doesn't apply." W. Burnham - "When you receive approval from the D.E.Q.E. it will have to come back to the local Board of Health for a variance, so it is not completely out of the local Board's hands." Serafini - "It has to come back to the Board of Health because local by-laws do not approve multiple housing to tie into one system. Potentially we do have to get a variance from them, but we won't know that until we hear from the D.E.Q.E." Ginn - "If the D.E.Q.E. does not approve it, won't it have to come back to the Board of Health and be revised?" Serafini - "It is usually not the ultimate situation where the state will not approve a system, unless the site is completely out of the question." Bruce Fortier - "There is nothing in the state codes that says the state can give exemptions or override local

July 6, 1988

laws. When Town Counsel examined the evidence after giving a verbal opinion, he contradicted himself; therefore there was a reason he found, upon examination, for this. The applicant had the capabilities of going with Title V requirements for a septic system, but chose to go with its own system. I urge the Board, if the applicant forces the Board to make a decision, to go with Town Counsel's opinion." Serafini - "But there is no septic system. Your by-law does not talk about a ground water system." W. Burnham - "The problem we have right now is that we have no statement from the Board of Health. I think a system handles wastewater whether it be a septic system or a groundwater system." Serafini at this point agreed to an extension of the time period for a decision from the Planning Board to September 21, 1988.

E. Burnham moved we grant a time extension of the Charlottee Partnership of the Special Permit Application dated December 15, 1987, for the Deer Run Condominium Development, through September 21, 1988. The motion was seconded by Ginn, with the Board voting unanimously in favor.

David Killebrew, Rocky Hill Farm, met with the Board for an informal discussion of a proposal to create a 2.85 acre parcel from his total lot size of 17.85 acres. Killebrew was told he would have to put in a subdivision road for frontage for the new lot.

John Story met with the Board for an informal discussion on subdividing his land located between Martin Street and Western Avenue. Story wants to create two lots from his 12-acre parcel. Story was advised that he would have to put in a subdivision road to create frontage for the two lots or he could build the two houses, together with an existing house, to be held in common ownership.

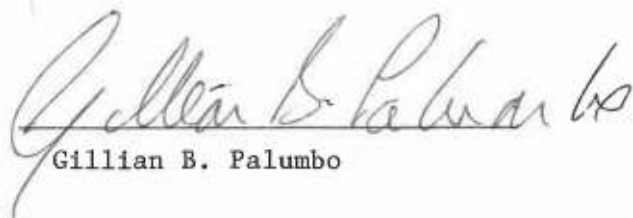
Michael Cataldo met with the Board for a discussion of the creation of a by-law review committee.

Madsen moved the Board go into executive session to discuss the litigation of Peter Van Wyck; seconded by Wilson, with the Board voting unanimously in favor.

Madsen moved to go out of executive session; seconded by Wilson, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 11 p.m.


Gillian B. Palumbo

AGENDA

- 7:45 p.m. ... Mrs. Bode, Southern Avenue
- 8:00 p.m. ... John Bediz
- 8:15 p.m. ... David Killebrew - Informal discussion of
subdivision, Rocky Hill Farm, Apple Street
- 8:30 p.m. ... Michael DiGuiseppe - submittal of preliminary
plan for property behind Old Essex Village
- 8:45 p.m. ... Michael Bavarian - Form A, John Wise Avenue
- 9:00 p.m. ... Michael Stroman/Clay Morin - Form A, Low Hill,
Story Street
- 9:15 p.m. ... Jack Schylling
- 9:30 p.m. ? ... Michael Cataldo - Committee for by-law revision

Business:

Read Minutes

Action on fee changes

Ronald Strong preliminary plan

Preliminary draft for Deer Run Estates Special Permit

Letter to the D.P.W. regarding Belcher Street.

June 15

Present: Pat, Wes, Alden, Morse, Wilson

Alden moved to B.I. issue - Slig permit to Mark Cobrey for the addition of a 16' x 15' deck on the north side of the dwelling under ^{the} pouring ^{work by law} S-C-2. Secured ~~Pat~~ Alden ~~favor~~ ^{approved} Wes, Pat, Alden, Morse ^{approved} Rolif abstained

Mark Cobrey, 7 Cuthbert St. ~~addition to front~~ addition of a deck 16' x 15' deck to the existing dwelling

Michael DiGusepe, ~~res.~~ submitted a plan ^{Ex 112} for sewer (ST) for property behind 101 Valley St. Original ^{to} prototype for Essex Road ^{is} was the subdivider road. but now they have extended the road at the former bend to obtain further & have flagged

DiGusepe

(2)

Total length of road 1400 feet.

Per^{al}

Asking for 2 waivers

- (1) Length of road
- (2)

~~Calculate length of road from subdivision~~

~~This paper and the sac width~~

~~Area of stable upland~~

~~No topographical plan ^{or sketch} submitted~~

~~No appurtenances with plan~~

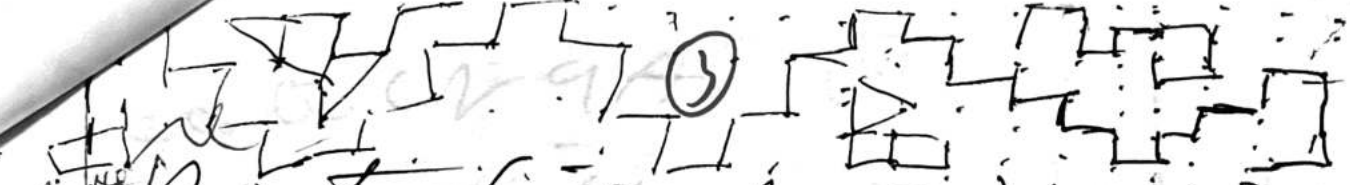
^{APD}
On lot 5 included tidal salt marsh which

cannot be calculated into the square footage ^{of a lot} for if fell there may be a problem with that.

John Howe following for abutter was present, D. Garooge decided to withdraw his plan at this time.

Michael Sawara, 129 John Wise Ave ^{submitted}

filed for a few Hart projects.



Property line of lot 2 and 3
 went ~~through~~ through an ~~and~~
 existing ~~same~~ ~~town~~, the 150
 feet ^{said}

Applicant will draw application
 and so will an application

~~Revised Strong preliminary plan.~~

Dear Ben Estates - reviewed
 questions we asked twice
 and verbal answers
 for T. Co. with reply in
 writing by next week
 no reason why a general
 permit ~~cannot~~ be approved
 pending ~~approval~~ decision of
 Bd of Health.

Lanett, Strong Street
 Applicant
 taking lot no 2 and by way
 of lot 9A.

those that we approved
 for A applicant ~~strong~~
 create lot 9A of CDR Realty Trust

create CR 9A (4)

of lowe full subdivision plans
dated 5/31/88

signed and stamped by James
C. Uspitochi

Scanned to

AM - favor

Jack Schyling -
wants to buy lot belonging
to Patrick J. Wally ^{Western Ave} using
house as offices and
to build a storage area
behind the existing residence.
The lot he planned was
larger than the 25% of the
lot required. He was
told he must get a variance
from the SD of Appeals.

Ad of need be accepted
minutes of -

signed by
AM in favor

Plot of W - ~~A~~ Tottlewife
Road

(5)

Answer on zoning committee
It was felt there should
be about 5 or 6 members
and one of the members should
be from the Swensen
Community.

Was felt perhaps the
H. B. should be written
with a little more clarity.

Roll was to adjourn
Bender Tom
A.M. - four

Adjourned 9:59 p.m.

A special meeting called to order
at 6:30 PM June 8, 1988 at the site
of proposed Misty Acres Commercial
subdivision, of R B Strong. Board
members E Burnham, J. Tenn
P Dunn and R Wilson present.
First order of business was a
vote on D.P.W. Removal of 4
trees, drainage and upgrading
of south end of Belcher street,
& scenic way. The vote was
unanimous in favor of proceeding
with the requested improvements.
The Strong site was then inspected
with input by engineers J James
& Morris Representative

and R. Strong, a question as
to why now no one had proposed
homes on the site was solved
by the answer that during the
day the noise from Quinn
installations was a bit much for
home consideration. It was
noted that the site is not
visible from the street or

but 1 or 2 houses. meeting closed
at 7:30 PM.

6-1-88

Motion for Peter Van Wyke

Alden made a motion - same as last
Mose seconded.

Alden - yes - I think ^{the Plan} met all
requirements for S.D. as ~~the~~ Apple St.
is adequate. P

~~Ralfe~~

Mose - yes - Finding no info
for hearing which would alter
our ^{original} ~~decision~~ decision of 1/15/88
also feel adequacy of T.B Road
~~exceeds~~ our Subdivision Requirements.

~~Frank - No, believe Turtleback Road to
be inadequate for traffic from 12
Additional lots and the hazard
created at the intersection w Apple
plus the inadequacy of apple st.
opposed~~

~~Pat - No Apple st is inadequate, T.B
is inadequate w/No Second Exit.~~

~~Ralfe - ~~Frank~~ No, I believe it is
a dead end road. Inadequacy
Construction of Existing Turtleback Road.~~

Frank
Pat
Ralfe

Joe abstained because
couldn't push it through

~~NO - Public Safety it contradicted -
A INTERSECTION @ Tangleback name
& APPR STREET. due to increased
TRAFFIC.~~

~~Wb. Reserved Right~~

~~I move to deny the appl. of Peter V W/
for the definitive plan of Peter V W for
Tangleback Circle on the grounds that~~

Wes. I believe it conforms
to our subdivision Control Laws.
I believe T. B. Road is Adequate
to support the additional Traffic,
with the conditions noted.

11:40 Adjourned - Ralfe -
Second FAT

Wes Yes Yes Yes

Joe ~~not~~ abstained

Ralfe present

Dana present

1 moved

AGENDA

- 7:50 p.m. ... Rick Young, Story Street
- 8:00 p.m. ... Public Hearing - Deer Run Estates
- 8:30 p.m. ... Public Hearing - Special Permit Fee Change
- 8:45 p.m. ... Public Hearing - Fee change, subdivision regulation
- 9:00 p.m. ... Dereck Brown - Form A, Conomo Point Road
- 9:15 p.m. ... Public Hearing - Scenic Way, Belcher Street, with hearing for shade tree removal.
- 9:45 p.m. ... Russ Henderson - Form A - Western Avenue

Essex Planning Board

May 18, 1988

Present : Westley Burnham, Chairman; E. Burnham; Francis Dunn;
Rolf Madsen; Dana Story; Alden Wilson; Joseph Ginn (late)

Meeting called to order at 7:30 p.m.

The Board received a Building Permit Application for Marshall and Jane Carpenter, for construction of a single family dwelling on Wood Drive. Size of building, length 80', height 24', width 38', no. of stories - 2½. Area of land - 3.0 acres. Distance from street line 200', right side line 90', left side line 50', rear line 250'.

Story moved that a building permit be issued to Marshall and Jane Carpenter for a single family dwelling with detached garage on 42 Wood Drive (shown as Lot 2 on plan dated July 2, 1987), pending approval from the Board of Health and documentation showing transfer of ownership of land to applicant. The motion was seconded by Wilson, with W. Burnham, E. Burnham, Dunn, Story and Wilson voting in favor; Madsen voted present; Ginn absent.

Election of Planning Board officers - Madsen moved to postpone the election of the Board's officers to our next meeting on June 1. The motion was seconded by Story, with the Board voting unanimously in favor.

The Board received a building permit application from Donald Young, 22 Story Street, for an addition to the existing house, connected by a breezeway. The Board requested a concrete foundation be placed under the breezeway. Distance from street line 60', right side line 22', left side line 20', rear line 89'. Length of building 38', height 24'6", width 30'; area of land - 28,760 square feet.

Madsen moved we grant a building permit to Donald P. Young, 22 Story Street, to create a duplex, with garage and breezeway and single dwelling unit above, finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use. (Letters of abutters must be received by the Building Inspector before the permit is issued.) The motion was seconded by E. Burnham, with W. Burnham, E. Burnham, Ginn, Madsen, Story and Wilson voting in favor; Dunn voted present.

A public hearing was held at 8:05 p.m. for a subdivision road for the Charlotte Partnership for property off Western Avenue, known as Deer Run Estates. W. Burnham said he wanted to make it clear that this hearing was specifically for the subdivision road. Attorney John Serafini, representing the Charlotte Partnership, said, "We filed at the request of the Board to clarify the issue of frontage. We have not cut this lot up, but we are just filing this to clarify the frontage for the lot. We felt, if the Board

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approves this, it will undoubtedly have the necessary 300 feet frontage under the Special Permit rules." Comments from the Chief of Police, Department of Public Works, Board of Health, Fire Chief, and McGregor, Shea and Doliner were read into the meeting. D.P.W. - a) Island in center of road: the 6" wide raised island in the center of the road is not compatible with Town standards. b) Sheet 4 of 5 sheets: we cannot decipher notes pertaining to drainage details specifically type of pipe to be used. c) Are there catch basin hoods and a maintenance contract, as such, to maintain drainage? d) Water Main: We want a guarantee that the water main will be looped from the end of the subdivision road back through the lot to tie in at station 6+00. e) The drain located at station 3+50, approximately, drains into a pond which is contiguous with our water shed which supplies the Town's water. A non-sodium base road deicer must be utilized. Police Chief Platt said he wanted to see a double solid yellow line from the entrance divider to the point noted on the attached sketch; double solid lines (stop lines) as indicated on sketch; one regulation stop sign positioned as on sketch. Board of Health - The Board approves only a single family residence on this parcel and any attempt to include multiple dwellings or additional subdivisions will require further comment and review of the Board of Health. Donna Vorhees, of McGregor, Shea and Doliner, said she wanted to know how frontage is being created. She said this is not a subdivision. A subdivision is the division of a tract of land into two or more lots. She wondered if it would create a conflict with the Glass Company. Serafini - "No, I don't think so, because they have an easement for access along the roadway." Donna Vorhees also gave the Board a letter from Rizzo Associates, which stated that they had reviewed the subdivision plan and had concerns with the drainage. She said her letter concerns some deficiencies with the subdivision plan. The proposed roadway in the definitive plan constitutes a dead-end street. It does not comply with 7.02(4)(c.3b) of the Essex Subdivision Regulations which requires that the diameter of the turn-around at the enclosed end of a dead-end road be 100'. She feels it does not constitute a subdivision plan and believes the Board has no choice but to deem it not a subdivision plan and disapprove it. Michael Shea, attorney representing Augustus Means, said he agreed with Vorhees. that the subdivision plan calls for a cul-de-sac. "You are turning a right-of-way into a subdivision road, and creating lots on other people's property to create a subdivision. I think you are just creating a road, a driveway into the property, not a subdivision." W. Burnham - "How do you create a road. This is the only way under our regulations to create a road?" Shea - "I just don't feel this is the proper forum for doing this." Robert Klopotoski, surveyor, said, "If it would help in clearing up the confusion, I am willing to label the road a lot number and give calculations for the area, and make it a two-lot subdivision." John Mansfield, abutter, - "In my mind I cannot see how one lot is a subdivision. I am opposed to trying to create a subdivision with one lot." Madsen - "You are

May 18, 1988

granting an easement to the Glass Company?" Serafini - "Yes, he always has the right. He was granted rights when he bought the property." Klopotoski - "Any time you take one piece of property and put a line through it, you create two lots. We have done that." Serafini suggested drawing a line across the front portion of the land and creating an unbuildable lot. Klopotoski - "The only thing new on this plan is the lot line creating a way. All utilities, etc., have been kept the same." Shea - "Is the frontage Route 22 for any other lot?" W. Burnham - No." Shea - "I didn't think you could create one one-conforming lot and a conforming lot." Madsen - "A lot is not non-conforming, but it is the use that is non-conforming." Shea - "The applicant has said there are easements that are not shown on the plan and I think that is a deficiency."

Madsen moved to close the public hearing; seconded by Story, with the Board voting unanimously in favor.

The Board, as the Special Permit Granting Authority, held a public hearing for Special Permit fee changes.

After discussion, it was decided that Paragraph F under Appendix B, Special Permit Issuance Rules, should be deleted, and replaced with ' a filing fee of \$150 or in the case of 6-6.9(k) a filing fee of \$200 per each dwelling unit created shall accompany each application. If paid by check, the check shall be made payable to the Town of Essex.

Madsen moved to close the public hearing; seconded by Story, with the Board voting unanimously in favor.

Madsen moved that as the Special Permit Granting Authority, we change our Special Permit Issuance Rules by deleting Paragraph F in its entirety and replacing with "a filing fee of \$150 or in the case of 6-6.9(k), multi-family dwelling and/or apartment land use, a fee of \$200 per dwelling unit shall accompany each application. If paid by check, the check should be made payable to the Town of Essex. The motion was seconded by Story. The Board was polled and the vote was unanimously in favor.

Madsen moved we adjourn as Special Permit Granting Authority; seconded Wilson, with the Board voting unanimously in favor.

A public hearing was held for fee changes for subdivisions.

There was a discussion on changing the \$100 fee per lot created within the subdivision to a fee of \$100 for every 150-feet of frontage created within the subdivision.

Story moved the public hearing be closed; seconded by Dunn, with the Board voting unanimously in favor.

Madsen moved that under the Subdivision Regulations 6-01,

May 18, 1988

Paragraph 1(F) be deleted in its entirety and replaced by "A non-refundable fee of \$100 for every 150-feet of lot frontage created within the subdivision". The motion was seconded by Wilson. The Board members were polled and they voted to unanimously approve the motion.

Dereck Brown filed a Form A plan for property on Conomo Point Road. W. Burnham said the plan could not be signed because there was a question concerning frontage. There is a strip of Town-owned land along the road and it is questionable whether it is part of the road easement. The Board needs to have verification from the D.P.W. Madsen said although the surveyor stamped the plan, he is not sure what is being shown as the boundary line. A discussion followed concerning the easement. The Form A was withdrawn.

A public hearing was held at 9:40 p.m. for improvements and maintenance to Belcher Street, a scenic way. A public hearing was held at the same time by the Shade Tree Warden for the removal of four trees on Belcher Street.

Bruce Julian, Superintendent of the D.P.W. said, "We would like to pave a section for 1000 feet going from No. 24 to No. 43 Belcher Street. The road will be approximately 16' to 18' wide but closer to 16'. We are stopping there because that is as far as the water line goes. The trees, we feel, will be a liability factor because of the closeness to the edge of the road. We plan on putting in drainage and the trees will be affected by that. We have trees ready to be planted further back, in place of the ones removed. John Guerin produced photographs showing the location of the trees in relation to the road. Richard Durant - "How wide is the pavement at No. 24?" Julian - "Approximately 15' plus shoulder." Durant - "Is it necessary to make it wider to 18'?" Julian - "It will be closer to the 16-feet." Durant - "I would like to have speed bumps if possible, to slow down traffic, because of the number of children. Can this be done?" Julian - "Not legally." Michael Davis - "A couple of years ago we all came to a meeting with the Board of Selectmen and County Engineers who laid out Belcher Street. Has that been accepted yet?" Selectman John Guerin - "I don't think so." Frederick Fawcett - "If the road has not been laid out, then the people own to the pavement, and therefore, the people own the trees. If the Town removes them, the Town will have to pay damages. I would like to make a formal objection to the removal of these trees, and therefore, the decision of the removal will go to the Board of Selectmen, under the Public Shade Tree Act, M.G.L. Chapter 87, Section 4." Ginn - "Is additional drainage going to be done before paving?" Julian - "Yes, three catch basins are proposed just to the other side of Mr. Means driveway." Ginn - "Will you have to file with the Conservation Commission for work within the area of the brook?" Julian - "No, it is already existing; it's already going into the brook." Betsy

May 18, 1988

Fawcett - "Is the cutting of the trees taking place within 100 feet of wetlands?" Julian - "No."

Wilson moved to close the public hearing; seconded Story, with the Board voting unanimously in favor.

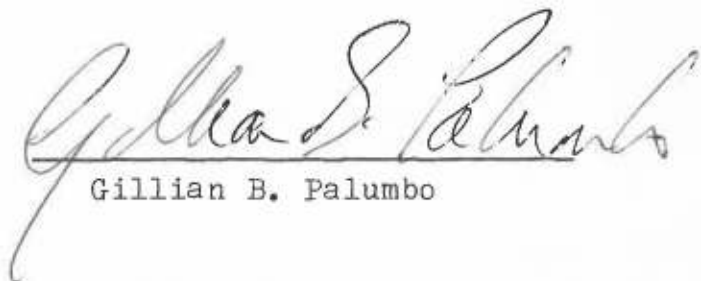
Russ Henderson, Western Avenue filed a Form A application with the Board conveying 300 square feet of land to his neighbor, Patrick Wall, to make Wall's lot conforming. In turn, Wall is conveying a small piece of land to Henderson to make his frontage conform to the 150 feet requirement.

E. Burnham moved we approve the Form A for the changes of lot lines for Russ and Sarah Henderson and Patrick and Deborah Wall, plan of land dated May 3, 1988. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Attorney John Serafini, representative for Deer Run Estates, asked to file a Form A plan with the Board, which, he said, will create the frontage for the development. The Form A is for Lot 1 because the driveway was a roadway, a substantial section of which is paved, prior to the time the subdivision regulations went into effect in Town. Serafini felt it met all Form A requirements. W. Burnham said he would have a hard time recognising this plan since we had said earlier it had no frontage. Serafini - "Using 1954 as a date, we have notification it was used as a travelled way at this time." W. Burnham - "Why did it have to go through the Board of Appeals for a no frontage lot?" Serafini - "I don't know why it did." W. Burnham - "I think if we approve this, it would start a precedent for all wood roads in Town." Frederick Fawcett - "Will the Town Clerk certify that this has been a used and travelled way for twenty years?" Betsy Fawcett - "This was not on the agenda. I know many people who would like to have input on this." The Form A was filed with the Board.

Story moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:40 p.m.



Gillian B. Palumbo

AGENDA

- 7:50 ... Building Permit Application - Camp Menorah - rep. Judy Simmons
- 8:00 ... Michael Fitzhugh - Peter Henderson - Form A
- 8:30 ... Maria Burnham - Michael Cataldo - Open Space Program
- 8:50 ... Rick Young, Story Street
- 9:00 ... Russ Henderson, Western Avenue
- 9:15 ... Laura Wright - Old Richdale Store
- 9:30 ... Review plans of Peter Van Wyck and Charles Ridge

Essex Planning Board

May 4, 1988

Present : Westley Burnham, Chairman; Michael Cataldo; Francis Dunn; Everett Burnham; Dana Story; Alden Wilson; Rolf Madsen.

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

Building Inspector Richard Carter gave the Board a building permit application for Gladys Bruce, 21 Apple Street, to demolish existing house and replace with a two-bedroom house. Area of Land is 39,000 square feet.

E. Burnham moved we approve the building permit application of Gladys Bruce to reconstruct the existing structure finding it not to be substantially more detrimental to the neighborhood than the existing non-conforming use, and pending approval of the Board of Health. The motion was seconded by Wilson, with Story, E. Burnham, Wilson and W. Burnham voting in favor; Cataldo and Dunn voted present; Madsen did not vote.

A building permit application was received for Allen and Nina Fletcher, 23 Scar Hill Road, Boylston, Ma., for property on Lufkin Street, to construct a single family dwelling. Distance from street line 380', right side line 90', left side line 190', rear line 290'. Size of building - length 85', height 25', width 34', no. of stories - 2. Area of land 5.556 acres.

Madsen moved we approve the single family dwelling on Lufkin Street, property of Allen and Nina Fletcher, as it meets all setback requirements. The motion was seconded by Story, with the Board voting unanimously in favor.

The Board signed the approved subdivision plan of Doyle Acres, County Road.

Judy Simmons, representing Camp Menorah, Wood Drive, gave the Board a building permit application for an open shelter, with offices on the end, to be used for an eight-week summer camp. They have received approval from the Board of Health. Area of land is 5.8 acres.

Story moved we approve a building permit for Combined Jewish Philanthropies, Camp Menorah, Wood Drive, to build a 40' x 80' x 10' timber column building, with four offices partitioned off. The motion was seconded by Dunn, with W. Burnham, Cataldo, E. Burnham, Dunn, Story and Wilson voting in favor; Madsen voted present.

Attorney Michael Fitzhugh, representing Peter Henderson, did not appear for his appointment with the Board.

The Department of Public Works is proposing to do maintenance work on Belcher Street, a scenic way, and is requesting the Planning Board hold a public hearing for this. They are also proposing to remove four trees and would like to hold the public shade tree public hearing at the same time.

Story moved we hold a public hearing for repair and maintenance of a section of Belcher Street, a scenic way, and simultaneously hold a hearing for the removal of four shade trees within that area. The motion was seconded by Wilson, with the Board voting unanimously in favor.

May 4, 1988

Rick Young, Story Street, met with the Board for an informal discussion on a proposal for a second dwelling on property at 22 Story Street.

Russ Henderson, Western Avenue, met with the Board regarding the transfer of land with his neighbor to make both lots conforming. Henderson wants to convey 300 feet to Patrick and Deborah Wall to make their lot 31,000 feet, and Wall will convey a small piece of land to Henderson to make his frontage conform to 150'. The measurements of the frontage were not recorded correctly on the plan. Henderson will present his corrected plan at the next meeting.

Chairman Westley Burnham had to leave the meeting; there Michael Cataldo took over as chairman.

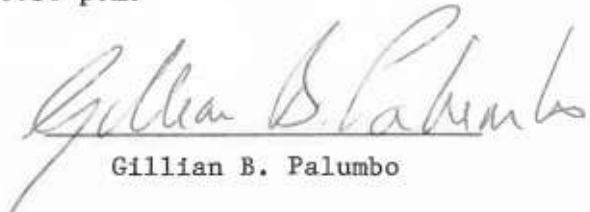
Paul and Laura Wright met with the Board for an informal discussion regarding the Old Richdale Store. There are two buildings on the lot, with one building commercial and the other residential. The Wrights would like to have a change of use of the residential building to a commercial use. They would like to operate a take-out restaurant there. There was discussion on the parking, ingress and egress of the property. Story felt it would create a hazard there. The Board felt that a change of use to a take-out restaurant would be more detrimental to the neighborhood.

The Board reviewed the preliminary subdivision plan of Charles Ridge for property on Spring Street.

Madsen moved we approve the proposed subdivision of Soginese Creek Realty Trust with the following modifications:- (1) the applicant present covenants that no further subdivision of this parcel is possible and each lot shall contain only one dwelling, (2) that there be no more than seven buildable lots on the subdivision and the 'not buildable' lots be so labelled, (3) a drainage plan be presented and approved, (4) a topographical plan be presented, (5) the plans show the existence of a water line and fire hydrants, (6) all boundary lines be clearly defined, (7) the right-of-way and/or easement be clearly defined, (8) a signature box appear on the plan, (9) the following waivers requested be waived:- a) no curb radii at the intersection of Spring Street and Station 0+0, b) no sidewalks, c) no bituminous pavement on roadway, d) proposed roadway to remain a private way, (10) the waiver - Travelled way to be sixteen feet wide with compacted gravel - be modified to read 'Travelled way to be sixteen (16) feet wide, not including shoulder, with compacted gravel, (11) we deny the request for waivers of:- a) minimum center-line radius reduced to fifty feet at station 5+0, b) dead end street to be thirty seven hundred and eighty (3780) feet, c) county drainage, no catchbasins, d) grade of road at intersection to Spring Street to remain 5½%. The motion was seconded by Story, with the Board voting unanimously in favor.

Madsen moved that the Board appreciate a job well done during the past five years of Michael Cataldo's tenure with the Board. The motion was seconded by Story, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor. Meeting adjourned 10:30 p.m.


Gillian B. Palumbo

AGENDA

- 7:50 p.m. ...Marshall Carpenter - house lot, Wood Drive
- 8:30 p.m. ... Continuation of public hearing - Peter Van Wyck
- 8:45 p.m. ... Dereck Brown - Form A, Conomo Point Road
- 9:00 p.m. ... Michael DiGuiseppe - Essex Reach, Eastern Avenue
- 9:15 p.m. ... Doyle Acres - signatures on plan
- 9:35 p.m. ... Clay Morin - filing subdivision plan for Deer Run Estates

Business:

Review preliminary plan of Charles Ridge

AGENDA

- 7:30 p.m. ... Robert Brophy, for Melanie Selig,
Western Avenue - building permit
application
- 7:50 p.m. ... Peter Perrigo, re. Curtis Jones'
barn, Wood Drive
- 8:00 p.m. ... Mr. Fitzhugh for Peter Henderson
- 8:30 p.m. ... George and Diane Bragdon, Apple
Street
- 8:45 p.m. ... Michael DiGuiseppe, Manchester
Properties, Eastern Avenue
- 9:00 p.m. ... Clay Morin, for Low Hill, Story
Street
- 9:15 p.m. ... Bruce Fortier, two questions to
ask the Board
- 9:25 p.m. ... Robert Nelson, Marine Arts
Barn Renovation, 68 Grove Street
- 9:30 p.m. ... Public Hearing - Turtleback Circle,
Peter Van Wyck

Discussion:

Deer Run Estates

Essex Planning Board

April 6, 1988

Present: Westley Burnham, Chairman; E. Burnham; Michael Cataldo; Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

A building permit application was received for Melanie Selig, 200 Western Avenue, for the addition of a one bedroom apartment over an existing two-bedroom single story house. Distance from street line 20', right side line 45', left side line 90', rear line 85'. Size of building, length 47'4", height 24', width 24', no. of stories - 2. Approval was received from all abutter as the lot is non-conforming. Approval was also received from the Board of Health and Conservation Commission.

Madsen moved we approve the building permit application of Melanie A. Selig, 200 Western Avenue, finding it not to be substantially more detrimental than the existing non-conforming use. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A building permit application was received for Robert Coviello, 67 Main Street, to rebuild and enclose an existing porch.

E. Burnham moved we approve the building permit application of Robert Coviello, 67 Main Street, to rebuild and enclose an existing porch with no enlargement beyond the present size, finding it not to be substantially more detrimental than the existing non-conforming use. The motion was seconded by Dunn, with the Board voting unanimously in favor.

A building permit application was received for Manchester Properties, Manchester, to construct buildings 4 and 5 at the Essex Reach subdivision, Eastern Avenue. Distance from street line 500 feet, right side line 140', left side line 180', rear line 360'. Size of building - length 88', height 34', width 34', no. of stories - 2.

Wilson: moved the building inspector issue a permit for buildings #4 and #5, Eastern Avenue, as it is an approved subdivision plan. The motion was seconded by Cataldo. Cataldo moved we table the motion; seconded by Madsen, with the Board voting unanimously in favor.

A building permit application was received from John Coughlin, Quinn Brothers, Western Avenue, to add an additional 12,025 square feet of space to the existing building, which would then cover 25% of the lot. Cataldo said, "Since I've sat on this Board, we have asked Mr. Coughlin to come in and explain who his tenants are, and this may be an opportunity to do just this." Madsen - "I feel Mr. Coughlin ought to come back with a parking plan. 120 spaces are the minimum required. I feel we should address

AGENDA

- 7:50 p.m. ... Curtis Jones, Wood Drive
- 8:00 p.m. ... George and Diane Bragdon, Apple
Street - CANCELLED
Deer Run Estates discussion
- 8:30 p.m. ... Clay Morin - definitive subdivision
plan for Low Hill
- 9:00 p.m. ... Thomas Dietrich - change of use at
245 Western Avenue

Business:

Deer Run Estates discussion

Essex Planning Board

March 16, 1988

Present : Westley Burnham, Chairman; Michael Cataldo; Francis Dunn; Everett Burnham; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:30 p.m.

Building Inspector Richard Carter gave the Board a building permit application for Mark and Thomas Shea, 242 John Wise Avenue, for construction of a two story modified cape on an existing foundation. Area of land - 7 acres; the upland area is 43,000 square feet approximately, with the area composed of approximately 29,000 square feet between John Wise Avenue and the marsh, and approximately 14,000 square feet on three separate peninsulas in the rear of the property. Use of the building is a furniture showroom. Distance from street line 21', right-side line 27', width 25', no. of stories - 2.

Wilson moved that we approve the building permit application of Mark S. Shea and Thomas P. Shea, 242 John Wise Avenue, as shown on the plan dated February 26, 1987, finding the lot is a conforming lot and an established use. The motion was seconded by Madsen, with W. Burnham, E. Burnham, Dunn, Madsen, Story and Wilson approving, and Cataldo voting present.

A building permit application was received for Ralph W. Drinkwater, Southern Avenue, for construction of a garage for storage of construction equipment and tools. It will be a commercial use of the property. Distance from street 630', right-side line 155', left side line 840', rear line 550'. Size of building, length 120', width 60', no. of stories - 1. There is frontage on Laurel Lane with a 44' easement. Cataldo said, "The only problem I have is the potential commercial use of the property."

E. Burnham moved we approve the request for a building permit of Ralph Drinkwater, Norwood's Road, Beverly, for the building of a garage for use of Drinkwater's construction equipment only, at property located on Southern Avenue and Laurel Lane, finding it meets the area and setback requirements. The motion was seconded by Madsen, with E. Burnham, W. Burnham, Madsen, Story and Wilson approving, and Cataldo and Dunn voting present.

Building Inspector Richard Carter told the Board that Curtis Jones, 75R Wood Drive, has built a barn and added stairs and a deck that were not on the plan. Jones has also moved the siting of the barn a couple of feet towards his property. A complaint was filed as to whether it was a house or a barn. There is no plumbing. The stairs are thirteen feet from the lot line. The lot is non-conforming. Madsen suggested that letters should be received from the abutters so that they are aware of what is going on.

March 16, 1988

Robert Brophy presented the Board with a building permit application for Melanie Selig, 200 Western Avenue, for construction of a second story to a single story ranch. The lots size is 54,000 square feet, but it lacked the required frontage making it a non-conforming lot. The Board told Brophy they would need to have the required notification of all abutters before they could act on it.

Clay Morin and Lynn Gellinas for Craft Hill subdivision met with the Board to have the subdivision plan signed off. Morin told the Board that a couple of contours had not been put on the plan. The Board said they would not sign the plan until this had been done. Gellinas presented the Board with a maintenance agreement and a document dealing with the covenant.

Tom Dietrich met with the Board to discuss his proposal for an auto body shop at 245 Western Avenue (Teel building). A landscaping business is there now. Dietrich said five to six cars will be there, no cars will be parked in front and no cars he repairs will be sold there. The cars will be screened and will all be placed at the rear. He employs two other people beside himself. It was the consensus of the Board that Tom Dietrich's change of use was not a change of use as a commercial use was already established, and his use is a continuance of a commercial use.


Deer Run Estates - Attorney John Serafini represented the Charlottee Partnership. The Board reviewed the draft special permit decision compiled by Phil Herr, the Board's land planner. There was a discussion of Page 4, Paragraph 3 and a correction made to Page 4, Paragraph 4. Serafini asked that the word 'substantial' be placed in front of Page 4, Paragraph 1, ...change in style, materials, or roof construction standards of the Subdivision Regulations of the Essex Planning Board.

E. Burnham moved that the Planning Board hold a special meeting on March 30, 1988, at 8:00 p.m.; seconded by Story, with the Board voting unanimously in favor.

Cataldo moved to approve Minutes of February 17, February 24 and March 2; seconded Madsen, with the Board voting unanimously in favor.

Cataldo moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Public hearing for Dennis D'Amore
for scenic way, Story Street
- 8:30 p.m. ... Diane Bragdon - definitive subdivision
plan submission, Apple Street
- 8:45 p.m. ... Thomas Henderson - property on
Western Avenue
- 9:00 p.m. ... Hatfield/Doyle subdivision plan,
County Road

Business:

Pine Ridge preliminary subdivision plan review
Special permit change

Essex Planning Board

March 2, 1988

Present : W. Burnham, Chairman; Michael Cataldo; E. Burnham;
Francis Dunn; Rolf Madsen; Dana Story.

Meeting called to order 7:40 p.m.

Building Inspector Richard Carter presented the Board with a building permit application for Mrs. Margaret Lake, Apple Street for construction of a single family house. Area of land - 20,500 square feet. Distance from street line - 60', right side line - 40', left side line - 50', rear line - 30'. Building - length 70', height 30', width 28', no. of stories - 2.

Cataldo moved we approve the siting for the construction of a single family house on an application submitted by Margaret Lake, and the permit be issued on the final approval of the Board of Health for the septic system. The motion was seconded by Story, with E. Burnham, W. Burnham, Dunn, Cataldo and Story voting to approve; Madsen voted present.

The building permit application submitted by the Building Inspector for Stephen Roberti, Maple Street, was tabled.

A public hearing was held at 8:00 p.m. for the purpose of relocating a portion of a stone wall to obtain a curb cut for the subdivision road for Craft Hill subdivision, off Story Street, a scenic way.

Engineer Clay Morin said the face of the stone wall goes along the property line. The actual hot top easement is 6' - 10'. The need is to move the stone wall at the point shown on the plan. It was suggested the stones be taken and placed into an existing opening at the southerly end of the stone wall, near the Landry property. Mrs. Ann Landry felt if this were done it would improve the appearance of the wall. Cataldo - "Are you planning to cut back in those areas to increase site distances?" Morin - "Brush will be cleared and that is all. We will clear brush around the elm tree." Frank Yulling, an abutter, said he felt there was an inaccuracy in the plan presented by Morin. George Andrews, an abutter, said, "I feel it is an overdevelopment of the land, but I do have to say that I have a plan drawn by Mr. Huatala that does show a break in the wall." Cataldo said he felt that having twenty stones moved is not a major issue.

Cataldo moved to close the public hearing; seconded by Story, with the Board voting unanimously in favor.

Cataldo moved we approve the relocation of the stone wall bordering Story Street in the way of the access road to the Craft Hill subdivision, to the southerly side of the remaining stone wall. The motion was seconded by Madsen, with the Board voting unanimously in favor.

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The Board discussed with Stephen Roberti, Maple Street, complaints from neighbors that he is parking all over the street. There were concerns that he may be trying to violate the Planning Board decision to deny a change of use from a one family to a two-family residence. Madsen felt all telephone calls concerning this should be directed to the building inspector. The building permit application the Board tabled was to put in two windows and stairs. William Holton, Maple Street, gave the Board a letter from neighbors and abutters regarding this property at 17 Maple Street, which was read to the Board. Holton cited Statute 6-6.9, but said the real crux of the law comes under 6-4.2, when the Board must make a finding as to the change of use. There were two people living in the house, Holton said, but there now appears to be seven people. The Board of Health approved the septic system for four bedrooms. Four electrical services are being put in. E. Burnham asked building inspector Richard Carter if he could request a drawing of the work Roberti plans to do. Carter said he had no indication that more than one family was living there, but a neighbor had said he felt two families were there. Roberti told the Board that four services are his right, as a property owner. With regard to the off street parking, he has been doing septic system work and therefore he has not been able to park in the driveway.

George and Diane Bragdon, Apple Street, together with engineer Lawrence Petersen, met with the Board for a submission of a definitive subdivision plan for their property on Apple Street. The question of frontage came up, at the intersection of the subdivision road and Old Apple Street, and who owned a small portion of land at this point. The Bragdons were told that their attorney should call Town Counsel regarding this issue. Madsen said he felt it was up to the applicant to find out the legal issues of this, and not the Planning Board. The issue was whether the Bragdons have the legal right to make a subdivision road from a right-of-way when the ownership is in question. The Bragdons were told the best approach would be to have their attorney check the law on this issue, give it to the Board for Town Counsel to check, and then resubmit their plan. The Bragdon's plans were withdrawn without prejudice.

Thomas Henderson met with the Board for a discussion of property on Western Avenue. Henderson said he originally wanted the Board of Assessors to consider the property as one parcel. He then discussed with the Board various aspects of dividing the property.

Ronald Ober, Pine Ridge subdivision, submitted to the Board a preliminary plan for Pine Ridge Subdivision, Pond Street. The previous preliminary plan had been voluntarily withdrawn and the Board received a new preliminary plan dated March 1, 1988. A list of waivers was presented. Ober said the design of the proposed street is as a rural street with a 20' pavement width

March 2, 1988

and 12' shoulders. No curbing or sidewalks are recommended, in order to retain the site's rural character. An 8 inch water line will be put in the road.

E. Burnham moved we approve the preliminary site plan of Pine Ridge subdivision, drawn by Briggs Association, Inc., dated March 1, 1988, project owner Wheeler Street Riverside Realty Trust. The motion was seconded by Story, with the Board voting unanimously in favor.

There was a discussion on a special permit for mixed uses and the interpretation of a home occupation. W. Burnham said he would like to have a redefinition of a home occupation. Cataldo said the Board could do what the Town of Framingham does, and have a list of ten or twelve occupations which are considered home occupations.

There was a discussion on wetlands and the fact that Essex just considers tidal wetlands, whereas other towns have stated in their by-laws that a certain percentage of the lot must be upland.


Peter Van Wyck - W. Burnham said he has learned that a public hearing should have been held for the approval of Peter Van Wyck's modified subdivision plan for Turtleback Circle. Madsen moved to hold a public hearing on April 6, 1988, at 9:30 p.m. for the modification of the subdivision plan of Peter Van Wyck, known as Turtleback Circle. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Cataldo, with the Board voting unanimously in favor.

Madsen moved the Board reconvene the meeting; seconded by Cataldo, with the Board voting unanimously in favor.

The Board received an Approval Not Required plan of Edwin C. Perkins, for Lots 45 and 46, Maple Street. Madsen moved to approve the Approval Not Required plan of Edwin C. Perkins dated March 2, 1988, for lot line adjustments for Lot 45 and Lot 46, Maple Street. The motion was seconded by Cataldo, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Cataldo, with the Board voting unanimously in favor. Meeting adjourn 10:30 p.m.


Gillian B. Palumbo

Essex Planning Board

February 24, 1988

A G E N D A

No agenda. Special Planning Board meeting held to discuss general business and Deer Run Estates.

Essex Planning Board

February 24, 1988

Present: Westley Burnham, Chairman; E. Burnham; Michael Cataldo;
Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 8:10 p.m.

There was a discussion on the special permit by-law. W. Burnham felt mixed uses should be added to the special permit, i.e. residential/ commercial. He said he would also like to get a much clearer definition of a trucking terminal.

There was a discussion on the zoning committee.

Deer Run Estates - A letter was read from Maria Burnham regarding Deer Run Estates. It was her response to the hearing. A letter was received from McGregor, Shea and Doliner with their response to the public hearing, and also a letter from Serafini, Serafini and Darling with their comments. Although attorney John Serafini was present at the meeting, the Board said they would accept no further comments from him.

The Minutes of the meeting of January 20, 1988, were read. Story moved the Minutes be accepted as read. The motion was seconded by Dunn, with the Board voting unanimously in favor.

E. Burnham moved we enter into the records letters received from Serafini, Serafini and Darling, dated February 17, 1988, a letter received from McGregor, Shea and Doliner, dated February 16, 1988, a letter from Maria Burnham, dated February 17, 1988, the Order of Conditions from the Essex Conservation Commission dated January 29, 1988, a letter from the Board of Health dated February 17, 1988, a letter dated February 15, 1988, from Frederick and Betsy Fawcett, with an article from the Gloucester Times dated January 14, 1987, and a letter from the Chebacco Lake Association dated February 10, 1988. The motion was seconded by Madsen, with the Board voting unanimously in favor.

The Board had a straw poll, with the voting as follows:

Dana Story - I do not think we can properly approve this until we get the opinion and conditions from the Board of Health. I'm in agreement with points raised by McGregor, Shea and Doliner. I hate to see 15,000 gallons of effluent going into Turf Meadow. Also the run-off coming off roofs and roads which will surely go to Chebacco Lake. I think it is a serious question whether the Town can supply water to a project of this size.

Alden Wilson - We have had several studies made, and I guess Route 22 will handle the traffic that this will generate. The big problem is that people have made unsubstantiated statements that 15,000 gallons of water will run into Chebacco Lake everyday, I have to take the engineer's report and the distance from the Lake and feel there will not be an impact on the Lake. I don't think

run-off from the roofs and roads will have that much of an affect. I shudder to think what would happen to this land if it got into the wrong hands. The D.P.W. was pumping a considerable amount of water to Hamilton, so I will go with the D.P.W.'s statement that the pumping station has sufficient water to carry this. I would go along with this project. It will also have a good tax base for the Town.

Michael Cataldo - I have given it a lot of thought. Everything I've seen to the best of my knowledge tells me that the capacity required could function without having a negative effect on the site, but I don't think we have seen enough information regarding the sewerage to the site, so I am inclined to vote against it.

Francis Dunn - I think I would vote in favor of it. It is the D.P.W.'s job to know if there is enough water there or not. As far as septic systems go, I think when we write our motion on it, we would work around that there will be a stipulation. If someone else got hold of the land, I don't think we would have the open land we would have with this project.

Everett Burnham - There is a piece of land that will find a use sooner or later. I think this is one of the better uses. I think we are over-exaggerating the effect of the sewage system. I think we can have a sewage system designed that won't have an affect on the neighborhood and the Lake. It will be a financial asset to the Town. The school system is underused at the moment. The filtration plant is using a quarter of its capacity. There is no advantage as far as traffic. As far as a distracting view, you will only be able to see two or three buildings. I don't see why the committees working together cannot resolve the problems. I will go along with it and work to make it an asset to the Town.

Rolf Madsen - As far as land usage, I don't like the idea in concept, from an aesthetic point of view. I am worried about the sewage, the aquafir and the water problems. The applicants are before the D.E.Q.E. and they supercede us. I think there should be written in the conditions adequate safeguards to the property, and if there is any problem or any changes with the D.E.Q.E., then it should be denied, and then it will come back to us again. I really commend the Charlotte Partnership for the steps they have taken to give us what we have asked for. I really think we have to be careful how we write the conditions for the project. If we let that go we will make a big mistake. I am in favor.

Westley Burnham - I am in favor of the project as presented. I have confidence in the D.P.W.'s assessment of the water supply. I have been impressed with the quality of reports represented and submitted by Charlotte Partnership, and most impressed by the lack of criticism on the final engineering project. The sewage treatment plant is the main concern. The design and acceptance is beyond the scope of the Board's jurisdiction as it is going to D.E.Q.E. The Board of Health must have a final say to the plan. It will be entered into the conditions in some shape or form.


Story said he wanted to append his remarks. "As far as the Planning aspect goes, I would commend the applicants for a job well done.

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I have also been thinking about what would go there if this one was not there, and I think this is the best use. I feel though, that we cannot approve anything if we don't know what is going in."

Cataldo moved to adjourn, seconded Madsen, with the Board voting unanimously in favor.

Meeting adjourned 9:45 p.m.


Gillian B. Palumbo

AGENDA

- 7:50 p.m. . . . Stephen Byrne - Chief Platt's house.
- 8:00 p.m. . . . Charles Ridge - subdivision
- 8:15 p.m. . . . Bruce Fortier - question for the Board.
- 8:30 p.m. . . . Peter Henderson - Form A, Andrews Street
- 9:00 p.m. . . . Peter Van Wyck
- 9:30 p.m. . . . Zoning

Essex Planning Board

February 17, 1988

Present: Westley Burnham, Chairman; E. Burnham; Michael Cataldo;
Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:45 p.m.

John Glovsky, attorney, representing John and Stephen Byrne, met with the Board for a discussion on the Byrne's prospective purchase of James Platt's property at 243 Western Avenue. The Byrne's propose to put a building on the property for their landscaping business and to live in the residence. The lot size is 38,000 square feet. Cataldo - "What would you do with the existing commercial part of the property?" John Byrne - "Probably just turn it back into a garage. That hasn't been finalized yet. It may be used as an office. The new building would be used for storage of equipment, seeds, and an area to work on the equipment. There will be two full-time employees and seven to ten part-time employees in summer." Story - "I find it hard to call this a home occupation." W. Burnham - "The existing business did fall well under the regulations for a home occupation. It was a family run business. This proposed business is getting into a grey area where we may be over the line. A home occupation is two employees outside of the family." Wilson - "But these people may be working outside of the property." Bruce Fortier told the Board that the by-laws state you can conduct a home occupation in an accessory building. Cataldo - "There will be no retail business taking place at the property?" Byrne - "Nh. The employees are on the job; they will not be at the business." There was a discussion as to whether this was or was not the same situation as Drinkwater's on Southern Avenue. W. Burnham said that one of the problems he had with Drinkwater was an incomplete plan. W. Burnham then read from by-law 6-5.5. Byrne said he would be willing to put screening around the area. Walter Redding, Western Avenue - "I have lived across the street for forty years. There was a time when there was an antiques shop there, but they were in business for one day when the Planning Board came and told them they could not have any cars park in front in the driveway. They were told they had to put in a driveway that went around to the back of the property, and therefore they sold within a week." Russ Henderson, abutter, - "I am here because it is my back yard. I would like to see a plot plan of what is going to go in on the lot." W. Burnham - "I cannot tell him what color gravel he can put in his parking lot, but Mr. Byrne has said he will put screening around the business." Byrne showed a picture of the building he plans to put in to Henderson, which will be of metal construction. Henderson said he had no qualms about the business that the Platts ran, but we don't like change. John Glovsky - "The number of trucks is limited by the type of business. They are not in a business that would require large vehicles. The employees would come and park and leave in the trucks, and, of course, it is a seasonal business." Story - "You are going to keep your vehicles

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inside?" Byrne - "My truck will be outside. There will be six trucks. In summer there will be ten to twelve employees." Cataldo - "Each of whom are going to drive a car." Byrne - "Some will come together, so there will be about seven cars." Cataldo - "What other equipment do you have?" Byrne - "A backhoe and trailer." Cataldo said he would like to see the dimensions of the parking. Dunn - "I think this is a business where you will not have traffic coming and going." W. Burnham - "We will have to have the parking in the rear." Byrne agreed to park the vehicles at the back and put up screening. Cataldo - "If Byrne has agreed to park his vehicles at the back and screen, I don't really see a problem."

Cataldo moved that we find the proposed use as a home occupation on property located at 234 Western Avenue, presently owned by James Platt, conforms to the zoning by-laws, with the building being screened and parking occurring at the rear of the existing building, as proposed by John Byrne. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Ted Forbes, of Hancock Survey Associates, together with Charles Ridge, submitted a preliminary plan for property on Spring Street. Ridge intends to divide the property into eight lots. A ninth lot is a common area which comprises salt marsh. The intent is to have the road accepted as is with waivers.

Bruce Fortier - The newspaper reported that our by-laws state that you cannot have residential and commercial uses on the same lot. The by-laws state that there is no prohibition against residential and business uses on the same lot.

Attorney Victor Battera, with Sullivan and Worcester, Boston, and John Dick, of Hancock Survey Associates, representing Peter Henderson, met with the Board for the Board's decision on the Form A presented to the Board at their last meeting, for Henderson's property at Andrews Street/Apple Street. Also present was attorney Kevin Dalton of Glovsky and Glovsky, representing Evelyn Bartlett. Battera - "We are asking the Board for an endorsement tonight for an approval not required, Form A. Three lots have frontage on the road, but they could also build an access road for frontage. Approval must also be obtained from the Conservation Commission." Story - "The last time we looked at this there was a contention from Jan Smith that part of this is in litigation." Battera - "The parcel in litigation is on Lot 1." Madsen - "Can you show us how the lots meet our front yard requirements. The concept of a front yard was to prevent pork chopping, which you have done. It is my opinion that the interpretation of and the structure of this is the placement of houses." Battera - "We are not proposing any development at the moment." Madsen - "You still have to show front yard requirements." Cataldo - "There is no access to this lot." Dick - "There is access to the lot." Madsen - "In order for us to issue a building permit we have to have a road that is accessible."

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W. Burnham - "I would be remiss, knowing that the ultimate intent is to build on the property, not to require adequate access." W. Burnham - "If you intent to build on this, why doesn't Henderson go through the route of a subdivision plan." Battera - "It is an option, but we feel we can ANR the plan. We don't see why Mr. Henderson should be penalised." Kevin Dalton presented the Board with caselaw - Fox vs. Planning Board of Milton (511 N.E.2d. 30 (Mass. App.Ct. 1987)). Dalton said, "The first issue is the existence of frontage. The purpose of frontage analysis is that frontage provides adequate access to the lots. I would suggest to you a site visit of the terrain will show you there is no real access; (1) there is a very steep slope on the property, and (2) there is a brook across the property. I also feel it is not out of context for the applicant to show his Order of Conditions from the Conservation Commission with his application." Dalton then cited case law of DiCarlo vs. Planning Board of Wayland, (471 N.E.2d 753 (Mass. App. 1984)). Dalton - "Why should someone circumvent the law by filing a Form A. I would suggest by the terrain of the property, a steep slope and a brook, that the Board would be within its realm to deny the application because of inadequate access." Story - "I am very familiar with this piece of property and I agree with Mr. Dalton." Battera - "The 'Fox case' does not require you to get other permits as, for example, an Order of Conditions or curb cut. It is an available procedure to obtain these permits and that is all that is required. The 'DiCarlo case' looks at slope, but in the context the approval not required and subdivision plan the subdivision plan was going to change the lots. John Dick has been out to the property and he has stated you can put in a road. The Board's concern for this access is not the same consideration as a subdivision." W. Burnham - "I agree with you that we cannot hold you to the same grade requirements as a subdivision road, but we do have the obligation to ensure adequate access into the individual lots." Battera - "The standard is a drive that an ordinary vehicle can go over. We can do that. Fox states that a person can place a house as far back as he wants." W. Burnham - "As long as they have access that makes the frontage possible. When we sign off an approval not required, we make the assumption that the lots are buildable lots. We can state that the lots are not buildable. Would the applicant agree to that?" Battera - "No." Dick - "To clarify my comments about access. We have actually done topographical studies. Each of the buildable lots do admit a vehicular access. Would I say that a moving truck could access the lots - no, but you can access the lots." Arthur Hodges, Apple Street - "A number of people on Apple Street have been concerned at the work that has gone on down there. What traffic could come down to Apple Street from those lots?" Dick - "In answer to Mr. Hodges, no lot accesses Apple Street. The access to Apple Street is the point in litigation." Dalton - "Seemingly, the bridge also is in litigation." Hodges - "What does the Board see as accessing on to Apple Street?" Cataldo - "Lot 1, and that is conjecture at this point."

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Wilson moved we approve the application for endorsement of an Approval Not Require for Peter Henderson, for the division of land off Andrews Street, finding Lots 1, 2, and 3 have required frontage access and area and Lot 4 to be considered not buildable at this time because of inadequate frontage and access. The motion was seconded by Cataldo, with the voting as follows: Approved - Wilson; opposed - E. Burnham, Dunn, Cataldo, Madsen and Story; W. Burnham, as chairman, did not vote.

Madsen moved we deny the Approval Not Required of Peter Henderson, presented to the Planning Board of Essex on February 3, 1988, due to inadequate access for all four lots. The motion was seconded by Story, with the Board voting unanimously in favor.

Peter Van Wyck submitted a subdivision definitive/plan for four lots off Essex Park Road. A check for \$400.00 accompanied the filing, plus Forms D and E.


W. Burnham read a letter addressed to the Planning Board from certain Town residents regarding Peter Van Wyck's Turtleback Road modified subdivision plan. W. Burnham said he will send a copy of the letter to Town Counsel for verification that a public hearing should or should not be held. The plan has not been signed and will not be until the Board has received Town Counsel's opinion.

March 4 is the deadline for any zoning changes for the Town meeting.

Cataldo said he received a telephone call from Maria Burnham who says there is a group of people working on open spaces, and who would like to have an input into the Board's zoning discussions of open spaces. W. Burnham wondered if he had the authority to set up these committees, and would like to have some ground rules. Madsen suggested that perhaps an article be put to the Town meeting that a zoning commission be organized.

Madsen moved we hold a special meeting on February 24, 1988, to discuss general business. The motion was seconded by Story, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Cataldo, with the Board voting unanimously in favor. Meeting adjourned 11 p.m.


Gillian B. Palumbo

AGENDA

- 7:50 p.m. ... Donna Ryan-Snow - Pre-school at Pike building, Western Avenue. CANCELLED
- 8:00 p.m. ... Michael Bovio, Hancock Survey - Form A - Andrews Street
- 8:30 p.m. ... Thomas Ellsworth - zoning
- 9:00 p.m. ... William Pascucci - discussion of driveway
- 9:15 p.m. ... Michael Shea - Form A
- 9:30 p.m. ... Sharon Scobert, Ipswich Country Homes, Real Estate - Fred Perkins property, Story Street

Discussion:

Pine Ridge subdivision

Scenic Ways

Kim Pederson, Old Manchester Road

Essex Planning Board

February 3, 1988

Present : Westley Burnham, Chairman; E. Burnham; Michael Cataldo;
Francis Dunn; Dana Story; Alden Wilson.

Meeting called to order 7:50 p.m.

Assistant Building Inspector Walter Rich gave the Board a building permit application for Ralph W. Drinkwater, Southern Avenue, for construction of a commercial garage. Size of building, length 120', width 60', no. of stories - 1. Distance from street line 630', right side line 155', left side line 840', rear line 550'. The garage is for storage of construction tools and equipment.

Cataldo - "Have you come in for any other permit than a building permit?"

Paul Drinkwater - "No."

Cataldo - "What is it to be used for?"

Paul Drinkwater - "Storage of equipment."

The Board then discussed whether this should be considered a truck terminal and come in under a special permit application.

Cataldo - "I think it would be considered a truck terminal and that the Drinkwaters should apply for a special permit."

When asked what he planned to store in the building, Drinkwater said machinery, a bulldozer and backhoe plus small vehicles. At present a building on the property is being rented to a landscaping business.

Drinkwater said as far as he knows his father has no intention of renting to anybody else. W. Burnham said he felt Drinkwater ought to keep it in the back of his head that if the business is expanded then the Board may require him to come back to obtain a special permit. E. Burnham said Drinkwater should come in with a Form A'

for the land as he has a residence and business on the lot right now. The problem is putting another business on the same lot. Drinkwater said the Coolidge Trust property runs in front of their land. The question then arose if it could be consider frontage if it belongs to the Coolidge Trust. Story said, "So what we are saying is this land is land locked." E. Burnham said that Drinkwater could access through a driveway off Laurel Lane. He then suggested that the residence could be changed to business and have the whole parcel commercial. W. Burnham said the Coolidge Trust belongs to the Town of Essex so it would be difficult to have that as frontage.

Cataldo then requested a straw poll of the Board for a special permit application for a trucking terminal. The poll was as follows: Cataldo - yes; Dunn - Yes, just to have a public hearing; E. Burnham - No; Story - Yes; Wilson - No; W. Burnham - No.

John Dick, Hancock Survey Associates, met with the Board. W. Burnham told Dick that with regard to Dick's proposal for cutting down a tree on Apple Street, a scenic way, a public hearing is required by the tree warden which, at present, is Damon Boutchie, Acting Superintendent of the D.P.W.

Dick then presented a Form A plan to the Board for Peter Henderson to divide approximately 26 acres on Andrews Street into four lots. Lot 1 has 6.6424 acres, Lot 2 has 5.2308 acres and Lot 3 has 7.0244 acres. Lots 1, 2 and 3 are to be considered buildable lots. Lot 4 has 7.9205 acres but is not considered a buildable lot. The

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frontage of Lots 1, 2 and 3 will be on Andrews Street. Lot 4 could not meet the frontage requirements.

Cataldo - "What do you propose using as access?"

Dick - "A common driveway."

Jan Smith, representing Mrs. Evelyn F. Barlett said, "The way that they show coming off Apple Street is in Landcourt right now, because we are saying they are crossing schade's property. The Andrews Street bridge is in Mrs. Bartlett's deeds as being owned by her. Henderson only has the right to pass over the bridge." Because the ownership of the access was in question. W. Burnham asked that the parties involved return to the Planning Board meeting on February 17 with more information regarding this.

Story moved that the Form A application of Peter Henderson be tabled until the next meeting. The motion was seconded by Wilson. Wilson amended the motion to have further discussion at the next meeting with the principals involved being present. The amendment was seconded by Story, with the Board voting unanimously in favor. The Board voted unanimously in favor of the motion with amendment. Story said in reference to the shape of the lots, "What I am seeing here is something that follows the letter of the law but not the spirit of the law. I feel something should be done to our by-laws to prevent this."

Tom Ellsworth and David Lane met with the Board to discuss zoning at the north end of the Town. They gave the Board members a copy of the proposed zoning amendment. Ellsworth said, "The issue of zoning came up when residents of the north end of Town felt they needed some kind of zoning to prevent any commercial use of the open spaces along John Wise Avenue and streets in that area. We would like to keep it residential and agricultural. We realize there are other areas in Town that need it as well, but we felt we should try it at one end of the Town first." Lane said, "We participated in the process of drawing up what seemed to be a firm proposal for zoning. The proposal is relatively simple. The land use would be residential and agricultural. If the agricultural use becomes economically unfeasible, then they could change it to modest commercial enterprises, but not heavy industry or fast food stores, etc." E. Burnham asked, "Have you shown this to the Attorney General?" Ellsworth - "Our lawyer said he felt it would pass." Lorraine Hardy - "I understand that if one resident is opposed then they would turn it down." Cataldo - "Have you done anything regarding lot sizes?" Ellsworth - "We felt it was not good trying to bring up something as inflammatory as lot sizes. We felt we would just stay with uses." Cataldo said he would be willing to give time to a private committee formed to consider rezoning proposals. He said he would also be willing to put it in an article for Town meeting. W. Burnham questioned what it would do if someone wanted to put in a 100-unit multi family complex. "That's why I think it will be shot down because it eliminates multi-family dwellings." Story felt the time was right for zoning, but felt the whole Town should be done and not just one area. Ellsworth - "The

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reason we are here today is we know it has been tried and failed. I have no concerns about doing the whole Town but I don't think we can wait too long." W. Burnham - "I have a problem starting with one end of Town, but none if we do the whole Town." Ellsworth - "I feel as a first step you should protect your open spaces and then deal with the rest of the Town." W. Burnham - "Take your map and draw up all the other areas of critical concern. I have no problem with this suggestion of Michael's to set up a committee and put an article to the Town meeting." Ellsworth - "I feel it would be easier to take a few open space areas in Town and designate it agricultural. It is when you start designating the other areas that you have a hot potato on your hands." Cataldo - "There needs to be a decision whether to keep the mix of industry. The problem is when you declare areas residential or industrial." W. Burnham suggested that Ellsworth has the option of putting this to the Town meeting himself. Ellsworth still felt they should concentrate on the open spaces, review the plan and designate certain areas of Town as open space. W. Burnham - "I think everyone is in agreement that we should do something."

William Pascucci, Grove Street. W. Burnham said he asked Pascucci to come before the Planning Board because of concerns by neighbors, and to see what the scope of his plans were. W. Burnham told Pascucci he felt he was about to the limit of his business. The Selectmen and the Building Inspector have had calls regarding this. Pascucci said he acquired a lot in December that goes to School Street. He asked for a driveway permit to go out onto School Street. He thought traffic could come in one way and exit on School Street. He put up a fence across one area but because of the season, he could not continue with it. He has placed a shop sign on the driveway going to School Street.

Attorney Michael Shea submitted a Form A application for Stephen Gersh, Conomo Point Road. On the map Gersh's land ended at a stone wall. A small piece of land on Conomo Point Road belongs to the Town of Essex, and it was felt the lots did not have frontage. Shea, acting for counsel for Stephen Gersch, voluntarily withdrew his Form A application.

Sharon Scobert, Ipswich County Homes, Ipswich, told the Board she was hired by Fred Perkins to sell a portion of his land, but wanted to clarify Perkins position as to whether the lot had frontage and access. She was told she would have to approach Denis D'Amore about using the proposed subdivision road as frontage.

The Board reviewed the preliminary plan for Pine Ridge Subdivision. The proposal is for eight lots. Applicant Ron Ober asked the Board to consider a perc on Lot #7 for Lot #3. It was the consensus of the Board that it could not be done. The Board said they would like to see an easement for a water line to come in. Ober said they had moved the road which will improve site distances. Cataldo wondered if the Board would require a water line to be brought in. W. Burnham felt the Board could not require it. The Board's requirement was to be sure there was an adequate water supply.

A request has been made from the Board of Selectmen for a volunteer to be a representative to the area M.A.P.C. who are studying the upgrading of the

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Route 128 loop. No. one volunteered at this time.

A scenic road public hearing was proposed for March 2, 1988 for the Craft Hill subdivision, Story Street.

Cataldo moved we hold a public hearing on March 2, 1988, at 8:00 p.m. for removal of a portion of stone wall in conjunction with a curb cut for Craft Hill subdivision, off Story Street. The motion was seconded by Dunn, with the Board voting unanimously in favor.

A letter was received from the Department of Public Works regarding a request by Richard Means for Sagamore Circle to be made a public way.

A letter was received from the Conservation Commission of Manchester with regard to the gate across Old School Street.

W. Burnham said he would like to ask Phil Herr for definitions for the Special Permit Application for an article for the Town meeting.

Cataldo moved to adjourn the meeting; seconded by Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10:55 p.m.



Gillian B. Palumbo

Essex Planning Board

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AGENDA

8:00 p.m. ... Public hearing for Deer Run
Estates (Charlottee Partnership)

Business:

Sign plans of Brook Pasture Realty Trust
(Thomas Corkery)

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Present : Westley Burnham, Chairman; E. Burnham; Michael Cataldo; Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:35 p.m.

Building Inspector Richard Carter gave the Board a building permit application for Rolf Roller, 31 Grove Street, for remodelling room above the garage; to put in bathroom and kitchenette. Garage is attached to the house. Size of building, length 26', width 24'. Area of land 21,000 square feet.

Wilson moved the Building Inspector issue a building permit to Rolf Roller, 31 Grove Street, to remodel rooms of garage adding bathroom and kitchenette at 31 Grove Street, finding it not to be substantially more detrimental than the existing non-conforming us to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A public hearing was held for the Special Permit Application submitted by the Charlottee Partnership (Deer Run Estates) at 8:00 p.m.

Sally Rich of the School Committee said she felt it would not have an adverse impact on the school at present because enrollment is on the low side. John Serafini, Jr., Salem, Mass., representing the developers, Charlottee Partnership, said, "We have tonight a refileing of an earlier submission we made July 15, 1987. We, as you recall, in early December withdrew that application and have refiled all over again. There are some small changes in our plans and our overall design and the engineers can give you better details than myself. Very briefly, we change some of the drainage concepts around, slightly; I don't think in any way that will impact seriously on the Board. We are still going to have our retention areas to catch the drainage that is going to come from the whole project, trying to slow it down, and ultimately empty it into the pond that is on the Davis land which is southwest of our project. We have an easement worked out with the Davis family, which has been recorded today in the Registry of Deeds, to allow us legal right to drain on to that. We also, as you know, have gone ahead with a design that incorporates a wastewater type treatment plant. Because of discussion we had with the Board of Health everyone felt we should design a system for a larger flow of sewage than we had originally expected. We redesigned the project based on that, and we are going to be applying to the State for a ground water discharge pump. That is underway; we are going to be meeting with the State this week. Given the projects redesign, the old system you may recall based on individual septic tanks and a leaching field on top of the back hill, it has been changed so that we will not have individual septic tanks, but an integrated system. The leaching fields will be approximately in the same area. We have also tried to package the information for you, hopefully in a way which will make it a little bit more easier for you to grasp. What we have in that information basically, is a compellation of reports you saw in the earlier set. None of those can be considered, as part of the old set, we refiled all the reports with the new filing, so you have volumes one and two, each of which has a table of contents. Basically, all of the fiscal studies, the sewerage calculations, the water, the traffic studies, and all the other things we went into in the last cycle, are all contained in these volumes. We

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certainly welcome any comments that you have and questions. Also, in response to Mr. Herr's comments, we have incorporated a grading plan for the entire site so there will be some way to determine what the relative slopes of all those areas on our plans are going to be and how they are finally going to wind up. As you recall, we have filed for a special permit with your Board and under your rules, without reading all of them in detail, essentially the requirements are listed under the by-law. The highlights essentially are, that the project has to be in harmony for purposes and intent of the bylaw, in compliance with the basic structure of the (tape inaudible) and we feel the project meets that definition. The zoning scheme allows a relatively open flexible type of design which contemplates multi-family housing. We are clearly coming in with multi-family housing, with a series of four-unit clusters. The next factor has to deal with the site and appropriate location. We feel it is. It is approximately a thirty-nine acre site. The planning we have done have scattered the buildings in such a way that there will not be overcrowding. Visually the project will look good from the street. Very few people will be able to see the project, so the surrounding neighborhood should be only minimally impacted. The site also has to have adequate water and sewerage, and soil for on site disposal. There is adequate water, the disposal system for the sewerage we already gone into a little bit with the collective system, and our engineers tell us the soil is suitable for carrying all the treated effluent. We have all recognized earlier that area of sewerage is primarily in the province of the Board of Health and the D.E.Q.E. as we apply for the groundwater discharge permit. I think the Board has been basically willing to stay out of the intensive review of that area. I assure you we will get intensive review from the other components of the Board we have to go before. The next is the use does not adversely affect the neighborhood, the reason we have cited earlier, we don't think it will. The traffic impact is outlined in the traffic study. It is going to be relatively negligible. There is not going to be any through traffic through the site. There is going to be an outlet onto Route 22 only and this is a primary outlet, and the road system can easily handle that. We also feel that there will not be any nuisance or serious hazard to vehicles or pedestrians from the design we have created and the traffic report goes into those details. Finally there has to be adequate and appropriate facilities provided for for the proposed use. There are Town services that are adequate to carry that project at this site. As you know we will be picking up all our own trash, we will be hooking up to your water system, the sewerage will be self-contained, we will plough and maintain all of own road systems. It is going to be a condominium scheme. You have a copy of the documents in your submittal and the condominium scheme will enforce that the people who own will pay for all of the services that they get. Naturally, there will be impacts as far as Fire and police, but those should be relatively small impacts, we hope. One of the facts we had discussed at an earlier time was the need for some flexibility as to interior design of the units. You will see on the new plans some typical floor plan layouts, that because of the custom designing for the buyers, we would like some flexibility as to what actually goes on in the inside. The zoning law itself, under Chapter 48, contemplates that primarily the interior of the buildings are not regulated by the authorities. We were not able to supply you with fifty finished floor plan layouts because we do not know what will go there. We can tell you that the footprints will be pretty much as is shown on that diagram and we have given you some typical drawings to show you the dimensions of the buildings, but then the actual floor plan layout will be what the individuals want. We would like to have some flexibility as to where

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the actual footprints go on the site within reason, in case we encounter boulders, trees, or other field conditions which may it feasible to move or desirable to move those footprints. We would like the flexibility to move them twenty or thirty feet from where the actual layout might be. I would like to have the engineers give you a brief overview of some of the technical details, and then what we would like to do is, if there are questions we will obviously respond to those. Finally we would like to submit to you a draft set of conditions, so if you were to grant approval of the project I'm sure you would want to place some conditions on, and we feel there ought to be some appropriate conditions on for the benefit of the Town, as well as for the benefit of ourselves. I think we have always left you with a theme that we want to do a quality project and part of that depends on a strict permit, so we want to work with you on that. Clearly that would have to be something that we submit afterwards. We also had an arrangement previously, which we are willing to continue, of paying the consultant to the Board, because of the Board's lack of technical expertise in certain areas and you need to get some additional guidance from the planner. We have no objection to continuing that arrangement. We can tell you we have paid Mr. Herr's bill to date. One of the concerns that came up in a prior hearing was, is there any possibility of having a second access to the project. To the extreme north westerly corner of the boundary is the property of Mr. Mansfield. We would be willing to extend at least an informal driveway across to his driveway to connect with that. It is a relatively flat portion of land, and the purpose of this is to have a second emergency access because I don't think he wants to have a regular access up there. We would be willing to co-operate in getting the area either paved or smoothed over and maintained in some reasonable way. There are some possibilities that he would like some utilities in that area and where we have utilities close by, we may be able to work that out with him. So I want the Board to understand that we are willing to create their second means of access and egress, with which Mr. Story was particularly concerned provided we can get some co-operation from the abutter. I think it makes some sense in case one of our primary entrance ways is blocked and I think it will make some sense for him, just in case his own driveway gets blocked. That will be something we have to work out with him, but we certainly are willing to try."

Madsen - "What the engineering changes in this plan as it stands?"

Serafini - "As I can recall them, on Sheet 10 of the new set of plans, in the design as it originally evolved there were always going to be detention ponds which were there to catch whatever the run-off is coming from the road and some of the other areas, pond it for a while and let it out slowly, and ultimately discharge it into the pond that is on the Davis property. That has always been part of the design. In discussions with the Conservation Commission, they had some concerns of how much volume the detention pond down in this area can hold, so we basically redesigned that."

Cataldo - "Once things are discharged into that pond, where do they go from there?"

"Right down a system of pipes into an outlet, which discharges it into the detention pond, where it is gathered at this end and led into a drainage system and eventually into the ground."

Serafini - "What is happening is that obviously the same amount of rainfall, the same amount of snowfall falls on this site. Whatever we do that will always be true. We have done, and there are some exhaustive calculations that you have that show that the actual run-off that is going to be going down there, is going to get there at a slower rate than gets there now. In other words, there is going

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to be a less than zero increase in the peak flow. The same amount of water will wind up in that pond roughly. I think there is a slight variation on that. The same water will get there. It will get there slow enough so it will have a chance not to flood the downstream system."

Cataldo - "But getting there, isn't it also going to pick up the road oil, asphalt and the run-off_s from the roof. It is the same pure water that is getting there via the forest and the woodland that is there now."

Serafini - "That is provided for, because you've got the grease and oil separators in all of the catch basins. We also have some other engineering features that I'm not familiar with. If there is an oil spill on the road, or some other thing that eventually could occur, we want to make sure we don't pollute the surrounding area. That front area is a selling point to us because it is in its natural state. Naturally, to protect that area as well as we can, we have gone over it with the Conservation Commission. We don't know what their opinion is but they certainly meet all the current engineering standards. The actual paving of this area will change the natural infiltration now by about 4%. Obviously, when you do a development you are going to have some impact, but a 4% change in what is happening now, with all the roofs and paving, we don't think is a substantial change. With all the oil and gas separators we are going to have, there won't be any negative impact on that pond area. We have certainly discussed with the Conservation Commission the concept of what we put on the roads to keep them free of snow and ice and we don't have any objections to reasonable limitations on what we can put on there. I know there are materials you can put on that are better than straight salt and we have no objections to going along with that. The leaching fields have been changed from the configuration that you remember before. The field size still meets all the conditions that Title V involves. All are in compliance, and, in fact, exceed what the compliance requires. The actual sign-off on the septic system is going to come from D.E.Q.E. when we apply for a ground-water discharge permit."

Cataldo - "There will not be any grey water discharge?"

Paul Williams - "No, it will all go into the leach field."

Serafini - "We are still going to collect all of the septage and output from all of the houses, basically, pumped to a common site, and process it through the plant, where it will then go into the leaching field. We still are going to have a collective system just as we had the last time. Because of the package treatment plant, we are not going to have the need for the septic tanks."

Cataldo - "How does the pumping system work? Is there a back up in case of a power failure, or something like that?"

Engineer - "There is a series of switches in the pump that regulates it at different levels. There is an emergency back-up that is required by Title V."

Serafini - "From what I understand you are going to have a dual capacitor in that. You are going to have two independent systems to keep that going. What are the changes? Some of the buildings in this area have been moved slightly to accommodate the revised leaching field. I think the other buildings are primarily in the same locations that you saw in the first set. You can see where, if we are going to have it, the other roadway comes out back, roughly. We would like to have it come out some where in this area."

Donna Vorhees, of McGregor, Shea and Doliner, representing abutter John Donovan, gave the Board a letter. She said, "We have had the opportunity to look at the revised application. I have two major points. The first point that is outlined in the letter is one that comes up time and time again before the Board, and that is the separation between your Board and the Board of Health with respect to this waste water treatment system. We have said that it stated in the special permit

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there is adequate water and sewage, therefore it is appropriate that you consider whether that site does indeed have adequate sewage. Therefore, you should benefit from the Board of Health decision. What I have done in Section 1 is to point out the specific language which is in your general by-laws. (Vorhees read from the by-laws). That has led us to believe that that variance and that ultimate Board of Health approval needs to be obtained prior to the issuing of the special permit. The reason why it is such a primary concern is that they are proposing a small sewage treatment facility which will provide better treatment than the traditional septic systems they had proposed previously. Last night at the Conservation Commission hearing the subject came up of possibly interim systems that would be a conventional system. There is some uncertainty as to what they are having there. I think it is important for your Board to know what is going to happen. The second point also was brought up previously regarding the condominium association documents. You had asked previously for some ideas as to what should be in the condominium documents, so I've tried to summarize everything you've said before in this one letter. In essence they have resubmitted those condominium documents and they appear to be the same as submitted previously. This letter is an attempt to incorporate our suggestions and I suggest that should happen during the course of your public hearing process. Also you mentioned the possibility of a secondary access to the rear of the property. It is something that needs consideration of a future hearing if they are going to pursue it any further."

Serafini - "If Mr. Mansfield is willing to do it, certainly we could word the permit to state that if and when he agrees to have access to go across there, we will be willing to put in an access of a certain quality, but it would be up to the Board's standards. We talked to him the last time we were at one of the hearings about the concept of it, and he said he would be happy to talk further to us about it. He was interested in having some of the utility lines; apparently, he doesn't have them all the way up there now, and which will eventually be brought to our project, and we have agreed to sit down and go over it with him."

Donna Vorhees - "Obviously, this project with roadway is related to this project. If it needs to be constructed it will be subject to traffic for its permanent development."

Serafini - "It will be an emergency exit only."

Donna Vorhees - "It is still part of the same project."

W. Burnham - "Having discussed the matter informally with Mr. Mansfield, Mr. Mansfield's intent is by no means to build a driveway for a normal access. It is more of an emergency access. The subject was brought up again after he had a house fire up there several weeks ago and the thought was that if it goes in there will be hydrants. The object was to provide an emergency vehicle type access. It should not impact the traffic whatsoever. That was the intent that I understood."

Serafini - "It is only an emergency entrance, not a regular entrance. That would not be feasible."

W. Burnham - "That is what I consider a private matter between Mr. Mansfield and the Charlottee Partnership."

Donna Vorhees - "I think, for the record, it is related to this project and should be considered in conjunction with it."

Madsen - "I don't feel it is relative to the proceedings right now either way."

Serafini - "Except to show the willingness on our part."

Madsen - "As it isn't in the documents of the public hearing, I don't think we should consider it yet either way."

Serafini - "I would like to respond to the first part as to whether you can issue a permit when the Board of Health hasn't yet acted. I think it is clear you can issue your permit, and it is going to be subject to whatever the permit issued by

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the Board of Health and/or the D.E.Q.E. specifies. We are happy to have your permit say that it is subject to those conditions. It is obvious they will issue a permit that tells us what we have to do for the sewage system and we clearly intend to follow that. I think your responsibility is to simply indicate in your permit that yours is subject to what sewerage requirements they grant, and whatever conditions they put in. I don't think that can hold us up."

Frederick Fawcett, Apple Street - "Do I understand this emergency access will lead emergency traffic from the subdivision through the Mansfield property to what artery?"

W. Burnham - "Mr. Fawcett, if this emergency access is, in fact, put in, it is not designed to relieve any traffic from the subdivision. The emergency access, as discussed, to the best of my knowledge, was to Mr. Mansfield's advantage and was by no means a back door exit for the project. Furthermore, it is not part of the plan and we are not going to discuss that aspect any further this evening due to the fact it is all hypothetical at this point."

Frederick Fawcett - "What public road does Mr. Mansfield's property now exit?"

W. Burnham - "Mr. Mansfield's driveway is off County Road, which is totally irrelevant to this discussion."

Frederick Fawcett - "Since it is not part of this submission, if at anytime it is to be addressed, I think a public hearing must be called to address it."

W. Burnham - "We will take that under advisement."

Attorney Michael Shea, representing Augustus Means, a direct abutter - "Is there a frontage requirement for this project?"

W. Burnham - "Yes, there is."

Shea - "Do they meet the frontage requirement?"

W. Burnham - "Yes, they do."

Shea - "What is the requirement?"

Serafini - "300 feet, I think."

Shea - "They have just been discussing the drainage on a plan which shows a drainage easement, which they had talked about regarding water coming off the site down into the Davis pond. It is my understanding from attending the Conservation Commission meeting that the repair of or replication of the pipe which goes under that road has not even been applied for yet. Any drainage calculations you have been presented with this evening regarding movement of water off the site through that pipe is not part of anything received yet by the Conservation Commission. I suggest to you that that is one of the problems that you are being presented with this evening. I suggest to you that that is also a problem with the septic systems that are possibly proposed. It was pointed out last evening that temporary systems may be put in place during preliminary construction. You don't have placement of those systems, where they may be, whether the ground will be moved, whether the grading that has been presented to you will have any effect upon what they have presented to you. That is a finished product that you have there, based on a system they are proposing to D.E.Q.E. Even D.E.Q.E. asked them to move the leaching fields as proposed. You will not have the opportunity to review these plans to see whether the leaching system is moved, and if it is moved, whether or not they will be the drainage ditches on the footprints of the property. They have already told you they may want to move them twenty feet. If these septic systems and leaching fields aren't approved by D.E.Q.E., or if approved, they told them they have to move it because of the slope that exists on the site, you are not going to have the opportunity to review it. You will already have given up that opportunity by issuing a permit. You cannot make your permit contingent upon things you do not know, and you will not know until such time the D.E.Q.E. approves or disapproves the system, whether it's sited where they are requesting it to be sited, or whether it is moved, whether or not it's adequate under your subdivision

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control laws, or, I think, basically, under your special permit granting procedure. I think, basically, you have to review what the Board of Health does and, in this case, the D.E.Q.E.'s determination. You have to review whether or not that is an allowable use, whether that will affect the grading they have proposed, whether it will affect the gradients they have proposed. They have presented to you calculations based upon empirical facts they have created, given that everything they request is allowed. They say don't worry about the Conservation Commission. Last night they told the Conservation Commission not to worry about you. I think that's all well and good. I think you have to keep in mind that there are overlapping areas between Conservation and what you are responsible for. You are responsible for the lateral drainage and whether it has any affect on other areas, contingent not even on site, but adjacent to the site, and I don't think you have been given final plans, because final plans are impossible. I made the same argument at the Conservation Commission meeting last evening, and I'm making it tonight, that with the plans presented to you this evening, there is no way on earth that you can tell whether or not that is what is going to end up on site. This has been going on for a long time. This is the second application they have had before you, and you have listened to this argument on numerous occasions. My suggestion is, and Mr. Serafini will say I will say almost anything because my client wants the project stopped, that is a logical argument from his point of view, but my point of view is that the plans are incomplete. The argument doesn't change, they are still incomplete. If you don't have a D.E.Q.E. permit, if you don't have Conservation Commission approval, then you cannot present a plan for the plan to be built upon. I can go around and around and say if you don't have this, then you cannot get that. My suggestion is, if the D.E.Q.E. approves the system, then the system is in place. If the Conservation Commission gives an Order of Conditions, then the Order of Conditions is in place. They present you with the plans, you vote on them. You can qualify it anyway you want, which you are allowed to do under your by-laws and under the state law that authorizes you to have that by-law. You have broad discretion to make qualifying amendments to your permits. My suggestion is you do not have factual information to make the determination of how to qualify it to protect the citizens of Essex from serious environmental hazards, from safety hazards, and from numerous changes that may occur in the plan, different than what they have presented here. I think it is a reasonable and logical assumption to expect a Town Board to be able to look at a plan, to be able to look at a footprint for a building, be able to look at roadways, be able to look at drainage ditches, be able to look at holding ponds and say that is what is going to be there when the project is completed. To say that this drainage ditch could move twenty feet, which might move the road thirty feet, which might change our drainage calculations, so we will have to resubmit, does not seem to be a logical way for Town administrators to do business. You are not experts, you have obviously be given the opportunity to have someone come in and comment with expertise to you, so that you have an idea of what is going on, but he is as limited as you are as what he is working with, plans that are in a state of flux. Continuing from the first meeting I attended and through every meeting I've gone to, the Partnership has been more than willing to make any changes possible to placacate the Board they are in fron of at the moment. There are two ways to look at that. One way is that they are trying to put the best system possible before the Board they are in front of, trying to improve their plan based upon the cost; the other is they are willing to do almost anything in order to get their permits approved. I don't know which is the case

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here. My suggestion is unless you have a concrete plan on which to base your permit and to make your conditions to grant that permit, you are leaving so many openings all kinds of things can happen down there. It could have adverse affects on the Town. I think you have made some decisions on your own that have made vast changes, going from two bedrooms to three bedrooms. They have changed it from a septic system to a collective system. I don't doubt the technical accuracy of what they have presented to you. It is good. I think it is. There are two volumes of it. You can only have technical accuracy on something that is realistic, and not on something that is proposed. It may happen, given three or four other things may happen, and my suggestion to you is, your Board is not going to have the effect of changing things as much as limiting things. Conservation Commission may very well change designs that are presented to them. D.E.Q.E. may very well change. What you are going to do is look at the plans; you are going to say 'either we are going to issue the permit or we are going to deny the permit and this is how we are going to condition it. My suggestion to you is this is exactly the wrong Board to be coming in front of to ask for the first permit. I think you are the last people that they should be coming to. Until such time that you receive all the information so you can make a definitive decision based upon what has been presented to everyone, that you will be doing a disservice to the Town and an injustice to my client and other abutters that surround the site. I would ask you to work out some way to continue a decision. My suggestion is you continue the public hearing so that other people can comment on the changes made. If the public hearing isn't continued, you are placing yourself under the time frame, and I think it will do everyone an injustice, including my client, not to be able to comment on what eventually may be approval or disapproval of the other Boards. Keep that in mind when you make your determination."

Serafini - "I would like to respond to a few of those points. May be we can go back to one of the first points first and that has to do with the drainage pipe under the roadway. There has been since at least 1955 or 1957 a drainage pipe, which goes from the upper Davis land to the lower Davis land. Apparently, in recent times that pipe was crushed because of traffic over the road system. The Davis pipe is one of two pipes that will be under that drainage corridor that we have. The Davis people have before the Board a plan to repair that pipe, and under the regulations that the Conservation Commissions have to live by, they have a right to repair that pipe. There is no indication that that can be held up and the drainage will go along as it had for the last thirty years. Mr. Morin filed that application with the Conservation Commission, I think, some two weeks ago."

Clay Morin - "We addressed the Conservation Commission two weeks ago with Mr. Davis's situation and last night we filed a Notice of Intent."

Serafini - "The drainage situation is in hand as far as the Davis property is concerned, but what we plan to do is put in an additional pipe, and to the same drainage easement area the Davis family has granted us an easement, which is recorded, In the same corridor we are going to have a pipe side by side, which is going to pick up our

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own drainage. Our drainage pipe is going to come down this roadway and then down this drainage corridor, and then end up basically in the pond. I don't know what the first point Mr. Shea is addressing has to do with it. They have applied for permission to repair the pipe and that is now pending. We have the legal right to go across the land that Davis has from an easement standpoint, and put our own pipe in. We have to go through the Conservation Commission process. That has been part of our own submission to them. If they turn it down, we will wind up at D.E.Q.E. and D.E.Q.E. will consider the matter. Now just getting to a little bit of the other idea, which seems to be that what you have before you is somehow a 'half-baked' project. Anybody who has labored through these hearings we have had over more than six months, it's going on closer to ten months if we count the informal things, has to be struck by the detail that is contained on those plans and in these volumes of material that you have before you. We are not coming in with some flimsy idea that we don't know where it's going to go, or we don't know what to do. The road system is basically fixed. The D.E.Q.E. is not going to make us move the road system; they are not going to make us move the basic footprints of the housing; they are not going to tell us what we have to do with the density of how much housing can go up there, and they are not going to tell us where to place the utilities. All of these items are basically fixed, and that is what you will be voting on. The fact that the sewerage component is left open at this point is not something that should stop the entire project. There is nothing in your by-law that says you have to go out and get your permits from either the Board of Health or from the Conservation Commission before you can apply for a special permit under zoning. There is nothing in there which says that. Always, in any project, you would get into a chicken and egg situation, where, if each Board says you cannot come here until you get a permit from another Board, you would never get a project off the ground. It would take years, so you provide and apply for all your permits at the same time. That is essentially what we have done. We have designed things to run concurrently. Once we got fixed in our minds what your Board wanted, as far as overall design, that's when we went to the other Boards. We have said your permit can, and should be, subject to whatever the final permit the Board of Health and D.E.Q.E. issues. Their design changes are not going to be so intensive, we don't think, that they are going to be pushing the leaching field up to the front of the project. Anything you say in your permits, if you want to limit them, to the affect the general area for the leaching fields has to be where we've shown it on the plans. We are happy to go along with that. We think that the argument, 'you don't know exactly what you are going to do because you don't know what the other Boards are going to make you do', really doesn't have any merit. The range, at which they are going to require you to do different things and for us to do different things, is going to be relatively limited. If we ask you for flexibility to move the footprints of a building twenty or thirty feet on a size project that has thirty-nine acres, that is relatively insignificant from our stand point. We think there is plenty of information here.

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If you vote your permit subject to what the other Board does, you will certainly have no quarrel from us. I think that pretty much should take care of these arguments that our plans and our data are incomplete. I think you have plenty of data. I think it is really time to move on to a decision and by law, as you know, once we close the public hearing, you have ninety days to make a decision. If there are any lingering questions in that interim period, we can always work those out. One of the suggestions I was going to make is that if the Shea group wants to have some review over the final master deed and the condominium documents, and so forth, we don't object to that. We can do that by letter. You may want you Town Counsel to look at them. We don't object to that either. Hopefully, the ninety days will be enough, but I think there is enough flexibility that you have, unless there are other people here tonight who want to speak. You've heard the public comments. I don't think there is any need to delay this process unless you people have a legitimate need to have more information, and you feel that the information should be held in a public forum. Apart from that, we think we have, basically, done a decent job in presenting to you all the information that you really need to make you decision."

W. Burnham - "I would like to ask one question which pertains to Mr. Shea's remarks, and conversations I had with several people concerning last night's hearing, you mentioned last night about temporary systems until the package plant was put in place."

Serafini - "I think we have told you this from the beginning, we don't plan to build all fifty units on day one. Any prudent builder will build some and basically see how the market goes and sells. He certainly doesn't want to be sitting out there with fifty unsold units. What we are going to be talking to the D.E.Q.E. about is at what point we actually have to put the package treatment plant on line. From what our engineers tell us, there are certain minimum volume flows that a package treatment plant requires just to operate properly. We will build whatever components are required to make the septic system function, and that probably will include for the time being the piping system, the general leaching field, the pumps to get up to the general leaching fields, so that any housing that is built in here will have all of its septage collected. Then if the D.E.Q.E. says so, and the Board of Health agrees, that may be treated as a large septic system that will process the effluent without the benefit of a package plant. At some point, as you get over the 15,000 gallon limitation, the D.E.Q.E. is likely to want a package treatment plant. They may say, at a point short of that, where we can simply pump the effluent up to the leaching field and let it act as a normal septic system. That is something the engineers will basically have to hash out. That is a technical point."

Cataldo - "What you are saying is that if you get a permit to build fifty units and only sell twenty of them, and there's no more demand, we may never see a package treatment plant there."

Serafini - "We will have to build whatever the Board of Health and D.E.Q.E. require us to build. There may not be a need for a package plant, but if we build the entire thing then presumably they are going to tell us to build the entire package treatment

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plant. We don't want to build a system, and they are not going to let us build a system that won't work properly. The package treatment plant needs a minimum volume flow. Whatever they may phase a permit, and they do this kind of thing frequently, they basically will say 'fine, when you reach a certain cut-off point you have got to add in certain components of the system!'. If the project was very large they may want you to go to a different level of package treatment. They will say after you get so many houses on line you've got to go to the next step. So it's not unusual for them to write a phasing requirement into their permit, and that would certainly have to satisfy the Title V requirements. I think from your perspective, as long as we meet the state sanitary codes on how the system is going to operate, I think your concerns are satisfied. You need an adequate sewerage system up there, that's your concern. We don't want any less. The State and your Board of Health won't allow us to operate with any less. We won't be able to get any building permits until we get an approved plan that shows how the sewerage system is going to work at all points of the development. I think again, if you have your permit say it will be subject to compliance with Board of Health and D.E.Q.E. permits on the subsurface disposal system, we are happy to do that and I think that will meet your needs."

Story - "If, for example, you only build forty units or thirty-five, perhaps, will then the septic system be what you originally contemplated, with individual septic tanks, receiving tanks, which are then pumped to the leaching area. Is that what they will look like?"

Serafini - "I think that will depend on our discussions with the D.E.Q.E. If they say they want us to put in the individual septic tanks at that point, then we will put them in. If they say we can do another type of collection system, then that is what we will do. It really depends on what they want. I don't think you people care specifically about whether it is a package treatment plant as opposed to whether you have a functional system."

Warren Messier - "There has never, since we have come into the gallonage situation, any doubt that it is going to be a sewage treatment plant in there. The sewage treatment plant maybe phased in when sufficient gallonage is generated by the occupancy of some number of buildings as determined by D.E.Q.E. If D.E.Q.E. says that ten buildings and the gallonage will be sufficient to operate a sewerage treatment plant, and once you acquire that gallonage then you must bring on line the sewage treatment plant, then that is the point it will be brought on line. If we stopped at that threshold, at that point, and built no more buildings, there would still be a sewerage treatment plant required to be put on line, in accordance and compliance with D.E.Q.E., or we would not get any occupancy permits."

Serafini - "I think whatever we are required to do by those permits, and those are the technical experts, as to what we do with sewerage and how you can figure a system, then it seems to me your Board should be comfortable with leaving that decision up to those people who do nothing but determine what adequate sewage systems are. They are going to know all about the site, they are going to know about the mounding analysis, the groundwater, the soil, and this and that,

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and they will tell us this is the system you need to have, when you are at this level of building, and when you are at the final level of building."

Story - "My question was, simply, what sort of system will there be in the interim. Will they be such as you originally planned for?"

Serafini - "I think they could be. I think the answer will depend on what they want us to have. Clearly, we are going to need some system. I guess one of the civil engineers may want to speak to this. You will need some component which will collect solids and you will need another component which will run the effluent to the leaching system."

Warren Messier - "It is going to be the same system that will be built, the same leach field locations as shown on the plan. There is no deviation from the plans that are before you. If two buildings are brought on line and D.E.Q.E. says, 'fine, run that into the system, it isn't sufficient gallonage to go through the treatment aspect, the sewerage treatment plant', then it will be collected, but then pumped up into the leach field, as raw effluent can go into the ground leach field, the same as you do in any house leach field design you have now. As soon as D.E.Q.E. tells us what they want, then they will set the standards and say this is how you must apply. That will be the only basis on which we will obtain building permits."

Cataldo - "Have you filed a Notice of Intent for this plan?"

Serafini - "Yes."

Cataldo - "And they have had the public hearing?"

Serafini - "We had the public hearing last night."

W. Burnham - "We haven't received a copy of the Order of Conditions."

Cataldo - "They have a while to write it, but we will receive it within the time period."

Scott DeWitt, member of the Conservation Commission - "That application was denied last night."

Charles Messier - "What you are looking at right here, the Conservation Commission had questions regarding the flow of water to the pond. They intimated that it might be too great of a number, too large of a number. The engineers, hearing that, took it under consideration, went back and expanded that pond, that you can see there from the original flow that they gave to you, and reduced the flow in the entire system by doing that. If you can fault people for trying to take into consideration all those things that are on your minds as Board members, in your effort to protect the community, then by all means, I'll stand back and you can fault us. What we have done is an honest attempt, and perhaps the most honest thing you've heard tonight, to meet the needs of the community. I am going to stand on our honesty and our approach to this. I want, I ask for, a fair hearing before a fair Board. I believe that we have that, and I would like that you consider everything that we have presented. If there are any further questions, give us a chance to answer them. We have got the best of engineers that took all the facts under consideration, and have tried to give to this community everything that is needed. You couldn't ask for any more than that. Everything you have asked

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for we have tried to give you. We have got it down to fifty units, which is not an overwhelming number of buildings. You will issue fifty building permits in this community within the next year. We are talking about fifty units in three years. We are not going to dramatically do anything drastic to this Town. We have more controls imposed on us than you will ever impose on any other citizen in this community. They can build haphazardly, any style and design they want, without regards to their neighbors or anyone else. We are controlled. This is the greatest amount of control that could be reserved anywhere on anyone. We have given you a good set of plans. Some of the attorneys, and I won't mention their names, have slandered these plans a thousand times, but they make their living at it. Our opponents have come across and brought up everything they could to degrade them. Find the errors in there. Bring them to our attention and we will be glad to correct them. If you look at any of the reports the errors are not noted. There are no errors in them."

Serafini - "I would like to point out one other thing to the Board. The sheets you have there marked Sheets 10 through 13 have been revised since the ones you saw to show the larger detention pond, in response to the concern of the Conservation Commission, so these should be considered as an additional piece of paper to go with your original submission. That's basically all that has changed on this."

Donna Vorhees - "I would appreciate that the record be kept open for a short period of time while we submit our draft special permit decision."

W. Burnham - "I will take that under consideration. We haven't decided what we are going to do just yet. Mr. Shea, I would like to ask you a question. Since it was your suggestion we keep the public hearing running indefinitely until D.E.Q.E. settles, can you give me an opinion as to where we stand with the ninety day time clock from the start of the public hearing as written in the Mass. General Laws."

Shea - "My opinion is that the system they are proposing is going to take some period of time. I think the only thing you can do is continue the hearing on an informational basis at least to see what has happened and I would do that prior to the ninety days, prior to the date of filing."

Frederick Fawcett - "May I remind the chairman that if it is decided to continue the hearing, that when the time of the continuance occurs, it is required by law that that continuance be advertised in the paper and that abutters be notified."

Serafini - "That is not true."

Fawcett - "That is true under 81U if you consider case law."

W. Burnham - "It is my understanding on the advice of our Town Counsel, informally over the telephone that if I so designate the time and the meeting place tonight, prior to closing the hearing for this evening, it does not have to be readvertised. If we close the hearing and decide at a later date to reopen the hearing, it must undergo the advertising process and notification."

Michael Davis, an abutter - "It goes back to the other meetings, but our family has no objections to the project. We feel it is the best use of the land. Also we feel it is better with the sewerage

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plant rather than a collection system previously proposed." Warren Messier - "All the plans and all the engineering data which we have exhaustively undergone, in an attempt to comply with all the requirements of the Town are complete, concise and final. As far as we are concerned, there are no changes in our presentation before this Board. If Conservation Commission made a denial and order some conditions, we are going to appeal that to the D.E.Q.E., and whatever comes out of D.E.Q.E. with an order will be what we live with, just as we were willing to live with whatever local Conservation issued in the way of an Order of Conditions to safeguard the Town. The same with the Board of Health. Whatever the D.E.Q.E. and the local Board of Health require us to do, we will comply with, but our plans are final, our submission is final. As far as we are concerned, our presentation before this Board is concluded, we have nothing further to add other than we wait upon the decision of the Board."

Serafini - "We want to submit a draft report to you of special permit conditions. We think that is in line. We also want to Comment on the issue raised, as far as our condominium documents. If you are going to continue the public hearing we would just submit them at that time."

W. Burnham - "What, right now, is outstanding as far as any of the members can see?"

Cataldo - "I would like a report from Phil Herr to be entered as part of the records."

W. Burnham - "We have a Board of Health determination, which we are not going to get because that is going to D.E.Q.E."

Cataldo - "Have you received correspondence back from the D.P.W.?"

W. Burnham - "Not under this new submission. They may not have realized they had to resubmit. If we do decide to close it tonight, at the very least I want to leave at least two weeks to a month written comment period. I have a letter from the Fire Department which is as follows - 'The Board of Fire Engineers has reviewed the plans dated October 30, 1987, by Morin Engineering, Inc., for a fifty unit condominium development off Western Avenue, Essex, Ma. We submit the following recommendations: i) access - proposed 24' driveway will provide adequate access for emergency vehicles; ii) hydrants - location of water pipes is shown, but size and location of hydrants are not - subsection A - all hydrants must be located with a maximum distance of 500 feet between hydrants. A minimum of 1000 gallons per minute should be provided to maintain and upgrade the Town fire insurance ratings; iii) details of the building construction are not shown - a) sprinkler systems are not required under Chapter 26 (g) and (h). We recommend a study be made relative to the cost of sprinklers as to the reduction of insurance premiums; b) Each unit must be separated by a 2r fire rated wall; iv) identification - a) all units should be identified by numbers or names with appropriate signs on the roadway; b) alarm systems should have outside lights for rapid identification; v) landscaping - all landscaping should be done to minimize the dangers from outside fires if wooded areas are to be retained, and to provide easy access to the rears of the buildings.' That's about it for outside correspondence from other Town Boards."

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Serafini - "We may have a clarification of the hydrants."

Clay Morin - "There are hydrants shown on the plans."

Serafini - "We certainly want to provide you the hydrants in the correct locations. I think most of your other conditions we would be happy to have incorporated into our conditions."

W. Burnham - "This is an outside possibility but I understand all of the filing to date has been under the name of Deer Run. I'm not sure we can insist upon it, but I think it would be appreciated if you could come up with possibly another name, as we already have a Deer Hill project on the opposite side of the Town, which for emergency services, does create some confusion. I'm not sure how we are going to deal with that."

Serafini - "We can give that some thought."

Frederick Fawcett - "Could I ask if the hydrants just recently pointed out to the Fire Chief do indeed meet the specifications of his request, as far as distancing."

E. Burnham - "I have to sit down and figure it out. When it's done they will be put in the way we want it."

Wilson moved that the public hearing on Deer Run Estates be closed. I think we have all the technical information on the plans that we need, a written comment period being left open until February 18, 1988. The motion was seconded by Story, with the Board voting unanimously in favor. The public hearing on Deer Run Estates was closed as so moved.

W. Burnham said Peter Ferriero is having a problem with our motion that we made for his property at 148 Main Street. I would like to send him a clarification of our motion.


Cataldo moved that you notify Peter Ferriero of the Board's action on property at 148 Main Street for clarification of a legal issue. The motion was seconded by Madsen, with the Board voting unanimously in favor.

Pine Ridge subdivision - A site visit and preliminary plan review is scheduled for Saturday, January 23, at 9:00 a.m.

John Dick met with the Board requesting a hearing for removal of a tree on the Hederson property on Apple Street.

Story moved to adjourn the meeting, seconded Wilson, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.


Gillian B. Palumbo

Essex Planning Board

January 13, 1988

Present : Westley Burnham, Chairman; Michael Cataldo; Francis Dunn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 7:50 p.m.

The Board reviewed the subdivision plan of Peter Van Wyck.

Robert Klopotoski represented Peter Van Wyck.

Elopotoski - "We are setting a limit of lots at twelve. The plan shows three lots plus two large parcels, and we will not divide the remaining two parcels into more than nine lots."

Cataldo - "Are you planning on having a STOP sign at the intersection?"

Klopotoski - "We don't feel the necessity for one."

Story - "Will it be one way?"

Klopotoski - "No. The road will be twenty feet of pavement with three feet of shoulder."

Cataldo - "I would feel more comfortable if we had an opinion from Town Counsel."

W. Burnham - "We have had three different cases from Peter that shows from court cases that this does not extend a dead end road."

Cataldo - "I would like to add on the plan that this is limited to a total of twelve lots. I would feel more comfortable voting for it with a limit placed on it twelve potential lots."

Klopotoski - "The name of the subdivision is Turtleback Circle. Above the title block we will state the conditions of the Planning Board for land court."

Wilson moved that we approve the subdivision plan of Peter Van Wyck, known as Turtleback Road Extension, map dated August 1, 1987, revised November 30, 1987, with conditions as follows: (1) the name of Turtleback Road extension be changed to Turtleback Circle; (2) a guard rail, three feet high, on the south side of the 9½% grade, station 5+75 to station 7+25, or as approved by the Department of Public Works; (3) no more than twelve building lots to access Turtleback Circle; (4) modification as necessary to specific construction requirements of the Massachusetts Department of Public Utilities for the Tenneco Gas Pipe Line in the areas of the plan where relevant; (5) a Clerk of the Works, paid for by the applicant and acceptable to the Essex Planning Board will be provided; (6) a locus be drawn on the plan; (7) all permits and approvals from the relevant Boards must be secured prior to start of construction of the road; (8) bonding of the road construction must be in accordance with Section 81-U of M.G.L. Chapter 41. We grant the requested waiver of 9½% grade for approximately 150 feet between stations 5+75 to station 7+25. The motion was seconded by Cataldo. The voting was as follows:-
Wilson - I approve, as it meets all subdivision rules, with waivers granted.
Story - Present

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Cataldo - I approve. I feel we have put enough adequate safeguards in it. It addresses all the issues, and given what we have seen in the past, it is the best we have seen.

Dunn - I oppose. It is a subdivision on top of a subdivision. I feel Turtleback Road is inadequate for this subdivision.

Madsen - Present

W. Burnham - I am in favor. I believe Peter Van Wyck has met as well as possible all requirements set forth with conditions attached. I feel we are adequately safeguarding the health and wellbeing of the townspeople.

The vote was three in favor, one opposed and two present; therefore the motion carried.

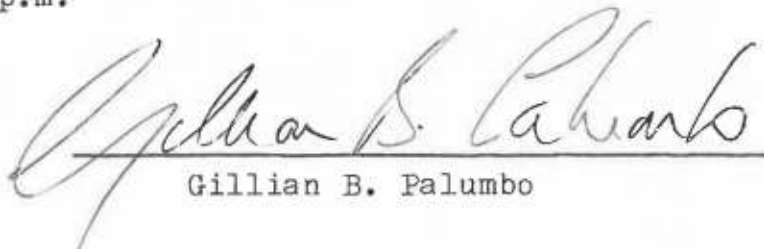
The Board reviewed the subdivision plan of Craft Hill, Story Street.

Madsen moved to approve the definitive subdivision plan known as Craft Hill, off Story Street, Essex, plan dated November 3, 1987, finding it meets all necessary subdivision control laws with the following conditions:- (1) Present name of Craft Hill to be changed to a name approved by the Board; (2) 20 foot pavement in lieu of 16 feet as shown; (3) Maintenance and easement agreement to be approved by the Board and recorded with the plan to cover road utilities and drainage maintenance; (4) Fire hydrants to be installed so that no hydrant is greater than 500 feet from any adjacent hydrant; (5) a clerk of the works to be paid for by the applicant and approved by the Essex Planning Board shall be provided to oversee construction of the road; (6) approvals and permits from all appropriate boards to be approved prior to start of construction; (7) an appropriate performance guarantee to be in the plans as dictated by M.G.L. Chapter 41, Section 81-U. An appropriate hearing shall be held in accordance with Chapter 40, Section 15C. The motion was seconded by Story, with the Board voting unanimously in favor.

The Board held a discussion on Deer Run Estates, off Western Avenue.

Dunn moved to adjourn the meeting; seconded by Madsen, with the Board voting unanimously in favor.

Meeting adjourn 9:45 p.m.



Gillian B. Palumbo

Dec. 21 meeting called to order
Present Wes, Pat, Jane, Joe
Alden. (RFP 8-10)

The Board ~~received~~ accepted the definitive
the submission of plans ~~for~~
five large subdivisions

The Board was told the ~~had~~ been divided
~~had~~ and up a little
differently than ~~the~~ original
the previous plan and the ~~are~~
now eight lots. The roads also ~~shatter~~ ^{than the} other plan

The applicant ^{Charles Melton}
and ^{Bob} ~~asked~~ ^{and} ~~asked~~ ^{asked} for a waiver of the
fee as a plan ^{has} ~~has~~ ^{been} ~~been~~ ^{submitted} ~~with~~ ^{with} ~~previous~~
plan ~~submittal~~

Reveals to list of required waives
The Board ~~agreed~~ ~~to~~ ~~shatter~~ ~~the~~
other plan.

Relates ~~also~~ that the
plans ~~be~~ ~~waived~~

~~After~~ ~~word~~ ~~of~~ ~~waive~~ ~~the~~ ~~submitted~~
will ~~be~~ ~~of~~ ~~plans~~ ~~as~~ ~~it~~ ~~has~~
already ~~been~~ ~~and~~
received ~~the~~ ~~plans~~ ~~for~~
^{submit} ^{of} ^{the} ^{rose} ^{date} ^{11/29/58}

review of the plans (2)

A ~~plan review~~ is scheduled for 9 pm on Jan 4.

Cape Ann School - ^{representative} Karl Falkner ^{Trustee of school.}

~~Architect~~
Architect

Charles Rose ^{and Karl} has seen need to study the feasibility of architecture ^{for property of} school. ~~is a trustee of~~ Choate Street.

Rose said it has been discussed that a 5-acre parcel containing 51 lots will be part of the site of the school, but it will be to the left of the parcel. Cape Ann School is a ^{non-profit} private school which is a ^{non-profit} private school. ~~is a private~~ No special needs children considered. tax exempt status.

It is

~~was~~

and the

There is no water dam here; neighborhood is chiefly wells. It is felt that because of the water problem ^{the school} they should consider extending the water main.

It was also noted that ³
Cheate Street is considered
a scenic way.

Mr. Rose asked what procedures
they will have to go through
They have to have
Special Permit Regs.
has said to ~~also~~ ^{also} request
Damage calculations -

Mr. ~~to~~ ^{also} ~~also~~ ^{also} request a traffic
study

was I said they will be obligated
to go through special permit
process.

Deer Run Estates

Attorney Tom Serapin for Charlotte Partnership

There been ~~the~~ ^{communication} ~~with~~ ^{with} DE and

About 3 weeks ago ~~the~~ ^{DE & E}
had sent ~~the~~ ^{plans} for the sewage treatment plant
plans.

No plans are in final form
now. DE & E has released
the amount per. ~~to~~ ^{which} 758 will

I know they will find the
project ~~has~~ been over-engineered
I feel 4-6 weeks is
realistic.

Father ^{said} He called JCS and
was told they had never
seen anything like the project
needed a variance. ~~to~~
The state approval has ~~no~~
authority to overrule the
TQM. The TQM can easily
deny this on the variance.

Father ~~Blaine~~ felt because of this
the time frame was unreasonable.

~~Father~~ ^{Sophie} felt a two month period
was reasonable.

(As to whether the charter
expresses the granting of
this the study)

If you still willing to
consider an application when
SD of Health ~~is~~ finally
made the ~~decision~~ ^{decision}. Then
we don't ~~need~~ ^{need} a three
month extension.

We saw there ~~at~~ ^{we} three
options

- 1) to grant a time extension
- 2) to make a new market before
- 3) to have Mr. Shapiro will draw

~~Don't~~ ^{his application} ~~and~~ ~~the~~ ~~we~~ to see an

~~extension~~ ^{extension granted} ~~to~~ ~~grant~~ a time
~~extension~~

~~Also~~ ^{when} ~~moved~~ ^{to} ~~we~~ ~~grant~~ ~~the~~ ~~request~~
~~for~~ ~~an~~ ~~extension~~

~~for~~ ~~Mr.~~ ~~Pat~~ ~~Shapiro~~
~~on~~ ~~12/16/87~~
~~Jan. 20~~

~~Jan. 16, 1987~~
yats and include this date
of April 28, 1989.

~~Also~~ ~~from~~ ~~except~~ ~~Joe~~ ~~Wood~~
~~is~~ ~~sent~~.

Harker Farms
F. O. A. P.

~~Mr.~~ ~~Robert~~ ~~Bennett~~ ~~re~~ ~~submitted~~ ~~a~~ ~~FAM~~ ~~A~~ ~~application~~
~~for~~ ~~an~~ ~~extension~~ ~~of~~ ~~the~~ ~~loan~~
~~as~~ ~~reported~~ ~~by~~ ~~the~~ ~~at~~ ~~the~~ ~~12/16/87~~

and plan
with

1990

ardinal
nyValue™
ing Binder
PS Products
alto Road,
TN 38019 USA

plan was shown

~~those are we apply to Fm A
 application, subdivision approval
 for required for a division of
 land on John Case Ave
 plan of April 1988 dated
 December 10, 1988, property
 of Robert Bennett
 started RTM matter
 thru farm
~~Confers to all labels
 dated Dec 1988~~~~

those are we apply to Fm A
 application, subdivision approval
 for required for a division of
 land on John Case Ave
 plan of April 1988 dated
 December 10, 1988, property
 of Robert Bennett
 started RTM matter
 thru farm

Mark Hall ^{Consent} ^{with} ^{Bar} ^{of}
^{N.E. property}
^{for} ^{over} ^{project} - ^{Consent}
^{with} ^{Bar} ^{of} ^{New} ^{England}
 The six units in various
 stages of construction have
 been put under agreement
 including inspired units to

a local supplier ~~the~~ ~~ten~~
people ~~at~~ ~~the~~ ~~same~~ Taking over this
project have ~~been~~ ~~given~~ ~~up~~ some
issues ~~up~~ ~~the~~.

They are

Requesting an extension of
the existing way. Originally
a plan ~~the~~ ~~showed~~ ~~the~~ ~~structure~~
for a new plan was
proposed with a ~~base~~ -
a 2 acre lot. ~~Creating~~ ~~two~~ ~~new~~ ~~lots~~
and World ~~like~~ ~~to~~ ~~extend~~ ~~the~~ ~~lot~~
way up to a turn around ~~creating~~
strategies for lot 1 and lot 2.

Requesting a ~~waiver~~ ~~on~~ ~~the~~ ~~20'~~
elevation ~~and~~ ~~make~~ ~~an~~ ~~18'~~
road. ~~Will~~ ~~require~~ ~~a~~ ~~separate~~ ~~base~~.

RD of feels this would be a whole
new subdivision with a new
road and new lots.

~~landmark~~ ~~will~~ ~~be~~ ~~done~~ ~~by~~ ~~an~~ ~~Approach~~

~~Turn~~ ~~around~~ ~~will~~ ~~have~~ ~~to~~
~~be~~ ~~graded~~.

~~that~~ ~~sample~~ ~~to~~ ~~we~~ ~~also~~ ~~to~~ ~~the~~ ~~top~~
An Open space (A) will be
located to Lot 5. and
the existence of

An easement ~~was~~ granted
to ~~and~~ Philip Andrew ~~to~~
be searched

James Monahan, ~~rel~~ ~~with~~ ~~to~~ ~~to~~ ~~to~~
~~Wanted~~ ~~to~~ ~~have~~ ~~a~~ ~~concept~~
of what the SD requires for
no. ~~the~~ subdivision, road's full, off ~~the~~
~~Wanted~~ ~~road~~ (A) would be
in a private lot
there and all the subdivisions
would be to have a
hydrant at the end of cul-de-sac.
Expansion as placement of
hydrant along road.

Monahan
rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~
rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~
rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~

Rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~
Rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~
Rel ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~ ~~to~~ ~~we~~
10:15 pm.

Essex Planning Board

December 6, 1989

A G E N D A

- 8:00 p.m. ... Attorney Michael Shea - Form A,
Edwin Story/Peter Van Wyck
- 8:15 p.m. ... Attorney Alan Swann for Markham
- 8:45 p.m. ... Mrs. Rowe, for property at 79
Western Avenue
- 9:00 p.m. ... Tom Ellsworth
- 9:30 p.m. ... Donald Markham

Business:

One meeting for month of December?

Sign payroll voucher

①

Dec. 6.

Present: ~~Walter~~ ~~Acting~~ ~~Chief~~

Rolf, Walter, George,
Dana, Joe, Pat, Mark,

BT submitted a (8:00 pm)

SDg permit application for

Daniel J Hatch ^{for} ^{single} ^{line} ^{review} ^{at} ^{below} ^{pl.}

W. Dunbar ~~Walter~~ asked to approve

the ~~SD~~ permit for construction

for new 2 Sedkan ranch

located on Lot 7A Selder

St. Mel, the location shown

on Plan dated Sept 17 1988

by ~~Marlin~~ Engineering Pl. # 593

and based on the SD of Appeals
variance for lack of
frontage, meets all the
requirements set forth in

the SD laws stay

All in favor Rolf, Wes, George

Dana, Pat, Joe

Distance for steel wire 396'
R.S. wire 89', left side wire 64'
rear wire 126' (PTB)

(2)

Size of Sldg. Length 40', height
max 24', width 20',
No. of stories 1.
Area of land 6.5 acres

~~Discussion on SD of Approval~~

A SPA was submitted for

(Michael Stroman, Lot No 3
we leave till
needed to improve the siting of
a single family residential
dwelling for Michael Stroman
7 School St Manchester, in the
location shown on ~~drawing~~
Engineering plan #371 dated 5/11/88
#371 dated 5/11/88
Plan #371, showing it well
all required setbacks
Sited for Gene
Allen funeral home, with parking area used
done for

Distance from street line 300'
R.S. line 63', L.S. line 80'
New line 55'

Size of Sldg Length 40.5
Length 32' width 5', no porches
2+ attic. Area ~~also~~

A 812 P.A. was submitted for (3)

Ass Freda Arhemi
1 Wenthrop Street, for a
proposed addition, 14' x 15'
to be used for dining area.
Area of land 10,890
Size of Sldg. length 14'
length 8' width 15' w. of ~~street~~
stairs 11

Distance from street line 52' to line
14' L.S. line 19' rear line 29'

At time we (existing) new 14'
no letter from applicant submitted
with the application so no action was taken
this evening. by the Bd.

To Attorney Michael Shee
met with the Bd to
submit a Form A ^{arrange}
applicant's Peter U.W. and Edna Stuy
Designated Parcel 1 ^{has design 23}
U.W. ^{from the stairs} and Peter U.W. will
be designated parcel 2 & 3
to the Stuy's

They will be
McCraty a stable plan
any of the three parcels

Heck have to approve
plan under subdivision
control law approval not
required

Heck move that the plan
be submitted

Sheen to endorse the plan submitted by
under subdivision approval
not required for applicants
Peter O'Connell and Edna

They for two other parcels
of contiguous land to be switched
and to be contiguous with the
property of other abutting owners
as shown on plan of survey
land Essex, New Jersey

for Peter O'Connell and Edna
They dated November 14, 1988
Survey Associates

See also West Sunham
All in favor

rel with the SD
Attorney Alan Surin
with Subdivision Plan for
Fred Nepler and Fawcett
Parcel A Nelson & Deborah J.
Taves

At the ^{usual} ^{time} ^{the} ^{plan} was granted
 by Dr. Sturves, ^{the} ^{man}
 issue ^{being} ^{the} ^{one} ^{of}
 damage ^{to} ^{his} ^{property}. ^{At} ^{the}
 issue ^{was} ^{made} ^{at} ^{the}
 in ^{the} ^{month} ^{of} ^{July} ¹⁹⁵²
 was.

Dr. Sturves ^{then} ^{agreed} ^{to} ^{granting}
 the ^{plan}. ~~Robert and Tandy~~
 and ^{the} ^{issue} ^{has} ^{been} ^{going}
 on ^{for} ^{about} ^{for} ^{years}
 before ^{being} ^{settled}.
 The ^{agreement} ^{for} ^{judgment} ^{is}
 attached ^{to} ^{the} ^{plan} ^{agreement} ^{and} ^{is}
 to ^{Sturves} ^{to} ^{all} ^{land}.

Agreed ^{for} ^{judgment} ^{agreed}
 that ^{it} ^{shall} ^{be} ^{original}
 verities ^{of} ^{its} ^{successors}.

Bunker ^{was} ^{said} ^{to} ^{have} ^{signed}
 the ^{plan} ^{at} ^{the} ^{time} ^{second} ^{signature}
 signature ^{was} ^{on} ^{the} ^{agreement}
 was ^{signed} ^{by} ^{the} ^{judge}. ^{He} ^{felt} ^{the} ^{original} ^{agreement}
~~was~~ ^{was} ^{signed} ^{by} ^{the} ^{judge}. ^{He} ^{felt} ^{the} ^{original} ^{agreement}
 needed ^{to} ^{be} ^{endorsed}

Subdivision

6

A Plan of Land for Frederick
 W. Markham and Richard L.
 and Deborah J. Lawes Plan
 dated Feb. 11, 1985 having
 been initially approved on
 June 5, 1985 and subsequently
 appeal having been settled
 by the parties concerned
 The lien will be held
 until T.C.'s signature is
 obtained on the
 appeal for Frederick
 of John J. Stavros and Mary E. Skon
 Plaintiff v. Frederick
 W. Markham et al. Docket
 No. 85-1582 and to effective date
 signed JSE

Approved Rolf Cruise JSE, Not
 Public Use

Jana Prentiss
 submitted on Form A for property interest
 was done, had street & curbs & suggestions
 from JSE noted to approve

Required approval of
 Markham and Mary E. Stavros
 John J. and Mary E.

Long Street Essex Plain
and Essex, Mass,
had steel showing agreement
for a new division line
between John T. and
Mary E Stavros and Frederick
Nashbaum dated

July 19, 1989

pending receipt of approval
for judgement. That
Stavros and Mary E Stavros plaintiffs

signed by John T. Stavros, F. E. Stavros, John T. Stavros, F. E. Stavros, F. E. Stavros
Pat

for R. J. George Inc
Mark Pat Ave
Dana Shes.

with effective date
of approval is the date of
RD's receipt of signed
agreement for judgement

Attorney Michael Shea -
Catterline Ave, Weymouth Ave
has agreed for a
sale of the site on Thursday

did not
see copy
100

Salem J ant bank
confirmation ^{an existing} of 2 fam ^{as well}
The 3rd floor apt was
converted in 1971, and was
last rented ~~was~~ by
Susan Desmond.

The B I ^{was} checked to find ^{and express} ^{San & Dept}
letter of confirmation
had been asked whether the property was
not of said ^{is} listed
with the ^{of} assessors as a
2 fam or single family

The B I was told they thought
it was listed as a single fam
had the
let of said ^{is} would not
override the assessors.

Sanjour ^{B I}
was used (to the ~~San~~
issue a letter directed
to Mrs. Kathleen P. Rowe
92 Lane Brook Rd Ipswich
stating that an existing 2 fam

Essex 768 - ~~20~~ 6983 (9)
Hobby

at 79 West Ave
- Essex
use has exceeded stage
of best 1971 and the
to see no problem with
conduct of the use, as
is.

Planned for, but
not proposed
in favor of George Dana for
back. But was

44
Sand
Tom Ellsworth met with the
to discuss zoning of the Town
Gap at all but ^{some} secure
concerned that the strip
along 133 would secure
industrial and wanted
to see if we could
make it agricultural
zoning

It seems Feliz surfaced
a couple of Feliz's ~~camp~~
up but if one part of
Pur was to have zoning
then the who Tom should see
done.
Ellsworth wondered if we could
they

get something put together
to put before Tom meeting

~~should be~~

Why does it feel that
disrupts should be taken
before Tom meeting
was I feel it should be broken
down into more areas than
just residential and agriculture

Why there are no diversions mentioned
Tom. We were going to keep
all DV size and requirements
have accept etc the same

Why what is your feeling about eliminating
of agriculture

Don and substituting what?

Why I like the idea of districts
At the job meeting with Phil
then there were 120 people
who said the you spaces
on Southern Ave and John Lee
Ave were an asset to the Park.

Chadron said a
 lot of wanted to get a feel
 from members to see if
 we should continue to
 follow up on this then follow
 up on this
 Dave - Yes

Dave - Yes I'm favor of
 this is just a starting point.
 I think we should pursue this

Joe - Yes
 Mark - Yes feels it's an
 appropriate time to take
 something like this and
 would like to continue
 working on this. That would
 like to see a page

Pat - I definitely feel we
 should continue with this
 but go deeper. Look for
 another side of this.

- Les 1) I believe it will
 exacerbate the network
 development
- 2) It will have some
 interesting conversations.

Re
Memorandum Jan 3,

A Form A was submitted of
John Guerin representing
Donald D. Markham and Linda
Markham 143 Western Ave.

Form A for property at
143 Western Ave. The Guerin parcel
Area of land Taxes. ^{amount}
Lot 1 will be divided. Some
of the parcel entered parcel
since 40,000 sq feet

~~to be~~

~~Area to be divided to Guerin (S)
at 40,000 sq feet~~

Upon review of plan the
BO found the names of
chittes had been omitted
from plan. Aiyoshi took
back the plan.

that Hall said to work (13)
will to send a letter of request to
send out a request to
a number of engineering firms
to become ~~an~~ consultant.

500
7.80
for submittal
plan review

Hall said it has now
become law that ^{pl. 815} we may
can change for the applicant for
this.

Also discussed was ^{change of} ^{in submit}
we that ^{the} ^{of submittal} ^{of submittal}
to issue a letter to

advising them regarding
a fee schedule for
submittals.

Stated that
All in favor.

There was a
discussion on 2 letters
for SD of fleet.

A letter was sent to the SD of
state, ^{the SD will make an effort to}
consider ^{of the decision before} a decision.

1) We will make every
effort to consider the
SD of fleet ^{given in}
regarding our ^{issue}
currently ^{see} (13.8)

has requested a change in
to BPA what requires
a SD of health risk of
what we feel should
alternate to situations
that occurred.

(2 location matters)
we will try to work together
to answer the ~~question~~ ~~issue~~ ~~do no~~
we have ~~that~~ ~~will~~ ~~will~~
on December 20, a ~~request~~
subcommittee formed ~~for~~ ~~study~~
on - ~~for~~

matter - subcommittee.

Yes. We do approve subcommittee
approval not required for
Smith and Linda Mackham
located off website
as shown on plan dated
December 6, 1989, James
Utopostski engineer -
providing it meets all
requirements of 29
by laws and subcommittee guidelines

Sentenced Joe Guin
A to the farm

Drawn on
Meyl LVA of 6.
Existing structures, uses a
permits certain subdivisions
plans, aspects of chapters

To John Tenney

~~Under applicable 6-14-2
if a proposed abstract
to a structure creates a
structure where the setback
requirements by ordinance
are made not complying
does the SD have the duty
to act under 6-14-2
or does the applicant
require a SD of Appeals
Review for a variance.~~

Joe moved to another
Sentenced was
A to the farm

Adjusted 10:15

Essex Planning Board

November 15, 1989

A G E N D A

- 8:00 p.m. ... Change of boundary line - Laschi/
Fairbanks, Lufkin Point Road
- 8:30 p.m. ... Attorney Alan Swann for Frederick
Markham property, Pond Street

Essex Planning Board

November 15, 1989

Present : Rolf Madsen, Chairman; Frances Dunn; Joseph Ginn;
Dana Story.

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

The Building Inspector discussed with the Board a new building permit application he would like to use. Carter felt it would simplify paperwork for the town boards and applicants. He asked the Board to review it for their comments.

The Building Inspector asked for the Board's opinion on Peter Mugford's property at Gregory Island. Carter said he had received a letter from an attorney representing an abutter who said the house was up for sale and advertised as a residence. The Board reviewed Minutes from 1984 when this first came before the Board and found the Planning Board had deemed it a camp.

A building permit application was submitted for Sheldon Pennoyer, 68 Grove Street, to build a single family residence on property off Forest Avenue. The way that Pennoyer wishes to use to reach his property does not meet the town's standards of adequacy and therefore the Board felt Pennoyer could not meet the frontage requirements.

Dunn moved to deny the building permit application of Sheldon Pennoyer, 68 Grove Street, to build a single family residence off Forest Avenue, finding under By-law 6-6.2(2), Lot Frontage minimum 150 feet, that it lacked sufficient frontage. The motion was seconded by Story, with Madsen, Dunn and Story voting in favor; Ginn voted present.

A building permit application was submitted for David Folsom, Eastern Avenue, to remove the existing garage attached to residence, and construct an attached addition 20' x 42', a two-bedroom apartment, with a change of use from a single family to a duplex. Size of building, length 42', height 30', width 20'. No. of stories - 2. Distance from street line 50', right side line 23', left side line 50', rear line 50'. Story said he felt such additions were a way to get around the by-laws for putting two dwellings on one lot.

Story moved that the building permit application for David L. Folsom, Eastern Avenue, be denied, that on the grounds of by-law 6-4.2 it renders the structure more non-conforming in its use under by-law 6-6.3, Residential two-family Land Use. The motion was seconded by Dunn, with Story and Dunn voting in favor; Madsen and Ginn opposed.

Ginn moved to approve the building permit application of David L.

November 15, 1989


Folsom, Eastern Avenue, finding that under by-law 6-4.2 the project is no more detrimental than the existing non-conforming use, that it meets all sideline setback requirements on an undersized lot. The motion was seconded by Story with Madsen and Ginn voting in favor; Story and Dunn opposed. The motion was defeated.

Ginn stated he felt property changes like this added tax revenue to the Town. Story said he agreed with that, but he was against getting around the by-law to put two dwellings on small lots by a connecting breezeway. Upon further discussion both Ginn and Story decided to withdraw their motions. Ginn moved to withdraw his motion; seconded by Dunn, with the Board voting unanimously in favor. Story moved to withdraw his motion; seconded by Dunn, with the Board voting unanimously in favor. The building permit application was returned to the Building Inspector to be returned at another meeting.

The Minutes of the meeting of November 1, 1989, were read. Ginn moved to accept the Minutes of November 1, 1989; seconded by Dunn, with the Board voting unanimously in favor.

Dunn moved to adjourn the meeting; seconded by Story, with the Board voting unanimously in favor.

Meeting adjourned at 9:30 p.m.


Gillian B. Palumbo

Essex Planning Board

November 1, 1989

A G E N D A

- 7:50 p.m. ... Daniel Bornstein, property at
Gregory Island
- 8:00 p.m. ... C.D.M.R., Low Hill subdivision -
reduction of bond
- 8:15 p.m. ... Frank Hancock, Hancock Survey -
Form A - Doris Gouvia property,
Belcher Street/Choate Street
- 8:30 p.m. ... Robert Cummings
- 9:00 p.m. ... Attorney Alan Swann - Markham
property, Pond Street
- 9:15 p.m. ... Submittal of a Form A.

Essex Planning Board

November 1, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Joseph Ginn;
Dana Story; Frances Dunn (7:50 p.m.)

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

Building Inspector Richard Carter submitted a building permit application for Robert and Cynthia Cameron, 148 Main Street, to construct a dormer to the third floor for two-thirds of the total length. Because this is a guest house the Board was concerned it was not to provide more guest space. The Board was told that it was to provide a living area for the Camerons and that there would be no increase in the number of guests. The lot is non-conforming.

Story moved that the Building Inspector be authorized to issue a building permit to Robert and Cynthia Cameron, 148 Main Street, Essex, to construct a dormer to the third floor for two-thirds of the total length on the understanding there be no increase to the number of bedrooms, finding that under By-law 6-4.2 the proposed alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Ginn, with Madsen, Ginn and Story voting in favor; Bragdon voted present.

A building permit application was submitted for Judith Gazzola, 140 Eastern Avenue, to enclose an open porch area measuring approximately 14' x 7'. Because the footprint was not being changed, the Board felt no finding by them was necessary.

A building permit application was submitted by Dean Presutti, 21 Spring Street, for construction of a new residence on a lot containing an existing residence.

Story moved to deny the building permit application for Dean Presutti, 21 Spring Street, finding under By-law 6-5.5 there is lack of sufficient lot area. The motion was seconded by Dunn, with the Board voting unanimously in favor.

A building permit application was submitted for Richard M. and Robyn Kanter, Hill Road, for an addition to enlarge two existing rooms to a bedroom and greenhouse.

Ginn moved that the Board give permission to the Building Inspector to grant a building permit to Richard and Robyn Kanter to enlarge two existing rooms to a bedroom and greenhouse. The lot is non-conforming because of improper frontage on a roadway, but we find the property meets all other setback requirements, and therefore under By-law 6-4.2 we find the proposed alteration is not substantially more detrimental than the existing non-

November 1, 1989

conforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was submitted by M. Hopgood and A. Kawecki, for construction of a new residence on County Road. Distance from street line 42', right side line 30', left side line 70', rear line 120'+. Size of building, length 54', height 28'6", width 30'4", number of stories - 2. Area of land 30,738 square feet.

Story moved that the Building Inspector be authorized to issue a building permit to M. Hopgood and A. Kawecki, 132 Eastern Avenue, for construction of a single family residence on County Road, finding it meets all setbacks of the zoning by-laws. The motion was seconded by Ginn, with the Board voting unanimously in favor.

Daniel Bornstein met with the Board to discuss property he owns on Hill Road, Gregory Island. The area of land is 5,360 square feet. Bornstein said he has owned the property for twenty years, and wants to know whether it would be considered a buildable lot. After discussion it was the consensus of the Board that it was not a buildable lot, but it was suggested to Bornstein that he check with his counsel who may be able to find more information regarding this.

Clayton Morin representing C.D.M.R., Low Hill Subdivision, met with the Board to discuss reducing the bond for the subdivision road. He said there should be a letter coming from the Clerk of the Works, James Staline, stating that everything has been done according to the plan. He also said they want to move the wetland replication area to another area. The Board said they would like to receive information as to what is left to be done on the road and estimates of the dollar value. Morin told the Board that the final coat on the road will not be done this year.

Frank Hancock of Hancock Survey submitted to the Board a Form A, subdivision approval not required, for the estate of Beatrice J. Gouveia and The Gouveia Trust, Executor Bank of New England. The total land area is 9.9372 acres. The plan presented represented a resurvey of Parcels 1 and 2 as shown on Plan 64 in Plan Book 125, combined with an instrument survey of abutting land owned by the estate of Beatrice J. Gouveia. The plan is also intended to facilitate a confirmation of the boundaries between land owned by the Gouveia Trust, Parcel 2 shown on Plan 64 in Plan Book 125, and land of the estate of Beatrice J. Gouveia. Lot 1, Lot 3, and Parcel 2A are currently owned by the estate of Beatrice J. Gouveia. Parcel 2A is not to be considered a legal building lot by itself. It is intended that this parcel be conveyed to the owner of Parcel 2 and combined with abutting land of same to form one contiguous lot of 1.4282+ acres. Ginn questioned who owned the right-of-way. Hancock said there is a question as to

November 1, 1989

whether there is a right-of-way.

Story moved to sign the plan of land of the estate of Beatrice J. Gouveia and The Gouveia Trust finding approval under the subdivision control law is not required. The motion was seconded by Ginn, with the Board voting unanimously in favor.

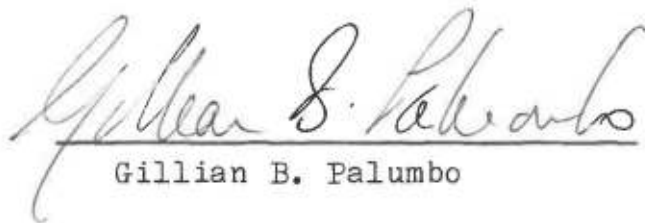
Robert Cummings, Gregory Island, met with the Board to submit a building permit application for a two-car garage. Cummings said he owns two lots, a lakefront lot and an adjacent lot where he wants to build a garage. There is a 10' wide easement which goes from Lakeshore Drive to Hill Road. The siting of the garage on the plan showed the front yard setback as 24' and the By-law requires 25'.

Dunn moved to deny the siting of the accessory building for Robert Cummings as it fails to meet By-law 6-6.2(5), Front yard all buildings, minimum 25'. The motion was seconded by Ginn, with the Board voting unanimously in favor.

The Minutes of the Meeting of October 18, 1989, were read. Dunn moved to accept the Minutes of October 18, 1989. The motion was seconded by Ginn, with the Board voting unanimously in favor.

Story moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 9:30 p.m.


Gillian B. Palumbo

Essex Planning Board

October 18, 1989

A G E N D A

- 8:00 p.m. ... Continuation of public hearing -
Gateway subdivision, Western
Avenue
- 9:00 p.m. ... Discussion on Old Essex Village

Essex Planning Board

October 18, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Frances Dunn;
Mark Hall; Dana Story; Westley Burnham (arrived 8:45)
Joseph Ginn.

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

The Building Inspector submitted the following Building Permit Applications:

A Building Permit Application for the Town of Essex for a 6'x16' addition to the rear of the Scout House, Pickering Street.

Story moved that we approve a building permit for the Town of Essex to construct a 6' x 16' addition to the rear of the Scout House, Pickering Street, finding under the provision of By-law 6-4.2 that the proposed alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Dunn, with the voting as follows:
In favor - Bragdon, Dunn, Ginn, and Story; Madsen voted present; Burnham was not present at the meeting at this time.

A Building Permit Application for Paul Herrick for the construction of a single family residence on Lot Number 1, Low Hill, off Story Street.

Ginn moved to have the Building Inspector issue a building permit for Herrick Construction, Paul Herrick, pertaining to a single family construction on Lot 1, Low Hill subdivision. The motion was seconded by Story, with the Board voting as follows:
In favor - Bragdon, Dunn, Ginn, Madsen and Story; Burnham was not present at this time.

A Building Permit Application was submitted for David Folsom, Eastern Avenue, but was returned to the Building Inspector as no letters from abutters were attached.

Hall moved to reopen the public hearing at 8:00 p.m. for Gateway Subdivision, Western Avenue.

The Order of Conditions for the project were received from the Conservation Commission, who had denied the project. Madsen read into the hearing the reasons for denial. Clay Morin, of Morin Engineering, representing John Coughlin, owner of the property, said, "Initially we recognised that we had been denied by the Conservation Commission and have been reviewing the project. We would like to request a continuation to reevaluate the project and also at this time ask for some discussion with the Board."

Madsen - "You do realise that if the road changes significantly then the plan will have to be withdrawn."

Morin - "We know if the road does not change we may have to approach bridging the area. Another approach is to change the

October 18, 1989

access and at that time we would have to withdraw."

Hall - "We could allow him to extend the time and, in turn, if the road is relocated then he would have to withdraw."

Madsen - "I do not want to continue this and then have you come back and say you are going to change the road. I don't really want to go through this exercise."

Story questioned whether the construction of a bridge constituted a change in the plan. Madsen then said he was not comfortable with going over ideas for the property because with six people sitting on the Board each would have a different idea. He felt that was between Coughlin and Morin, his engineer.

Hall - "I disagree, because the Planning Board's job is to plan." Dunn said she didn't feel that the reason for sitting on the Board was to plan what should be done with someone's property.

Madsen - "We have a preliminary process and this should be brought up in that process. When the public hearing comes, then we have to discuss and act on the plan that is on the table." Story agreed with Madsen. Lyle Brown, Redgate Road - "I have seen that end of the road change. Projects are going on there that are not being adhered to. We have a business man who says he doesn't know what he's going to do with the property. I'm a business man and I know exactly what I'm going to do with any projects I have. I feel this project should be denied and listen to what the Conservation Commission says."

Michael Cataldo felt Morin should check with the State to see what filings were needed as it is a numbered road. A discussion on plan modifications followed.

John Coughlin - "I don't feel the Planning Board should tell a developer what to do with his project, but on the other hand, with the zoning by-laws we would like some input on what we can or cannot do with it. I think that's what we are looking for. The Conservation Commission turned us down flatly, so we are asking for a direction in which to go." Peter Sherwood, Western Avenue, noted that at the last meeting one of the Board members had suggested donating the property to the Greenbelt.

Lyle Brown - "I find it ludicrous that I am at a hearing listening to a Board vote on a plan and they have no idea of what is going in there."

Dunn - "I don't see how we can vote on something if we don't know what is going to be in there."

Hall moved to extend the decision on Gateway subdivision to January 4, 1990, as requested by the applicant. The motion was seconded by Story, with the voting as follows: In favor - Dunn, Ginn, Burnham, Hall; opposed - Story and Bragdon; Madsen voted present.

Elizabeth Frye told the Board that if there are any changes, then the public has a right to know.

Lyle Brown, Redgate Road, requested the Board to notify the Building Inspector to enforce the codes and plans for the auto body shop at the corner of Redgate Road and Western Avenue and

October 18, 1989

and further request a written report be given to the Planning Board of his findings.

Hall moved to send a letter to the Building Inspector that he inspect the property of Thomas Dietrich to see that the Town By-law 6-6.2 (d) be enforced in addition to the conditions noted in the Planning Board Minutes of March 15, 1989. The motion was seconded by Story, with Madsen, Story, Ginn, Bragdon and Hall voting in favor; Burnham opposed.

Old Essex Village - John Coughlin - "At the last Planning Board meeting, I came in to tell you we were interested in purchasing the Old Essex Village, and had a purchase and sales agreement for the property. I asked if the Board had any problems with the building being used to its full capacity, that is, using the third floor. The only problem you indicated you had was the parking and the Board of Health. My understanding was at the last meeting that you had no problem providing that adequate parking was provided." Coughlin then presented a parking plan to the Board. He told the Board the third floor would be used for offices. When asked about parking for Burnham's Restaurant, Coughlin said he had come to an agreement with them to give the restaurant adequate parking. Hall asked if Coughlin would have a plan showing his parking and that of the restaurant. Coughlin - "I will go on record as taking care of Burnham's parking. I will have a plan showing parking for Old Essex Village and Burnham's Restaurant." Madsen asked that it be put in the lease that the office occupants park in the rear of the building. Coughlin said, "That is understood. It will be in the lease." When asked about sign, Coughlin stated there would be no sandwich boards or balloon signs there. Hall asked Coughlin where the Board of Appeals hearing stood at the moment. Coughlin said the Board of Appeals will be a dead issue if Gordon Thompson removes his suit. Coughlin had indicated to the Board that if he purchases the Old Essex Village he will also purchase Thompson's property.

Burnham moved that we authorize the Building Inspector to issue the appropriate building permit for the third floor of the property known as Old Essex Village located at 69 Eastern Avenue, finding the additional parking presented on the plan dated October 18, 1989, meets or exceeds the required parking as defined in the Town By-laws under 6-4.2 finding that the proposed alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Hall, with Burnham, Dunn, Hall, Bragdon and Ginn voting in favor; Story opposed - he thought the Board was making a procedural error; they were approving something before that person owned the property; Madsen voted present.

By-law Committee - Madsen said he would like to have the committee reconvene and would like them to work on site plan review, and the watershed district. He would like an opinion from the Board


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whether they should. It was the consensus of the Board that the by-law committee should reconvene.

Story moved to start the Planning Board meetings at 7:45 p.m. The motion was seconded by Dunn, with Bragdon, Hall, Dunn and Story voting in favor; Ginn, Burnham and Madsen opposed.

Dunn moved to adjourn the meeting; seconded by Hall, with the Board voting unanimously in favor.

Meeting adjourned at 10:15 p.m.



Submitted by Gillian B. Palumbo

Essex Planning Board

October 4, 1989

A G E N D A

- 8:00 p.m. ... Attorney Michael Shea - Old
Essex Village
- 8:15 p.m. ... Barry Allen - change of use of
property on Belcher Street
- 8:30 p.m. ... James/Audrey Braier - discussion
of denial of building permit for
property on Gregory Island

Essex Planning Board

October 4, 1989

Present : Westley Burnham, Acting Chairman; George Bragdon; Joseph Ginn;
Mark Hall; Dana Story.

Meeting called to order at 7:45 p.m.

Building Inspector Richard Carter submitted a building permit application for Wayne and Diane Johnson, 11 Dodge Street, for the construction of a second story to the existing house. Area of Land - 21,890 square feet; size of building - length 33', height 26', width 31', number of stories - 2.

Ginn moved to allow the building inspector to authorize a building permit for Diane and Wayne Johnson, 11 Dodge Street, to allow the construction of a second story on their existing house, finding under By-law 6-4.2 it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was submitted for Thomas C orkery, 57 Martin Street. Bragdon abstained from any discussion because his aunt is an abutter to the property. Burnham felt a building permit could not be issued because he thought the time frame of the bond for the subdivision road may have run out. Also required and not submitted with the building permit application was approval from the Board of Health.

The building inspector informed the Planning Board that John Coughlin would like to buy Old Essex Village, Eastern Avenue, providing the third floor could be utilized as offices and that sufficient parking can be found for this additional use. Coughlin said he has entered into a purchase and sales agreement to buy the property based on this contingency. He intends to go to all the Boards to find out if there are any problems with this. He said Philip Budrose, the present owner, told him that the only requirement he does not meet is parking. Coughlin said his intent would be to clean up the shopping center. The barn on the property would be used for storage. His long range plan would be to remove the barn, but at present it will stay. Coughlin also said that if he were to purchase the Old Essex Village then he would also purchase the property of Gordon Thompson next door. Coughlin then asked the Board if they would have a problem with the use of the third floor as offices. It was the consensus of the Board that there would not be a problem. When asked if the present septic system was adequate, Coughlin said a new system has to be worked on.

Barry Allen, Belcher Street, met with the Board to request a change of use of a barn to two apartments. Allen said he had a building permit for the barn but did not have a septic system. Now the septic system has been approved and he would like to put in two apartments. The area of land is 3.39 acres.

Story moved that Barry Allen, B elcher Street, be given permission for a

October 4, 1989

change of use to convert a barn to two apartments, finding it meets all the requirements of By-law 6-5.5, Erection of more than one principal structure on one lot. The motion was seconded by Ginn, with the Board voting unanimously in favor.

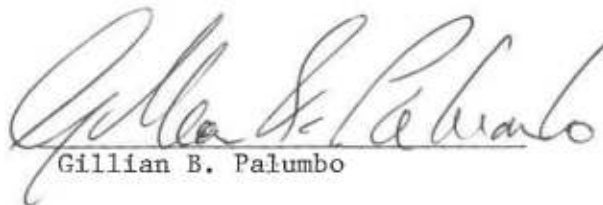
James Braier, Gregory Island, met with the Board to ask them for a reconsideration of the denial of a building permit for a garage at the last Planning Board meeting. Braier said that all lots on Gregory Island are non-conforming, and that he had letters from all his abutters stating their approval of the project. The garage is 15 feet from the well. A discussion followed on by-law 6-4.2, Nonconforming uses.

Ginn moved that upon further discussion the Board rescind their decision made on September 20, 1939, and approve a building permit for James Braier, Lake Shore Drive, for the construction of a two-car garage, 24' x 32', finding that the proposed use is not substantially more detrimental to the neighborhood than the existing nonconforming use, under By-law 6-4.2, with the submittal of additional information and written approval from abutters to the Board at this time. The motion was seconded by Story, with Burnham, Ginn, Hall and Story voting in favor; Bragdon voted present.

Hall moved to adjourn the meeting; seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned at 9:45 p.m.

Respectfully submitted



Gillian B. Palumbo

Essex Planning Board

September 20, 1989

A G E N D A

- 8:00 p.m. .. Public Hearing for Gateway
subdivision, Western Avenue
- 9:00 p.m. .. Arthur Hatfield - property at
County Road

Essex Planning Board

September 20, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Westley Burnham;
Francis Dunn; Joseph Ginn; Dana Story.

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

The Building Inspector informed the Board of a meeting with Ann Morse of the Department of Water Resources regarding the Flood Plain Areas. Dana Story was present at this meeting representing the Planning Board.

A Building Permit Application was submitted for John and Laurie Matson, 63 Harlow Street, for a 12' x 25'9" kitchen and dining room addition. Distance from street line 26', right side line 22'6", left side line 40', rear line 56'. Size of building, length 25'9", height 16', width 12', no. of stories - 1. Area of land - 1 acre. Because the addition met all setback requirements the Board felt no action was needed.

A Building Permit application was submitted for James Braier, Lakeshore Drive for a two-car garage, with workshop and storage.

Burnham moved to approve the siting of a two-car garage, with workshop and storage of James Braier, Lakeshore Drive, finding it to be no more detrimental to the neighborhood than the existing non-conforming use, under By-law 6-4.2. The motion was seconded by Story. Upon discussion, Madsen felt the Board could not approve this under by-law 6.6-2(a)(5) because of the front yard requirement which was not met. The garage was 15 feet from the street. The motion was unanimously opposed.

A Building Permit Application was submitted for Diane and Wayne Johnson, 11 Dodge Street, for a second story addition to the existing residence. As no letters were received from abutters the application was incomplete and was returned to the Building Inspector.

A public hearing was held for Gateway Subdivision, Western Avenue, at 8:00 p.m.

Bragdon said he reviewed the plans which were submitted and questions arose which were yet to be answered. The first one was that the easement for flowage rights was not presented to the Board. Trees over twelve inches in diameter were not depicted on the plan. Also Bragdon questioned the road width of 20 feet going to both structures. Bragdon said we don't know what these structures will be used for. They have been filed under Industrial Class A which means they are at least 25,000 square feet and will employ at least twelve people per building. He is rather leery as to what this will do to the Town's water supply. Burnham said he was curious as to how the Raytheon maps overlay that particular section of wetland because he feels

September 20, 1989

there may be a problem with the Wetlands By-law.

Clay Morin, Morin Engineering, Belcher Street, engineer for the project - "The site itself, located off Western Avenue, is an eleven acre site, which was divided up into two lots; a smaller lot, Lot 1, and a larger lot, Lot 2, which has the major wetland on it. The proposal involves a 44' right-of-way which provides for a 24' width road to this point and we narrowed it to a 20' width road crossing the wetlands. There has been some changes as a result of dealing with the Conservation Commission. As a result of the wetland crossing, a major concern from our site visits was that we were taking too much wetland and impacting the wetland, we were asked to reduce that impact. The proposal in this section of the roadway was to narrow the road to a 20' width and as far as pavement, instead of sloping 2 to 1, we sloped 1 to 1 with a rip-rap crossing the wetland. The result was that our estimated taking, instead of 19,950 square feet, was reduced to 12,680 square feet. At the same time we also identified the Raytheon, which is this darker blue line here. Across here the roadway turns into a driveway accessing a parking lot of approximately 25,000 square feet. We have reduced the building to keep it within or outside the buffer zone to 30,000 square feet. This was the concept of the most that could be developed on site, and basically that was how we wanted to show the project so that we could develop our calculations, our drainage and our run-off. Basically, the scope of the project would be this or less. Our general feeling is that it will be less, but at this point we don't know, but we felt the design should be based on the most expansive case. In conjunction with that, at the crossing we have to provide a replication area, but the replication we show here is different from the initial replication we showed you. We reduced it. There was a concern we were going to affect a natural outlet here; we've drawn back from regrading this area here and this area along the hill. We have an outlet structure at this point and we have a pipe with the rip-rap that feeds the water out. The outlet structure controls the 2, 5, 10, 50, and 100 year storms. We have provided haybales as required by the Wetlands Protection Act and siltation control. Within our catch basin and drainage system we have provided oil and gas separators within the catch basins and sumps to settle up sands which may be used in the winter months, to control the roadway surface as far as ice is concerned. As far as answering Westley's (Burnham) question, yes we did delineate the Wetlands By-law with the Raytheon maps."

Bragdon felt because of the changes that had been made he would need time in which to review them. There had been changes on the parking lot and the proposed structure. He felt the changes would require additional study on the part of the Board.

Morin - "Basically, the changes have been the narrowing of the roadway and trying to reduce the impact on the wetland. The road layout itself has remained the same; the right-of-way locations remain the same; the parking lot is basically the same; the building has been reduced by 5,000 square feet. We have been working in conjunction with the Conservation Commission and the

Planning Board at the same time, to work out these details, and the concept of the scope of the project hasn't changed; it's just that we have been fine-tuning our proposal."

Madsen - "The changes have been made for what reason?"

Morin - "To reduce the impact of the wetlands."

Madsen - "Why are you doing that now instead of when you submitted this plan?"

Morin - "It was a result of the site visits between the Planning Board and the Conservation Commission."

Madsen - "You are changing because of your review that's currently in process with the Conservation Commission on their suggestions."

Morin - "That's correct."

Bragdon - "At the site review you didn't know what the structures were going to be used for. Could you now tell us what they will be used for?"

Morin - "Still at this point there is no plan for what they will be occupied. We don't know."

W. Burnham - "I don't think it's fair to try to put them under that sort of constraint. What we are approving, or being asked to approve, is a use and a division of the property. What the actual specific use is, that can change depending on how a business is run. There may be one industrial class in there one week and then six months later there may be somebody else. The actual specific use I don't think, personally, is a legitimate question."

Story - "I don't think there isn't anyone in this room who isn't interested in what is going to go on there. To say it isn't fair for us to ask, I most certainly think it's fair. I certainly want to know what is going to happen in there. Here we have a building indicated here; the fact that it is shaped the way it is tells me they surely know what they are going to be doing in there. I hardly think there is going to be anything other than any kind of ancommercial use there, and for a thing like that to be right here on the shore of Chebacco Lake seems to me it would be most ill-advised, and most unfortunate that a thing like that would be built. Here's the Lake and here is what is going to be an industrial plant, I think it's safe to say, and to have a thing like that right on the shore of the Lake, it seems to me, about as unwise as we can get. I'm sure the people here are going to know what is going to be happening; I certainly want to know."

Dunn - "I have to go along with Dana. I would like to know what is going to be done there, because when we vote on something it's whether it's fitting in the neighborhood, whether it's the Lake, the people. The people here are concerned about their lives around that and if we don't know what it's going to be, we cannot just sit here and vote on the road going in, it's what the road is going into, and whether or not it's going to be fitting for the neighborhood in general in that part of Town. I think it is just as important to know what we are voting on before we vote."

Ginn - "Nonbody seems to be discussing lot one at all. Can the structure be built any larger than what is shown there? Is there room for expansion of that?"

Morin - "Under the Business Zoning I think there is 40,00 square feet and 50' off the back line, 30' off the front..."

Ginn - "So that's the worst scenario of industrial building on Lot 1."

Morin - "Actually, this cannot be industrial A or B, it's going to be business."

Burnham - "When you designed the other building that was the worst case."

Morin - "This was the worst case scenario for industrial. We not only showed the worst case, but we have to check run-offs to determine our detention basin and the catch run-off on site. We don't know what the site is going for. We had a design based on that concept. If we said it was designed on a small structure, then made and the structure got any larger, we would have to go through the process with the Conservation Commission. I'm not sure this structure is not going to be that large."

Burnham - "I personally can't see how we can allow that to be built under our Wetlands By-law. Under this By-law, it basically excludes any land fill, dumping within the bounds of the Raytheon Maps."

Morin - "We do have legal assistance addressing that By-law, feeling that under that By-law there's room for a Special Permit."

Madsen - "Is the applicant prepared to go through that process?"

Morin - "We are preparing it. We do understand that we have to go through the process."

Bragdon questioned the flow of water over Town property and felt it required an easement for any increase in flow.

Morin - "What is required from the Wetlands Act and under the Planning Board Regulations is to control our flow, so we provide from our drainage system the same rate of flow at certain intervals. At a pre-development stage we determine those flows, then we determine what our increase in the flow rate, which is cubic feet per second, would be a development without any controls, any restrictions. From that point we construct or design our detention basin and our drainage system so that the rate that's allowed out of our control structure is the same rate or better that what is was in the developed stage. That's what we have provided in our drainage calculations."

Bragdon - "Let's assume the water for some reason happened to flow the other way and avoided the catch basin."

Morin - "The design concept of the whole drainage system is going to direct all the drainage from the buildings and roadway into the catch basins. That is our concept and that is our intention."

FMSL
on tape

Essex Planning Board

September 6, 1989

A G E N D A

- 8:00 p.m. ... Jay and Diane Polley, Pond
Street - submittal of preli-
minary subdivision plan
- 8:30 p.m. ... Roger Banks - property at 67
Main Street, Old Essex Hotel

Essex Planning Board

September 6, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Westley Burnham;
Mark Hall; Dana Story.

Meeting called to order at 7:35 p.m.

A Building Permit Application was submitted for Eli and Phyllis Young, 3 Walnut Park an addition of a family room, 23 feet by 10 feet, to the rear of the building; number of stories - one.

Hall moved to approved the building permit application for Eli and Phyllis Young, 3 Walnut Park, for an addition, as laid out on the building permit application, finding, under Essex By-law 6-4.2, that the setbacks are no more non-conforming and that the abutting property will not be adversely affected. The motion was seconded by Burnham, with the Board voting unanimously in favor.

There was a discussion by the Board on By-law 6-4.2, as to whether under that By-law the footprint of a building can be made more non-conforming.

A building permit application was submitted for Shirley Burnham, 10 Pickering Street, for an apartment on the second floor to include the construction of a dormer, deck and stairs.

Burnham moved to approve the proposed conversion to a two-family with an addition of deck, dormer and required stairs at 10 Pickering Street, owner's name Shirley Burnham, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood, Essex By-law 6-4.2. The motion was seconded by Bragdon. Hall said he would not vote in favor of this because he is still trying to understand this by-law. He felt he was looking at a situation which will lead to confusion in the future and would like to clear it up as to whether the Board can legally make setbacks more nonconforming. He would like to have Town Counsel's opinion of this or whether it should go to the Board of Appeals. The voting on the motion was as follows: In favor - Madsen, Bragdon and Burnham; opposed - Hall and Story.

Distance from the street line 35', right side line 14', left side line 21'. Size of building - length 50', height 16', width 24', no. of stories 1½. Area of land 12,759 square feet.

A building permit application was submitted for David Folsom, 130 Eastern Avenue, for an accessory building; size of building length 22', height 20', width 25', number of stories - 2. Area of land 26,415 square feet.

Burnham moved to approve the siting of an accessory building for storage barn and garage, finding, under Essex By-law 6-4.2, it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Bragdon, with

September 6, 1989

the Board voting unanimously in favor.

A building permit application was submitted for Timothy Hunt, 27 Forest Avenue, for construction of an accessory building to be used as a garage and storage; size of building - length 34', height 24', width 26', number of stories - 2. Area of land 16,970 square feet.

Hall moved to approve a building permit presented for Timothy Hunt, 27 Forest Avenue, for the construction of an accessory building to be used as storage and garage, finding it, under Essex By-law 6-4.2, not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was submitted for 18 Choate Street Trust (Priscilla A. Ramsdell and Grace Wilson) to rebuild an existing barn with ground level garage/dwelling above with two bedrooms, bath, kitchen, living room, two entrance/exits at 18 Choate Street.

Burnham moved to deny the permit to reconstruct the existing barn with apartment on second floor, based on the requirements of Essex By-law 6-5.5, finding that adequate area to be allocated for each structure is not demonstrated - minimum requirement of 30,000 square feet per structure is required. The motion was seconded by Hall, with the Board voting unanimously in favor.

The Board discussed with the Building Inspector the signs at Old Essex Village and whether they exceed the limits of the By-laws. The sign by-law in general was also discussed.

Jay and Diane Polley, Pond Street, met with the Board, together with Edward Bornstein, a Cape Ann Land Surveyor, and submitted a preliminary subdivision plan for informal review. The plan would create two lots, Lot 1 with existing house 112,869 square feet in size, and Lot 2 40,001 square feet. Because the total frontage was approximately 290 feet, just short of the 300 feet required to submit a Form A, approval under the subdivision control law not required, the Board suggested the Polley's go to the Board of Appeals. Polley withdrew his preliminary plan.

Roger Banks met with the Board to discuss closing and winterizing the front porch of the Old Essex Hotel, 67 Main Street, owner Dana Guanara. The porch is 6½ feet by 30 feet, giving the building an additional 200 square feet of floor space. The consensus of the Board was that they could find no problem with the proposed enclosure of the porch at 67 Main Street.


A letter was received from Town Counsel requesting the Board vote on the suggested settlement of the litigation between Frederick Markham and John Stavros, Docket Number 85-1582.

September 6, 1989

Burnham moved to accept the terms proposed by the attorneys for Frederick Markham and John Stavros on the litigation, Docket Number 85-1582. The motion was seconded by Bragdon, with the Board voting unanimously in favor.

Story moved to adjourn, seconded by Hall, with the Board voting unanimously in favor.

Meeting adjourned 10:30 p.m.


Submitted by Gillian B. Palumbo

A G E N D A

- 7:30 p.m. ... Submittal of definitive plan
for Gateway subdivision,
Western Avenue
- 8:00 p.m. ... Constance Del Mero - Small business
at 31 Martin Street

Business:

Schedule for month of August

The Conservation Commission are having a site visit
to Gateway subdivision, Western Avenue, on August
12 at 8:00 a.m. Do you want to make it a joint
visit.

Essex Planning Board

August 2, 1989

The Planning Board's Administrative Clerk was absent from this meeting and no notes for the meeting were given to her.

Essex Planning Board

August 1, 1989

A G E N D A

Appointments:

- 7:30 p.m. ... Peter Kopanon, property at 74 Wood Drive
- 7:45 p.m. ... Discussion on Old Essex Village, Eastern Avenue

Business:

Clay Morin may submit plans for public hearing for Gateway subdivision

Review correspondence

Essex Planning Board

August 1, 1989 - Minutes

Present: Rolf Madsen, George Bragdon, Westley Burnham,
Dana Story, Frances Dunn (7:50), Mark Hall (7:45).

Meeting called to order at 7:30 p.m.

Peter Kopanon, 74 Wood Drive, met with the Board for approval of a change of use from a single family residence to a two-family. Size of building - length 48 feet, height 24 feet, width 28 feet, number of stories - 2. Area of land - 29,600 square feet. Distance from the street line 40 feet, right side line 125 feet, left side line 175 feet, rear line 35 feet.

Burnham moved to approve the conversion from a single-family to a two-family, for the construction of a two-family dwelling at 74 Wood Drive, finding that under by-law 6-4.2 the conversion to a 2-family would not be substantially more detrimental than the existing non-conforming use to the neighborhood, seconded by Bragdon, with Madsen, Burnham, Story, and Bragdon voting in favor.

A building permit application was submitted for Shirley Burnham, 10 Pickering Street. Distance from the street line 35 feet, right side line 14 feet, left side line 21 feet. Size of building - length 50 feet, width 24 feet, number of stories one and one half. Area of land 12,759 square feet.

The board made no finding on this application.

A building permit application was submitted for Donald Hatch for a single-family dwelling on Lot 7A, Belcher Street. Distance from the street line 396 feet, right side line 89 feet, left side line 64 feet. The Board found the frontage for this lot was only 45 feet. Hatch was, therefore, told to go to the Board of Appeals for a variance.

A building permit application was submitted for Charles Ridge, Spring Street, for the construction of a single-family dwelling. Size of building - length 98 feet, height 24 feet, width 62 feet, number of stories - 2; area of land - 8 acres.

Hall moved to approve the siting of the principal dwelling on the lot under Essex By-law 6-5.5, a supplementary provision which allows more than one principal dwelling on a single lot, seconded by Story, with the Board voting unanimously in favor.

Page Two

August 1, 1989 - Minutes

Old Essex Village, Eastern Avenue - Attorney Michael Shea and Phillip Budrose met with the Board. Board member Mark Hall said he had spoken to Town Counsel and because of his involvement with Essex Reach, the property adjacent to the Old Essex Village, he would not be participating in any discussion or decisions on the Old Essex Village because of the potentiality of a conflict of interest. Shea told the Board because of the Board of Appeals hearing between Old Essex Village and abutter Gordon Thompson, he felt it was better this evening to go over the response of the letter sent to Building Inspector Richard Carter on July 15. Madsen said he had asked two members of the Board to check the records of the Old Essex Village. Shea asked if they had found any discrepancies between the Minutes and the plans. Madsen said the one that they found was there are no parking areas in the rear. The pass-through indicated in the Minutes of August 6, 1986 and September 3, 1986, does not exist. Richard Carter said, "I asked for them to submit a copy of the parking. The question I have is whether they have permission to rent the third floor. Parking at the back showed 158 spaces; part of the parking out at the back was on dirt and it was not lined out. The third floor can only be used as storage and I felt it had been taken care of." Madsen - "What do you mean by taken care of?" Carter - "That they could rent out the space." Madsen - "In order for that to happen, it would have to come back to us." Dana Story said he remembered asking a question about the third floor and was told it was for storage. The plan submitted showed 115 parking spaces. It was asked whether there was a deeded access to the back. W. Burnham said that the access was blocked off and an easement was given. The height of the building was then discussed with Carter. Story said he had had a complaint about the sign. He noted that there is a sign by-law that states the size of a sign is to be 32 square feet. Story felt the sign looked more like 9'x11'. Shea then asked how many spaces they were supposed to have. Madsen told him it was according to the amount of space used in the building. He added that was why the Board needed to have an as-built plan. The Board's finding has to do with the project as a whole. Madsen said he had calculated 116 parking spaces were required. Shea indicated that he remembered the use of the third floor storage area being changed. Madsen told him, "I have not sat on this Board and made a finding that we have changed the use of the third floor. I do remember discussing the height, because we had been questioned by many people about it."

Page Three
August 1, 1989 - Minutes

A letter sent to the Board from Attorney Mark Bravowski, attorney for Gordon and Martha Thompson, was reviewed.

It was noted that original drawings, copies of Minutes, parking drainage, as-built drawings, and a parking plan were given to Board of Appeals member Pamela Friberg.

Story moved to adjourn the meeting, seconded Burnham, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.

Prepared by:



Gillian B. Palumbo
Administrative Clerk

Essex Planning Board

July 12, 1989

A G E N D A

- 7:30 p.m. ... Leonard Woodman - third apartment,
Main Street
- 7:45 p.m. ... Peter Kopanon
- 8:00 p.m. ... Public Hearing - Gateway subdivision
- 9:00 p.m. ... Harbor Engineering - 109 Main Street,
Vacant building - Callahan's Restaurant
- ... Art Spencer - Old Richdale building
- 9:30 p.m. ... Kenyon and Jedrey - informal
discussion for property on Essex/
Manchester line

Business:

Old Essex Village
August meeting schedule
Sign voucher
Read Minutes

Essex Planning Board

July 12, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Westley Burnham;
Frances Dunn; Joseph Ginn; Dana Story; Mark Hall (came
in at 9:00 p.m.)

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

A building permit application was submitted for Dereck Brown, Conomo Point Road, for a single family residence. A letter from the Board of Health was read into the meeting.

Story moved that a building permit be issued to Dereck Brown, Conomo Point Road, for a permit for a foundation only, finding it meets all by-law requirements. The motion was seconded by Ginn.

Burnham moved to amend the motion to read that the construction be a foundation only, but any further construction is pending approval from the Board of Health for a septic system and Conservation Commission approval of the siting of the plan. The motion was seconded by Story.

Burnham moved to withdraw the amendment and that the following sentence be added to the original motion, that the permit is to be issued upon approval of the Conservation Commission. The motion was seconded by Story, with Madsen, Bragdon, Burnham, Dunn, Ginn and Story voting to approve. Hall was not present. The voting on the original motion with additional statement (second amendment) was as follows: Madsen, Bragdon, Burnham, Dunn, Ginn and Story voting to approve; Hall was not present.

Leonard Woodman met with the Board to discuss changing the third floor of his home at 60 Main Street into an apartment. The question arose at a previous meeting as to whether the house is considered a single family or two family. Woodman said they are two separate houses. He has a deed for 60 Main Street which is in the name of Woodman and his mother; the deed for 62 Main Street is in the names of Woodman and his wife. Madsen felt the house did not conform with the Town by-law's definition of a single family, which is a detached dwelling. Madsen said he has asked Town Counsel for his opinion. Woodman said he had adequate parking and approval from the Board of Health. Madsen asked, "How would your property differ from condominiums?" Woodman said, "I don't know. I have attempted to show you that they are two different residences. My application is to change 60 Main Street into a two-family." Ginn said he felt they were two separate units. Woodman asked if the Board could stop him from doing this. Madsen told him, "According to our by-laws it would have to come under the Special Permit."

Ginn moved to approve the building permit application of Leonard Woodman, 60 Main Street, changing it from a single family to a two-family residence. The motion was seconded by

July 12, 1989

George Bragdon, with Dunn, Bragdon, Burnham, Ginn and Story in favor; Madsen opposed.

Madsen asked members of the public attending the public hearing for Gateway subdivision which was scheduled for 8:00 p.m. if one more appointment could be attended to, to which they agreed.

Peter Kopanon met with the Board to discuss the property of John Heath on Wood Drive. Kopanon said he would like to change the single family foundation which is existing into two condominiums. Kopanon was told that as long as the footprint of the building and its proposed use remain the same, then the Board could see no reason why the permit could not be transferred. If the use was changed, then Kopanon would have to come back before the Board. He was also told to check that the two lots as drawn were in existence under one ownership prior to 1959.

The public hearing for Gateway Subdivision, Western Avenue, was called to order at 8:25 p.m.

Engineer Clay Morin, Morin Engineering, represented the applicant John Coughling, Gateway Realty Trust. Canan Hewson, an abutter, told the Board that proper notification of the hearing had not been made. She and several other people on RedGate Road jointly own a lot of land which abuts the subdivision property and had not received notification of the hearing. It was noted that Hewson was not on the list of abutters submitted to the Planning Board by Morin. Madsen then suggested that either Morin withdraw the plans and resubmit them or the public hearing be continued to the Planning Board's next meeting so that the applicant could bring documentation that they had made proper notification. Morin chose to withdraw the application.

Burnham moved to accept the withdrawal of the Gateway subdivision plans by Engineer Clay Morin, acting as representative for Gateway Realty Trust, without prejudice. The motion was seconded by Story, with Madsen, Burnham, Bragdon, Dunn, Ginn and Story voting in favor.

By-Law Committee - Madsen asked the Board if they still wanted the committee to work and to give some suggestions and changes. Story said there has been a most blatant use of signs. Madsen said he felt there should be a by-law for site plan review. It was felt the committee should reconvene and have them come back to the Planning Board.

Stanton Bigelow, Harbor Engineering, representing Robert Offenberger, Sumach Realty Trust, met with the Board to submit a parking plan for 109 Main Street. Offenberger wants to remove an existing vacant building and rebuild a two-story wood frame building for offices. Bigelow had been told at an earlier

July 12, 1989

meeting that a parking plan was required for the new building together with parking for the restaurant across the street which belongs to Offenberger. Bigelow said, "We noticed in the traffic study that upwards of 10 to 15 cars at any given time are being used by employees. We have asked Mr. Offenberger to ask employees to double up." Upon review of the plan, the Board found that the parking spaces had been calculated at 8½' by 16'. The by-law requires 10' by 20', which would reduce the number given. Hall said he would like to see a list of what is required and what the engineer is providing. Bigelow said, "The traffic study ran for three consecutive weekends from 5 p.m. to 11 p.m., and we found that the heavy parking does not occur until 6 p.m." Dunn felt the issue of abandonment of the building which exists should be considered because it then could fall under stricter guidelines. The Board wanted to see the upland calculations, wanted to be shown that the use of the building has not been abandoned, and the parking, which has to be drawn to the calculations of the by-laws.


Stanton Bigelow, Harbor Engineering, representing Art Spencer of Essex Video and Sandbar Pizza Shop, located at the Old Essex Village, told the Board he is looking for guidance as to whether the Board would look favorably on Spencer's business moving to the site of the Old Richdale Store and adjoining house located on Main Street. Story said he was opposed to this for the same reason as the two previous proposals for this property. Hall said he would have a hard time being in favor of this. Dunn said that even though the layout was good, she did not think she could look at it favorably. Bragdon felt there would be a traffic problem. Ginn said, "I feel more comfortable about this than I do the other. I feel the architecture could be changed to fit in to the look of the Town. I don't feel traffic is quite the problem that it is made out to be." Burnham agreed with Ginn, but added that he did have a doubt about maneuverability of the plan. He said he would like to walk it if further plans are presented.

David Jedrey and Robert Kenyon, Gloucester, met with the Board to discuss property they are interested in off Laurel Lane. They wanted to be sure they could have percolation tests done and construct a residence. They also want to subdivide the property into two lots. Madsen told them that in order to do that the road would have to be adequate, i.e. to meet the standards of adequacy under the subdivision regulations, and this road was not.

Burnham moved to hold a special meeting on Tuesday, August 1, 1989, at 7:30 p.m. The motion was seconded by Bragdon, with the Board voting unanimously in favor.

The Minutes of May 6, 1989, were read. Burnham moved to accept the Minutes of the meeting of May 6, 1989, with the amendment that the meeting was held at 9:30 a.m. and not 9:30 p.m. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Burnham moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor. Meeting adjourned at 11:00 p.m.


Gillian B. Palumbo

Essex Planning Board

June 21, 1989

A G E N D A

- 7:30 p.m. ... Attorney Michael Shea for
Old Essex Village
- 8:00 p.m. ... P.M.C. Realty - Review of plan
for Gateway subdivision
- 9:00 p.m. ... Lorraine Hardy - Sign plan for
boundary line change

Business :

Sign vouchers

Summer schedule?

Essex Planning Board

June 21, 1989

Present : Rolf Madsen, Chairman; George Bragdon; Joseph Ginn; Frances Dunn;
Mark Hall; Dana Story.

Meeting called to order at 7:35 p.m.

Leonard Woodman, 60 Main Street, submitted a building permit application for a second unit to his house. There was a question as to whether the house was presently a single family or duplex; if the house was a duplex then the Board wanted to know the ownership of each unit. Woodman said there were two different deeds but one house. Madsen said he thought it was a multi-family and could not be allowed. He also felt Woodman's best route was to go to the Board of Appeals. Building Inspector Richard Carter said the only reason he did not suggest that route was because of the unclear title to the rear portion of the land which used to belong to the catholic church.

Old Essex Village, Eastern Avenue, - Attorney Michael Shea and owner Philip Budrose met with the Board to discuss the question as to the use of the third floor. The use of the third floor had been restricted to storage because of insufficient parking. The total space for all three floors is 26,700 square feet. It was felt two board members should work on this problem to try and resolve it.

Lorraine Hardy, John Wise Avenue, submitted a Form A application and plan of Hardy Farm dated April 28, 1989. The Board reviewed the plan.

Story moved to approve the plan of Hardy Farm dated April 28, 1989 finding approval under the subdivision control law is not required. The motion was seconded by Bragdon, with the Board voting unanimously in favor. The Board signed the plan.

Review of subdivision plan of Gateway Subdivision, Western Avenue - Hall said he would like to see three columns on the plan, 1) Dimensions, 2) minimum required, and 3) minimum provided. He also said he would like to see identified the uses of the abutting properties. Peter Sherwood, an abutter, said, "The Conservation Commission said the plans should be chartered with the Raytheon maps, as no filling of wetlands is allowable under the Wetlands By-law. The Conservation Commission is recommending that the Planning Board review this." Engineer Clay Morin told the Board, "The road layout will not change. We designed the size of the building for the worst case scenario and designed the drainage calculations for this. The Conservation Commission also requested calculations for the parking area."

Ginn moved to hold a special meeting on July 12, 1989, at 7:30 p.m. to conduct Planning Board business. The motion was seconded by Bragdon, with the Board voting unanimously in favor.

June 21, 1989

Ginn moved to hold a public hearing to consider the definitive subdivision plan of Gateway subdivision, Western Avenue, on July 12, 1989, at 8:00 p.m. The motion was seconded by Dunn, with the Board voting unanimously in favor.

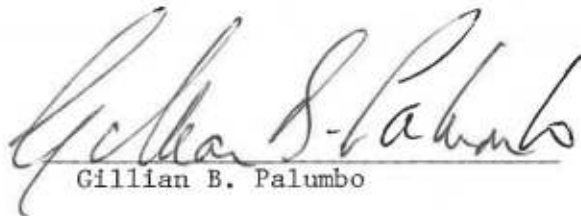
Hall moved that the Planning Board not meet on their regularly scheduled meeting nights of July 5 and July 19. The motion was seconded by Bragdon, with the Board voting unanimously in favor.

Story said he would like to have the Minutes of the meetings read at the beginning of each meeting.

Ginn moved to adjourn the meeting, seconded by Hall, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.

Respectfully submitted by:



Gillian B. Palumbo

A G E N D A

- 7:45 p.m. ... Michael Shea, representing John Story,
Martin Street - sign plan
- 7:50 p.m. ... John Pope - Elsie Reinert property -
Form A plan
- 8:00 p.m. ... Alan Fairbanks - Lufkin Point property
- 8:15 p.m. ... Lorraine Hardy - boundary line change
- 8:30 p.m. ... Robert Hanlon - change of use for barn,
58 Eastern Avenue
- 8:45 p.m. ... Susan Kane - Pond Street - submittal of
preliminary plan
- 9:00 p.m. ... Art Spencer/Dianne Smith
- 9:15 p.m. ... Low Hill subdivision - discussion of
letter of credit
- 9:30 p.m. ... Stan Bigelow - representing Robert
Offenberger - property at 109 Main Street

Essex Planning Board

June 7, 1989

Present : Rolf Madsen, Chairman; Westley Burnham; George Bragdon; Mark Hall;
Dana Story.

Meeting called to order at 7:45 p.m.

Building Inspector Richard Carter submitted to the Board Conservation Commission approval for the construction of a dwelling for Joseph and Linda Galvin on Lot #5, Low Hill subdivision, off Story Street. The Board had requested at their meeting of April 19 that this approval be obtained before the commencement of any work.

Robert Offenberger, Max Callahan's Restaurant, Main Street, submitted a building permit application for a temporary extension to the deck. Offenberger told the Board that they have a liquor license for the permanent portion of the deck, and have applied for a temporary license for the extension.

Burnham moved to approve a temporary deck space, 16' x 30', for the property known as Max Callahan's Restaurant, finding it not to be substantially more detrimental to the neighborhood than the existing nonconforming use, under By-law 6-4.2 The motion was seconded by Hall, with Burnham, Bragdon, Hall and Story voting in favor; Madsen opposed.

Thomas Dietrich submitted a building permit application for an accessory building at 228 Western Avenue.

Hall moved to approve the submittal of a building permit application by Thomas Dietrich for an autobody shop under the Home Occupation By-law at 228 Western Avenue, with the stipulation that the building permit application be noted that the change was made to reflect the permit would come under the Home Occupation By-law, Section 6-6.2(d). The motion was seconded by Bragdon, with Bragdon, Burnham, Hall and Story voting in favor; Madsen opposed.

Attorney Michael Shea representing John Story, Martin Street, submitted a Form A application and plan to the Board. The Form A application has been withdrawn at the meeting of May 17, 1989, to make some corrections requested by the Board, i.e. the variance by the Board of Appeals to be written on the plan and not as a separate document, and a block to be drawn on the plan for signatures of Board of Appeals members.

Burnham moved to approve the plan of land of John W. Story dated May 19, 1989, for a division of land into three parcels, noting an Appeals Board decision waiving the minimum frontage requirements, recorded as Book 9990, Page 527, under the subdivision control law not required. The motion was seconded by Story, with Bragdon, Burnham, Madsen and Story voting in favor; Hall was absent for the voting.

June 7, 1989

John Pope, representing the property of Elsie Reinert, 71 John Wise Avenue, submitted a Form A application to the Board for the creation of Lot 6 and an unbuildable Lot, number 7. A notation was made on the plan that Lot 7 was conveyed to the Essex County Greenbelt and was not to be considered a legal building lot.

W. Burnham moved to approve the Form A application of John Pope, 71 John Wise Avenue, as shown on plan of land dated December 8, 1988, revised May 15, 1989, for the creation of one conforming lot known as Lot 6 and an unbuildable lot to be conveyed to the Essex County Greenbelt Association consisting of 35.74 acres finding approval is not required under the subdivision control law. The motion was seconded by Story, with the Board voting unanimously in favor.

Alan Fairbanks met with the Board to discuss property he had purchased at Lufkin Point in 1974. Fairbanks said he purchased Lot B, and has had a little research done by attorney Michael Shea. The lot has been on the tax records as a non-conforming lot because of lack of frontage. He would like to be exempted from the non-conforming status. There is nothing on Lot B at present. The Board felt that this was a lot with inadequate frontage and therefore was an issue for the Board of Appeals.

Lorraine Hardy, John Wise Avenue, told the Board she had had her property resurveyed and had changed the boundary lines around the hatchery building. She showed the Board a plan of land drawn in 1981 and signed by the Planning Board. Madsen told her parcel 2 should be noted on the plan with its total acreage, but other than that it met all other requirements for a Form A. Hardy said she would have the corrections made and return to the Board.

Robert Hanlon met to request a change of use for the barn on the Essex Reach subdivision, Eastern Avenue. The change will be to a business, that of making and selling furniture. The Board felt to convert the barn to a store could not come under the home occupation by-law because it would be reaching to do that. Burnham felt it could not be a home occupation because of the size of the barn. He also felt the building inspector should have the capability to issue an occupancy permit, but if he is unsure then the Board could make a finding, but the parcel is fully conforming under by-law 6-6.5.

Susan Kane did not appear for her meeting with the Planning Board.

Arthur Spencer, owner of Sandbar Pizza Shop at the Old Essex Village, Eastern Avenue, told the Board he has a purchase and sales agreement for the Old Richdale Store on Main Street. Spencer wanted to know what the concerns of the Board would be to change this property into a pizza shop. Burnham told him parking would be a big concern; also access because of the lot's non-conforming status. It was also indicated to Spencer that any sign of a hardship to the neighborhood would be grounds for denial.

June 7, 1989

Stanton Bigelow, representing Max Callahan's Restaurant, Sumach Realty Trust, Main Street, met with the Board with a proposal to tear down the existing structure at 109 Main Street and rebuild it into offices, two on the second floor and two on the ground floor, with a small retail store. Madsen told him that that building and lot go hand-in-hand with the restaurant, and that the parking must be considered as a whole. Burnham said there were two big concerns of the Board, 1) Board of Health approval of the system, and 2) That there is sufficient parking for both restaurant and the proposed building.

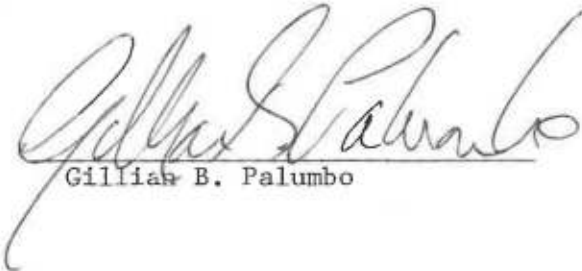
Hall said he would like to have a letter sent to various engineers to ask for their assistance for site plan reviews.

Burnham moved to draft a letter concerning a request for engineering assistance. The motion was seconded by Story, with Burnham, Hall, Madsen and Story voting in favor; Bragdon opposed.

Story moved to adjourn the meeting. seconded by Burnham, with the Board voting unanimously in favor.

Meeting adjourned at 10:00 p.m.

Respectfully submitted by



Gillian B. Palumbo

AGENDA

- 7:30 p.m. ... Susan Offenberger - Max Callahan's Restaurant
- 7:45 p.m. ... Diane Gustavson - 40 Lake Shore Drive, Gregory Island
- 8:15 p.m. ... PMC Realty - submittal of definitive plan
- 9:00 p.m. ... Attorney Alan Swann for Wedlock property, Old Manchester Road
- 9:15 p.m. ... Sheldon Pennoyer - house construction
- 9:30 p.m. ... Paul Desmond - Story property, Martin Street - sign plan for variance from Board of Appeals
- 9:35 p.m. ... Tentative - John Pope - Form A for Elsie Reinert property, John Wise Ave.
- 9:40 p.m. ... John Serafini - Deer Run Estates

Essex Planning Board

May 17, 1989

Present: W. Burnham, Chairman; Frances Dunn; Joseph Ginn;
George Bragdon; Rolf Madsen;

Note: Mark Hall was elected as a member of the
Planning Board but had not been sworn in by the
Town Clerk prior to this meeting and therefore
could not vote and any observations made by Hall
were not as an official member of the Board.

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

Robert Offenberger of Max Callahan's Restaurant met with the Board to discuss a platform he had attached to the deck of the restaurant. He said he had applied for an extension to the deck and it had been denied. He put on the platform without a building permit and finds he is in error as he has since been told he needs a building permit. He is looking for some input from the Planning Board as to what he should do. He added that the extension is only temporary and not a permanent structure. Madsen said the Board could not act on this as Offenberger did not submit a building permit application with a plot plan. Ginn asked if the platform would float away if there was a big storm. Offenberger said the platform will be picked up during winter.

W. Burnham said he would like to welcome the new Planning Board members, George Bragdon and Mark Hall. At this time, it was felt a new chairman and clerk should be nominated.

Ginn moved to nominate Rolf Madsen as chairman; seconded by Bragdon, with the Board voting unanimously in favor.

Madsen moved to nominate Dana Story as Clerk; seconded by Dunn, with the Board voting unanimously in favor.

Bragdon moved to nominate Westley Burnham as vice-chairman; seconded by Ginn, with the Board voting unanimously in favor.

Engineer Clay Morin submitted the definitive subdivision plan for Gateway Subdivision, Western Avenue. The applicant's name has been changed from P.M.C. Realty Trust to Gateway Realty Trust. Morin said the existing structures must be removed in order to conform to the by-laws. They also have to file with the Conservation Commission.

Mark Hall said, as a member of the public, that a developer, such as Gateway Realty Trust, should pay for an engineer to help the Planning Board review the plan.

W. Burnham was appointed the Board's representative to Town Counsel on the Pine Ridge subdivision lawsuit.

May 17, 1989

A building permit application was submitted for Thomas Dietrich for an accessory building at 228 Western Avenue. The Board did not act on the application at this time because of the use of the building as described on the application was not consistent with the Board's ruling under the Home Occupation By-law. Also upon review of the site plan, it was found that the street line distance was not consistent with the measurement indicated on the building permit application.

It was felt a letter should be sent to Byrne Brothers Landscaping, Western Avenue, indicating that the sign they have erected is not consistent with the ruling under the Home Occupation By-law, and therefore should be taken down and the correct size be used.

Attorney Alan Swann, representing Stephen Wedlock and Kim Pederson, met with the Board. Swann told the Board they want to divide a parcel of land, six acres in size, into two lots, and want to know what the Board is going to require for a road. Swann was told that a turn around would be required because of the potentiality served by the road. W. Burnham said, "We must ensure that the road is adequate. We did approve a plan for property on the other side of the road and found the road was inadequate when there was a fire in one of the homes. Therefore, if there is any further subdivision we must find the road to be adequate." Swann asked if the road would serve less than or more than ten houses. Madsen felt it was in the hands of Swann to prove that the potentiality was less than ten houses. The property is located on the Old Manchester Road.

Sheldon Pennoyer met with the Board to discuss a proposal to build a house on property he owns at the end of Forest Street. He said he bought the property from Carlson Febiger in 1957. Upon review of the plan it was found Forest Street ended before the property. It was therefore suggested to Pennoyer to either extend the road for frontage or go to the Board of Appeals.

Attorney Michael Shea met with the Board to submit a Form A application for property of John W. Story, 91 Martin Street. Shea said the Board had suggested they go to the Board of Appeals for a variance from the minimum lot frontage on Martin Street and a variance from the minimum lot frontage on Western Avenue for Lots 2 and 3. They did and the variances were approved. Shea asked the Board to sign the plan. Madsen said the variance was not noted on the mylar; the Board said they would prefer to see it written on the plan rather than an instrument being attached, which is what Shea had planned to file. Madsen also noted that the instrument stated the Planning Board issued the waiver, and he felt the waiver was issued by the Board of Appeals, and not the Planning Board. No block was shown on the plan for the signatures of the Board of Appeals. Shea said he would return with the corrections to the plan, and withdrew the application and plan.

John Serafini, representing the Charlottee Partnership, Deer Run Estates, met with the Board to be sure that they had all the plans and paperwork

May 17, 1989

necessary for the filing of the Special Permit decision for Deer Run Estates with the Town Clerk.

Madsen moved to adjourn the meeting; seconded Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:30 p.m.

Respectfully submitted


Gillian B. Palumbo

Essex Planning Board

May 6, 1989

A G E N D A

9:30 a.m. ... Special meeting for decision on
Special Permit process for Deer
Runn Estates

Essex Planning Board

May 6, 1989

Present : Westley Burnham, Chairman; Everett Burnham; Frances Dunn;
Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order at 9:30 p.m.

W. Burnham asked for a summary of what had occurred at the regularly scheduled Planning Board meeting on May 3, 1989, with regard to Deer Run Estates, as he had not been able to attend. Madsen - "On Wednesday, we discussed two things; one was whether or not we should hold this meeting; we eventually concurred on that, and second thing we discussed was the Board of Health letter and whether or not it constituted an approval. It was the decision or the opinion of the Board that we seek Town Counsel to ask whether or not, in his opinion, the Board of Health had granted an approval under our by-laws."

Story - "I went to see John Tierney and we had a four-way telephone conversation between him, myself, Gordon Thompson (Chairman of Board of Health) and Gayle O'Leary (secretary to Board of Health). The decision was a 'yes', they had, in fact, granted the variance and they are legally entitled to take this vote."

A note received from Town Counsel was read into the meeting as follows: 'Telephone conversation with Board of Health Chairperson Gordon L. Thompson, Jr., with Mr. Story of Planning Board and Town Counsel: Board of Health May 2, 1989 decision interpreted to be: variance granted; Disposal Works Construction Permit approved - administrative task of physically writing restrictions is all that remains.'

W. Burnham - "That was my understanding. The night they granted it Gordon Thompson gave me a call to give me a heads-up so we would know where we are sitting. That's the way it was explained to me at that time, that they did not have the time to write the full decision as carefully and as thoughtfully as they wanted, but they did give it an approval."

W. Burnham asked if anyone had any problems with the posting of the meeting, as it was short notice. It was his understanding that everything was done in a timely manner, in accordance with the required laws.

W. Burnham - "We have submitted to us two drafts, one submitted to approve and one submitted to deny."

Attorney John Serafini for Charlotte Partnership - "I would like to clarify one point for the record, whether the approvals on the septic system were on form it should be clear from the plans that, in fact, these are definitive drawings, they are not conceptual. They are very detailed. When it gets final down to our groundwater discharge permit to base this decision on, there is also a supplemental plan I think Clay (engineer) prepared for the benefit of the Board of Health for their meeting on the 25th when they took action and a copy of that may not be before you. You should have that. All it really does is show some of the perc locations for some of the areas on top of the hill, the leaching fields."

May 6, 1989

You've already got some of that. The plans also have detailed drainage calculations and detailed calculations as to ---- ponding. At the request of the Board of Health he prepared a supplemental plan that amplifies that. We want to file one of those with you again so you'll have a set up to date."

Engineer Clay Morin - "What the Board of Health wanted us to do was to identify all the testing on the site that we did that was acceptable under Title V; to address approximately how many areas where it was possible for a single leach area per building, so we identified all the test holes on site from here all the way over to the upper site."

W. Burnham - "We do have a copy of the disposal plans?"

Morin - "Yes, right here."

W. Burnham - "It should be part of an addendum to that, as per requested by the Board of Health."

Bruce Fortier - "The drift of what is going on is perfectly obvious. We have a by-law that says septic system plans are to be approved before a permit is issued. I have no idea what the two members of the Board of Health told Town Counsel in the private discussion. If you recall this seems to be a repeat of the previous one where certain inadequate information was obviously being given to the Town Counsel and then when I ended up talking to him he sent the final letter which was quite different from what had been done. As I have said I have no idea what those Board of Health members said in their outside the meeting private consultation with the Town Counsel, but I was there at their meeting and I know what their Minutes say and actually voted on, which was very specific. It was in your letter they had approved a variance, but they have not approved a disposal works construction permit. They only represent two thirds of the Board; there is going to be a third person who is going to be coming on their Board next Monday, who is going to be eligible to vote on the construction works permit. The only time that you wouldn't be eligible to vote was on a variance that required a public hearing, but routine business which comes before Boards such as construction works permits, all members of the Board vote on. More specifically, all you have now are plans to do with the D.E.Q.E.'s preliminary step; this has gone on endlessly, where sleight of hand has been around to pretend that preliminary steps are final steps. In order to get the septic system plan approved they first had to get approval from the D.E.Q.E., then they had to get a variance from the Town, then they have to get the septic system approved. They haven't got the septic system approved. The fact that the Board of Health members are telling you, that they are assuring you, that at some time in the near future it will be approved ought to be taken as proof that it hasn't been approved now. That is the endless argument that has been brought before your Board on each and every time by the applicant, that the expectation of something is reasonable assured of happening in the future is the same as it having happened. I continually come here and say that a promise that something is going to be done is not the same as having it done, that you have a by-law which says in order to grant

May 6, 1989

the permit it has to be done. The Board of Health has not approved any septic system plan, you do not have any copy of any approved plan; all you have had are preliminary submissions for plans that may, in all likelihood, be approved as some date in the future but have not been approved now."

Serafini - "I think we have been all through that. It was most of the discussion on Wednesday; the issue was referred to Town Counsel; let him decide what the Board of Health writing meant; he says its an approval, that's the end of the argument."

Maura Kiefer, attorney with McGregor, Shea and Doliner, for abutter John Donovan - "A couple of comments that you said - 'that the Board of Health stated that they did not quite write the decision maybe the way they wanted it to come out' - I have the decision in front of me dated May 2, 1989, and it says the disposal works construction permit was not issued at this hearing. This is their decision, whether or not they meant to say what they said in it, this is their decision. If you have two members of your Board of Health speaking to you outside of a regularly posted meeting, if that does constitute a quorum then whatever was said cannot be taken...."

W. Burnham - "The telephone conversation, it is my understanding, was with the Chairman of the Board of Health, one of our representatives, Mr. Story, Town Counsel and Gayle O'Leary, the secretary."

Kiefer - "So there was only one member. I was concerned with violations of the open meeting. I think this whole things turns on the legal fact of the variance. A variance was granted, no one disputes that. All that adds, in our legal opinion, is to allow the applicant to pursue his cause of action under Title V, which is to seek approval of the plans. The Board of Health states in its decision that no approval is granted. We are not disputing that those plans might be detailed; maybe they are sufficient, maybe they are not, but they weren't approved. The variance only allows the applicant to pursue a course of action. Your bylaws states that no such use of the subsurface system by more than one is prohibited."

W. Burnham - "They got their variance for that."

Kiefer - "The variance granted allows them to go ahead now, submit their plans for a Disposal Works Construction Permit and try and get it approved. It just hasn't happened. The application's premature. If they go ahead and get their plans approved, then they can seek approval. They are asking you to vote on something that is premature. It's just going by your by-laws. I feel the procedure is in error."

Serafini - "I would like to point out your by-law does not say anything about disposal works construction permits. That's like getting a building permit to put the system underground. That's the actual construction phase. Nothing in your by-law says that they have to grant a construction works disposal permit. It says approval of septic plans. Now the Board of Health had before it all of the final septic plans that the D.E.Q.E. had. It shows all of the engineering, all of the site, it shows all of the details, and the Board chose to accept the design of the plans. It says that right in there. If that isn't approval, I don't know what is."

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If they were going to turn it down, they would have said they were not going to approve this. If your Town Counsel says that what the Board did is approval, I think you should be guided by that."

Dunn - "As far as I'm concerned, we have sat here and talked this over I'm not sure how many months now, we have had public hearings. Last Wednesday night we asked for the Town Counsel's opinion; we got his advice, in writing, I'd like to move this along instead of continually sitting here. I don't know about the rest of the Board, but I have to go to work myself. I do want to vote on this, and I do want to have the time to write this out. I think everybody on the outside has had their chance, and when we asked Dana to see or call the Town Counsel, that is in his writing, not in Dana's, so we have his advice and he says its approval. I think its the Board's decision whether we accept his advice and move along, or do we sit here until Monday night until after the voting and say 'it's gone'. We could sit here that long, and I just think we have gotten his advice; either the Board members take his advice or we decide among ourselves not to."

Kiefer - "I don't know if I should have given this to you at the beginning, but this is just a letter from us stating our position again, in writing."

W. Burnham - "Regarding the discussion of the last few minutes, that argument could go on for days. At this point in time, I would prefer to go with the opinion of our own Town Counsel who advised us earlier to wait until we had some form of approval from the Board of Health, and I think at this time we ought to consider what they did last week as approval. They are going to write the exact final plan, but if that's the position our own Town Counsel is willing to support, then I think we ought to go along with it."

Madsen - "The terms of security on the project, we can go two ways, approve or deny; if we approve what about security?"

Wilson - "Doesn't that come under the Special Permit?"

Madsen - "The other thing is, what guarantees can we make to see that the project is built to the specifications which are presented before us. None of the drafts written on the decision, there has been no request that some type of Clerk of the Works is provided to the Planning Board...Special Permit Granting Authority, and I think that is really necessary because of what had happened over the last two and one half years. Also, by the way, in regard to Mr. Tierney's opinion, I would also like to have the decision contingent upon .. we have a postal note .. a written letter from him stating his legal opinion that it constitutes an approval. I think that is only fair considering the argument that has been presented here and continually for the last year and a half. If John said he'll give it to us, but I do think it is necessary that we have it. If it comes in and he disagrees and in his written opinion it isn't an approval, we'll have to rescind the permit."

Serafini - "I don't have a problem with any of those conditions. On behalf of the applicant, we have put into our draft, as I have

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said before, we have pretty much tracked Phil Herr's draft to you. The only thing we did do is updated to the discussions that we had had between Phil has a section in his draft permit about using your mechanisms under the subdivision control law to ensure that the roads and the other infrastructure gets built. We don't have any problem with that. We don't have a problem going along with a Clerk of the Works. We have said to you we want to build this project up to complete spec and given you the right to review the final building plan as we develop each individual building, and the roads; the roads are there, but each individual building and other site plans which have to be developed, we given the approval for. We want to build those things. If you want to have a Clerk of the Works at our expense to supervise that work, that's not a problem to us, and certainly I agree that Mr. Tierney should put his comments in writing."

W. Burnham - "Absolutely."

Serafini - "That's part of the record. My guess is that because of the time involved he hasn't had a chance to sketch out a long letter, but if he's written a hand written note I can't imagine he'd back out, so we don't have a problem with any of those."

Dunn - "We have got so wrapped up in the Board of Health that I wanted to ask you whether you have figured a way in there that we could still have, at least, an emergency exit?"

W. Burnham - "The entrance is going to be basically two roads."

Dunn - "On the fifty units, is that going to be it and do we have it in the decision that there will not be any added. That seems to be a concern of people that came in."

W. Burnham - "They are only authorized fifty".

Dunn - "Can we have that registered that there will not be anymore building up there."

E. Burnham - "That's all he's got the permit for, what is on the plan."

Dunn - "Can we have that stipulation that there will not be anymore going on up there."

W. Burnham - "What do you mean, from now until eternity. Nothing is that permanent. The way our permit is written, in order for them to build more than fifty they would have to come back and basically go through the whole process again."

Madsen - "What type of security and how much security do we want out of this?"

W. Burnham - "We could tie the road construction, the utility installation and the sewage system installation into, or the road to be at least roughed in and the other aspects finished prior to any building permits being issued. That would be one way, or you could put up a cash bond of some sort."

Madsen - "I would be more comfortable with some type of bonding arrangement."

Warren Messier - "For the record, I would respectfully like to have the Board consider that before the sale of a unit that the utilities and the road work to service the units be completed and ready for sale; it has to be completed before a sale could be completed."

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The reason for that is so the phasing and the road construction, water mains, sewer lines, all the utilities add to the development when the basic units are being constructed, the foundations, the tie-ins for the sewer, etc., because to do one ahead of the other and then come back and re-dig and tie in, it is more of a disruptive type development, if you try to build the road in total, finish it and then come back."

W. Burnham - "I wasn't looking for a finished road. I was primarily looking for roughed in roads. I realise you are going to have to dig again."

Messier - "You would have know objection."

W. Burnham - "As far as the treatment plant goes, you are going to have to have ninety percent of that complete, short of the tie-in just by design. What I have had in mind, I would like to see the water mains put in throughout the whole thing. Have them accepted at one time. That would be easier on the Department of Public Works, so they would just go up and do the flushing and the testing. After that you have go to do your individual tie-ins. Other than that I'm not sure what we would be concerned with."

Messier - "Could we tie that in the completion prior to the allowance of sale and passing of papers of any of the units. That would give us thechance to have the buildings under construction."

W. Burnham - "We don't have any control over your sale."

Messier - "You can make it conditional."

Madsen - "We can't."

W. Burnham - "We could tie it prior to any occupancy permit being issue."

E. Burnham - "Supposing you get it two-thirds of the way along, all of the streets are in, the sewage system is in, the water is in and the streets are semi-paved and you want to start moving houses, then you can determine what financial security could be put up to complete it."

Serafini - "Why don't we say the security can be whatever is satisfactory to you."

W. Burnham - "We've got to leave this right now."

Madsen - "I don't want that. I don't want another decision concerning security a year from now".

E. Burnham - "Basically, if you go along with what the subdivision regulations require for performance guarantees..."

Madsen - "One of my primary concerns with the project is that financially with the condo market the way it is, it may not fly. I really have a concern. I do not want to get into a situation where two years down the road the developer chooses to abandon the property. I'm not saying that you are going to that, but the way I see the condo market it is going to get worse before it gets better. I would like to see somehow when this permit, if we grant this permit, I am assured as a member of this Authority there is enough security there to assure that the infrastructure proposed to us in the project can be built, whether its they or somebody else. By setting it up where you don't issue a building

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permit, that does not assure me that I'm going to get the stuff done that I want to get done up there. That's why I don't think, as with our subdivision regulations and the performance guarantee of those regulations, that they really apply here. I just think we should be a little more stronger here, because the other thing the applicant is asking us for a special case. I don't want ten or fifteen condos done and have half the stuff finished or where it won't get finished. I'm looking really for a bond."

W. Burnham - "Are you looking to complete the project or..."

Madsen - "I'm not looking for them to complete the project, I'm looking to have a bond in place that would cover all the infrastructure."

W. Burnham - "Infrastructure - Can you be more specific?"

Madsen - "The roads in the project, the sewers, the sewage treatment plant, the whole works. We've got a project where we've got three phases... is it three phases that you are planning? Two or three phases."

W. Messier - "We want to spread it over an absorption rate depending on the economy of the market. That is why we say we really don't know. We are looking for the recovery, but this isn't going to happen tomorrow. We have appeals and all kinds of processes to go through. If you relate this project to subdivision legislation, the Town has the responsibility of the road and therefore the concern is for some bonding, or the partial construction and partial bonding, one part by one and one part by the other, which under the subdivision legislation leaves the option up to the applicant. I can understand your concerns. How do you tie in a development here. The responsibility of the road network under a condo project cannot be thrown back against a town. There is no responsibility either by a buyer of a condo project or anyone else to say we have bad roads, we have insufficient water, we have bad utilities, and that is what legislation under subdivision law is basically saying, Boards protect your town. I have no problem saying we would work out something, come to some agreement, where you could be assured, in spite of this, that it is a nice looking development to the Town. My suggestion was, let us get in their and get started with building units, road construction, because they do not belong one all finished and then another, so let us get started together and we can tie it in and hinge it upon before we can sell, pass or convey to a buyer even one of the units, be satisfied that there is sufficient utilities, road network, and so on, to serve them. Now certainly a buyer is not going to go in and buy a condo if he doesn't have roads, access to drive into areas of the park, and lawns, and so on; it is just commonsense logic on that end of it, but at that plateau we would have no problem coming in before the Board again, having an on-site inspection, saying to the Board, here is what we have, this is what we are going to complete. If we put up a bond to secure the completion from this point on, like a part construction, part by bond, put up a bond sufficient, in the opinion of the Board, not in our opinion, the opinion of the

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Board, sufficient to complete the project at this phase, the road network and everything, I would have no problem with that." Serafini - "Heres another possibility. Obviously this project is going to depend on construction costs. There's another mechanism under the subdivision control law which is a tri-partheid agreement. You make an agreement between the bank, the Board and the developer which allows fund to be requisitioned directly from the bank to finish the infrastructure. Now we would have no problem with that as far as the mechanism. I think, until we get into the project, we have to, obviously, keep open the idea of what just is the amount is going to be that is necessary to finish that. That should stay within your discretion. Even in the draft permit decision you are going to review plans, you are going to review lots of other things, so we'll come in and work out what is the fair dollar amount, work up some figures and say it's going to cost this much a square foot for the road, so much a linear foot for the lines, etc. and that will be phased in with the phasing of the plan that the Board of Health gives us as to when the sewage treatment plant has to be built, and so forth. So I think a tripartheid agreement, even though it doesn't say so in your subdivision regulations, we would be willing to give you that; that's allowed under 81U of the subdivision control law, and if the Bank's -----, then I don't see how you can possibly lose."

Maura Kiefer - "My objection to this whole proceeding still stands, but not withstanding that, everything which has been said by this gentlemen and this gentlemen still does not prevent anyone from walking away from the project. The only thing that does that is a bond. If you don't require a bond, nothing prevents them from, whether it's economics, anyreason at all, stopping. We all know that; that's what bonds are for. It is in the best interests of the Town to require a very tight bond."

Serafini - "A tri-partheid is a form of bond."

Kiefer - "No, it isn't."

Madsen - "I would tell the applicant that I will not vote for the project unless I have a bond. That is about as clear as I can be."

Serafini - "If you want a bond, you have a bond. I think the amount we will have to work out when we know the timetable."

W. Burnham - "As far as the permit for today, we can leave, I think, the requirement generic enough that we don't have to put a specific price tag on it. We can make a statement that the appropriate bonding is maintained or in place for the project, and as the project goes on appropriate reviews will be necessary."

Story - "Describe the bond you had in mind."

Madsen - "I want to make sure there are adequate financial resources to finish this project. I'm talking about the infrastructure which would be the roads, the sewers, the treatment plant, the waterlines and everything that's there. That's what I'm looking for. We have had people from the Town, members of the abutters, really concerned about the water issue

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and the water supply. The applicants presented their case saying that if we do this, this and this, they are going to have no problem. I want to make sure they are going to do this, this and this."

E. Burnham - "I think there should be a bond to cover the utilities of the road, the sewage, and that can absolutely be finished up to completion, if there was a guarantee for that much of it, even if we had to go in and finish it ourselves. As far as the buildings go, how many buildings you put up over a period of time would be their problem."

Madsen - "Another question, should be vote an approval, do we want to put an expiration date on the permit if work doesn't commence at some date."

Serafini - "I realize now that it's got to commence within two years by law."

W. Burnham - "That's already built in."

Serafini - "That's after the permits become final. We should two years after we get the ticket to go ahead. If we don't go ahead in that period then we've got to come back again."

The Board then reviewed the decision. W. Burnham said one thing he wanted to see in the decision was outside identification on fire alarms.

Michael Davis - "When would the bonding start. My idea of bonding would start when they went to sell the first unit and they would bond the rest that's not done at that point."

W. Burnham - "The bonding should be in place, or some form of it, prior to the start of any construction. The object of the bond is to protect the town from having a partially completed project. It doesn't really matter, as far as I'm concerned, to us whether there's one unit or all fifty are built, however, if there is one unit built then the support facilities have to be in place to ensure the proper operation of that unit. That's my opinion as to why the bonding is required. During the period of the obvious court battle which is probably going to ensue, appeals, etc., it's not necessary, as far as I'm concerned, to have a bond in place. It should be prior to the actual issuance of the first building permit. That would ensure that it is completed to a satisfactory level. I think we ought to leave the wording on this generic enough to allow periodic reviews as it goes along."

Serafini - "Having read this just quickly, I only have one comment and that is in the 'Determination'. B(1) talks about the dimensional requirements. If you recall we came in last Spring with an A.N.R. plan. The A.N.R. plan shows all the lot frontages."

W. Burnham - "We can delete that."

There was a discussion under 'Decision' regarding (1) reduction of land and it was decided 'in excess of 10,000 square feet' should be added.

Wilson moved that the Board as the Special Permit Granting Authority approve a Special Permit for the construction, operation and maintenance of fifty (50) dwelling units of multi-family dwellings identified as Deer Run Estates at Essex Condominium, per applicant Charlottee Partnership, 49 Tickle Road, Westport,

May 6, 1989

Ma. 02790, based upon our decision dated May 6, 1989.
The motion was seconded by E. Burnham.

Story - "One minor observation, we have something in our rules somewhere that say we should not have two things in the same name. We have got two projects here now with 'Deer'."

W. Burnham - "I understand the issue. We also have Conomo Point and Conomo Drive. We are not going to touch that right now."

Story - "We did touch upon it once before. It was just an observation."

At this time Wilson withdrew his motion.

Madsen moved that the Special Permit Granting Authority finds that the proposal by Charlotte Partnership for the Deer Run Estates meets the requirements of the zoning by-laws and therefore moves that a Special Permit be granted subject to adopting all of the terms and conditions of the decision of May 6, 1989. The motion was seconded by E. Burnham.

The Board was then polled.

Francis Dunn - In favor

Rolf Madsen - In favor

Dana Story - I vote no and I want to make this statement as part of the record. In voting no I want first to emphasize that I have no quarrel with the planning of this project as such. I feel that the applicants have done an excellent job in the design and engineering of the project. They have done all that has been requested of them and more. My objections are of a general nature. In acting on a special permit, my duty, as a member of the Planning Board, is to act in a manner which will not be detrimental to the public health, safety, and/or welfare. At a time when we are increasingly concerned with the quality of the water in Chebacco Lake, which in fact is the Town's water supply, it seems to me to be unwise to approve a project which, upon completion, will be discharging upwards of 15,000 gallons of effluent per day into the watershed of the lake and more particularly, into Turf Meadow. It seems to me that the time has come, and indeed is long past, when serious consideration must be given by the Town to curbing further development in this watershed area. Second, I am further concerned that the considerable amount of run-off from the project will also inevitably reach Chebacco Lake. True, the lake is already in serious condition, but it makes no sense to me to further exacerbate the situation. Third, I am concerned with the consequences to the Town if, once under way, the applicants fail to complete the project as planned. All sorts of possibilities could ensue, some of which could well have an adverse impact, environmentally or financially, on the Town.* Finally, it disturbs me as an ardent environmentalist, that this project will destroy, at a stroke, about 40 acres of a beautiful and ecologically sensitive wild area, the likes of which is one of the prime reasons so many newcomers have chosen to live here.

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My position on this issue is in conformity to the votes I have cast on two recent projects in the Chebacco Lake area; the R.B. Strong industrial park and the Pine Ridge subdivision on Pond Street. *The Planning Board is even now in possession of an offering of this property for sale by a realtor in Sudbury, Massachusetts.

E. Burnham - I approve of the project, because I think the use of the property will be one of the best advantages to the Town.

Alden Wilson - I vote to approve. Starting at route 22 it has adequate access; the concept of it is in harmony with the environment in that area and as much of the flora will be preserved as much as possible. I know the Chebacco Lake Association have their objections to it on pollution of the Lake. The Town needs a tax base desperately.

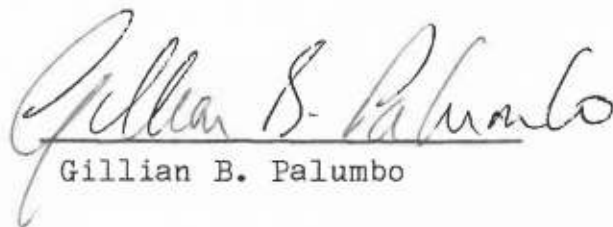
Westley Burnham - I vote to approve, based on the decision we have written today.

Based on five in favor and one opposed, the requirements of a majority of the Board and a minimum of five has been met, I declare the motion having been passed.

W. Burnham said this was the last meeting of Everett Burnham and Alden Wilson and would like to thank them for their efforts on the Board for the past five years.

Dunn moved to adjourn the meeting; seconded by E. Burnham, with the Board voting unanimously in favor.

Meeting adjourned 11:30 a.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Richard Means - Re. road for
Sagamore Circle
- 8:30 p.m. ... Dianne Smith for property of
Andy Stahre, Gregory Island
- 9:00 p.m. ... Paul Russell, Gullwing, Western
Avenue
- 9:15 p.m. ... Tom Prentiss - property on
Forest Street

Essex Planning Board

April 19, 1989

Present : Rolf Madsen, Acting Chairman; Everett Burnham;
Frances Dunn; Joseph Ginn; Dana Story; Alden Wilson.

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

A building permit application was submitted for Joseph and Linda Galvin for construction of a single family residence on Lot Number 5 of Low Hill subdivision. The Board discussed a letter received from the Conservation Commission stating that they felt no building permits should be issued before a binder coat is placed on the subdivision road. The Commission felt with all the construction it would create a lot of siltation because of the hill.

Ginn moved to approve the siting of the dwelling for a single family residence for Joseph F. and Linda Galvin for Lot #5, Low Hill subdivision, as per plan submitted to the Building Inspector dated April 5, 1989, subject to the applicant obtaining written approval from the Conservation Commission prior to any work being commenced. The motion was seconded by Wilson, with E. Burnham, Ginn, Madsen, Story and Wilson voting in favor; Dunn opposed.

Size of the single family residence, length 79'6"; height 32'; width 39'; no. of stories - 2. Distance from street line 50+', right side line 200+', left side line 90+', rear line 37+'.

Richard Means submitted as-built plans for Sagamore Circle subdivision road. Means would like to have the road accepted by the Town at the annual Town Meeting. He told the Board the Selectmen need to receive a letter from the Board stating he has completed everything at this level and to recommend to them it be accepted or considered for acceptance at the Annual Town Meeting. He also told the Board that the mylar must be recorded seven days before the Town Meeting. He said he has also been released from the final five percent of the bond.

Wilson moved that the dead-end road of Sagamore Circle on map prepared for Richard Means dated March 7, 1989, is built to Department of Public Works standards and that it is sufficient for acceptance as a Town road. The motion was seconded by Story. Wilson then withdrew his motion.

Wilson moved to accept the as-built plans of Sagamore Circle prepared by Robert Klopotoski dated March 7, 1989 and approved by Planning Board engineer Clayton Morin. The motion was seconded by Story, with E. Burnham, Dunn, Madsen, Story and Wilson voting in favor; Ginn voted present. The Board signed the plan.

April 19, 1989

The Minutes of the meeting of March 15, 1989, were read. Story moved to accept the reading of the Minutes of March 15, 1989, with the amendment as follows: Madsen opposed the motion made for P.M.C. Realty/John Coughlin, 144 Main Street, and did not vote present as stated. The motion was seconded by Wilson, with the Board voting unanimously in favor.


Paul Russell, of Gullwing, Western Avenue, met with the Board. Russell said, "It has come to our attention that the new addition approved by the Board is not in compliance with the sideline setbacks as a result of a new property survey that was done." Madsen told him the Board could not make the lot non-conforming and that this would have to go before the Board of Appeals.

Tom Prentiss met with the Board to discuss informally a proposal to construct a residence with in-law apartment and to turn the existing residence into a workshop. Marilyn Dorman, an abutter, questioned why the subdivision was approved, which created one conforming lot, which the Dormans own, and one non-conforming lot, owned by the Prentiss's, after 1972. According the plans which the Dormans owned, the Planning Board had, in 1973, created a non-conforming lot. Dorman then asked about the in-law apartment and its use when the in-laws are no longer residents there.

Madsen asked for a member of the Board to read the Home Occupation article which is to be presented at the Annual Town Meeting. Story said he did not want to because he felt unclear on the following: 1) in one part of the by-law it says home occupations can be in an accessory building and in another part it says it cannot; 2) definition of the word family; 3) something has to be done about trucking.

Wilson moved to adjourn the meeting; seconded Story, with the Board voting unanimously in favor.

Meeting adjourned at 10:10 p.m.


Gillian B. Palumbo

Essex Planning Board

April 5, 1989

AGENDA

- 7:50 p.m. ... Submittal of definitive plan for
PMC Realty, Western Avenue
- 8:00 p.m. ... Public hearing - Home Occupation
Articles
- 9:00 p.m. ... Douglas Rowe
- 9:15 p.m. ... John Serafini, Deer Run Estates
- 9:30 p.m. ... Richard Means
- 9:30 p.m. ... Tom Prentiss - Forest Avenue

Business:

Copies of subdivision regulations

Essex Planning Board

April 5, 1989

Present : Westley Burnham, Chairman; Frances Dunn; Everett Burnham; Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson

Meeting called to order at 7:35 p.m.

Building Inspector Richard Carter submitted a building permit application for Robert Sanford, Greenhead Essex Realty Trust, Island Road, for an 18' x 24' addition to the existing residence. Size of building, length 24', height 16', width 18', no. of stories - 1. Distance from street line 60', right side line 15', left side line 30', rear line 60'. Area of land 9,000 square feet.

Wilson moved that the Building Inspector issue a building permit to the Greenhead Essex Realty Trust, Robert Sanford, Trustee, 176 Lincoln Street, Hudson, Ma., for an addition to a building located at Island Road, Essex, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Story, with the Board voting unanimously in favor.

A building permit application was submitted to the Board for William and Mary Carpenter, for construction of a single family dwelling at 42 Conomo Drive. Area of land 14.6 acres. Distance from street line 600', right side line 200', left side line 142', rear line 275'. Size of building - length 82', width 59', no. of stories - 2.

Ginn moved that the Building Inspector issue a building permit to William and Mary Carpenter for construction of a single family house at 42 Conomo Drive, on Lot 5C, as shown on Plan of Land dated May 4, 1987, Hancock Survey Associates, finding it conforms to the Essex By-laws. The motion was seconded by Wilson, with the Board voting unanimously in favor.

Thomas Dietrich submitted a building permit application for the construction of an accessory building at 228 Western Avenue, but as Dietrich was not the owner of the building at this time the application could not be acted upon.

The Building Inspector submitted a building permit application for John Schimoler, 75 Eastern Avenue, Voyager Marine Electronics, for an addition to his building, with a work area on the first floor, and the second floor to be used for storage. Distance from street line 16', right side line 50'6", left side line 10', rear line 81'. Size of building length 44.6', height 34', width 50', no. of stories 2½. There was a discussion on parking.

Ginn moved that the Board approve a building permit for John

April 5, 1989

Schimoler, 75 Eastern Avenue, per plan submitted with the building permit application, finding it not to be substantially more detrimental than the existing nonconforming use to the neighborhood. The motion was seconded by Wilson, with the Board voting unanimously in favor.

A public hearing was held for informational purposes on the two articles placed on the Town Warrant for the annual Town Meeting for revisions of the Home Occupation By-law.

There was a discussion of the interpretation of Paragraph two of the article submitted by Bruce Fortier.

E. Burnham moved to adjourn the hearing; seconded by Story, with the Board voting unanimously in favor. The hearing was adjourned at 8:35 p.m.

A letter was received by the Board from Kim Diemand regarding the appearance of the property of G. Winfield Smith, a neighbor, at 131 Eastern Avenue, which the letter stated, included a number of unregistered cars. The Building Inspector was asked to check on this.

Tom Prentiss met with the Board to discuss the construction of a new house on property at Forest Avenue, with the existing house becoming a workshop. The lot is non-conforming, 24,900 square feet in size. Upon review of the plans by the Board, it was found that one portion of the attached garage was too close to the side lines, and the Board felt it should either be redesigned or that Prentiss go to the Board of Appeals.

Attorney John Serafini, representing Charlottee Partnership for Deer Run Estates, met with the Board. W. Burnham asked Serafini where he stood with the Board of Health. Serafini - "We continued our public hearing. They have to give us a local disposal permit. It was clear to us the Board wanted a disposal system. The Board is going to consider the groundwater discharge permit. I submitted to them a revised copy of the condominium documents which considers the groundwater system. The Board need some time to consider this and they cannot meet until April 25."

W. Burnham - "There is a thirty day appeal period on this groundwater system."

Serafini - "If they do appeal. One thing we had talked about was that yours can be voted on pending the decision of the Board of Health."

W. Burnham - "Haven't we been through this. Is there an appeal period for the Board of Health?"

Serafini - "There is a review period of thirty days. The local by-laws wait until the Board of Health acts, and then you can issue a permit. We have said all along that it meant building permits."

April 5, 1989

W. Burnham - "So the Board of Health will meet April 25, at which time you expect them to make a decision and get their decision to us in a couple of days and then we have to issue our own decision."

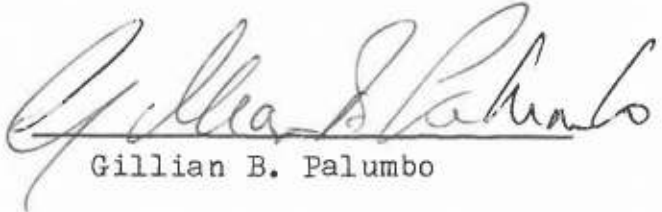
W. Burnham said he wanted to talk to Town Counsel about this. Upon further discussion it was felt a time extension should be granted.

Madsen moved to grant an extension to May 5, 1989. The motion was seconded by Story, with W. Burnham, E. Burnham, Dunn, Madsen, Story and Wilson voting in favor; Ginn voted present.

Richard Means met with the Board to submit 'as-built' plans of Sagamore Circle subdivision road. The Board wanted to have the mylar so it could be placed over the definitive plan to determine its accuracy. Means said he would submit it at the next meeting.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:05 p.m.



Gillian B. Palumbo

Essex Planning Board

March 15, 1989

AGENDA

- 7:45 p.m. ... John Duncan - Form A
8:00 p.m. ... Public hearing - Essex Reach subdivision
8:50 p.m. ... Tom Dietrich
9:00 p.m. ... Robert Wilkinson - Form A Choate St.
9:15 p.m. ... Attorney Martha Rauch
9:30 p.m. ... Mark Glovsky - 144 Main Street
9:45 p.m. ... Decision on Pine Ridge subdivision

Business:

Sign voucher

Wording for legal notice for home occupation by-law

Essex Planning Board

March 15, 1989

Present: W. Burnham, Chairman; Frances Dunn; Everett Burnham;
Joseph Ginn; Dana Story; Alden Wilson; Rolf Madsen (9 p.m.)

Meeting called to order at 7:30 p.m.

A building permit application was submitted to the Board for Dexter's Hearthside but as it conformed no finding by the Board was required.

A building permit application was submitted for John Schimoler, 125 Eastern Avenue, for an addition to be used as a work area for installing electronics on boats. The work area would be on the first floor with the second floor used for storage. Distance from street line 16', right side line 50'6", left side line 10', rear line 81'. Size of building, length 44'6", height 34'0", width 50', no. of stories 2½. The application was returned for redesign, because it did not meet side line setbacks.

John Duncan, Western Avenue, submitted a Form A for the subdivision of one parcel of land. According to the plan Lot 1 will now be Lot 3 because it has been changed and it was felt it could not be called Lot 1 anymore. The new lot created is Lot 4. The remaining parcel of land of 56.7 acres will be known as Lot 5.

E. Burnham moved we approve the application for a subdivision approval not required of Mary B. Duncan, 25 Martin Street, for a parcel of land located on Western Avenue, as shown on plan of land in Essex dated January 20, 1989. The motion was seconded by Story, with W. Burnham, Dunn, E. Burnham, Ginn, Story and Wilson voting in favor.

A public hearing was held at 8:05 p.m. relative to a proposal for a subdivision of land known as Essex Reach, off Eastern Avenue.

Representatives for the subdivision were Mark Hall for Bank of New England, and attorney Mark Glovsky, who said his law office was representing most of the buyers at Essex Reach. Because of this, Hall thought it would be appropriate to have him present if any legal problems should occur. Glovsky said, "The plan before us is relatively simple. It follows a plan approved by the Board on November 1986 for the creation of two lots. The roadway was for access to two lots, with one duplex and one single family being constructed on each of the two lots. A parcel of land on the westerly side was acquired consisting of two acres. The plan was revised to offer a better scheme. We are extending the roadway by 450 feet. There are five lots which have frontage on the roadway and Eastern Avenue. All lots will have condominium rules. Lot 5, if approved by the Board of Health, will have a single family residence. We will be sure the roadway is sufficiently maintained. One parcel not intended to be included

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in the condominium is Lot 1, which has the barn on it. A single family home is planned for it with a commercial enterprise for the barn. There will be restrictive covenants on the deed for this property. As the road will only be servicing five lots we have gone from a 20' to an 18' roadway. The waivers on the roadway are the width and the grade which is 8.8% instead of the maximum of 8%. There is a proposed easement for the waterline which will be given to the Town of Essex for maintenance of the line." W. Burnham read a memorandum from the Department of Public Works into the hearing. Glovsky then gave W. Burnham a grant of easement. Story - "Can you elaborate on Note No. 1 granting an easement to Mr. Budrose?" Glovsky - "An easement was granted, we think, prior to this project being taken over by the bank and have noted on this plan that an easement was granted. We do not know how it was affected by the foreclosure. I think with regard to the prospective buyers, that there is concern about the easement, and we will do all we can to shut down the easement." Nancy Dudley, Eastern Avenue, asked whether the bulldozing of the easement affected the drainage. A discussion following regarding the drainage. Dudley then asked if a hydrologists report was made. Glovsky said they did not request one. Abby Stoddard questioned the side yard setback of 45 feet. She was told the setback could be 20 feet. She asked if the structure would be a single family or more. Glovsky told her that if Lot 5 does not perc, which is going to be a single family, then the lot abutting her property would become a duplex. Gillian Palumbo, abutter, 60 Eastern Avenue, asked if the run-off from the road would flow on to Eastern Avenue. Robert Klopotoski explained the run-off would drain into a detention pond near Eastern Avenue. The calculations given for the run-off are for a 100-year storm. W. Burnham read letters into the hearing from the Conservation Commission and the Board of Health. Ginn wondered if the Department of Public Works had reviewed and replied on the test borings. Glovsky said no. Ginn said he would like to hear their opinion of this. He also had concerns as to why the Department of Public Works is asking for two feet of gravel in some areas of Town and why they were only asking for one foot here.

Story moved to close the public hearing; seconded Wilson, with the Board, except for Madsen, voting in favor.

Attorney Paul Fuhs, representing Tom Dietrich, met with the Board to discuss Dietrich's proposal to purchase the home of Patrick Wall, on the corner of Western Avenue and Red Gate Road, and turn it into an autobody shop under the Home Occupation By-law. Fuhs said Dietrich wants to build a 40' x 60' barn and will conduct his business completely inside. Madsen said he readily admits there is a problem but does not want to continue making more problems. Dunn

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said she did not feel the Board made a mistake with Byrne Brothers. Madsen said, "In my opinion an autobody shop is not a home occupation. I feel it is an incidental use of the property." Story - "I cannot interpret this as a home occupation." W. Burnham - "We can assume that Tom Dietrich will be in later for a building permit for an accessory building." Fuhs - "Mr. Dietrich has only one man working for him and he does not want to get any bigger." Wilson moved that the business proposition of Thomas Dietrich in an accessory building at 228 Western Avenue falls under the home occupation by-law 6-6.2(d). The motion was seconded by Dunn, with the voting as follows: In favor - Dunn, Ginn, E. Burnham and Wilson; opposed - Story and Madsen. W. Burnham reserved his right as chairman not to be vote.

Robert Wilkinson met with the Board for an informal discussion of the Lambros property on Choate Street. One of his proposals was a five-lot subdivision. The Board asked Wilkinson if he would be willing to run the water line down to Choate Street. Wilkinson said he was not aware he had to do that. He also said he would consider waiving the full width and paving of a road for a three-lot subdivision.

Attorney Theodore Regnante, Attorney Martha Rausch and Edward Negus met with the Board for a discussion of the Killebrew property on Apple Street. Regnante said his client, Edward Negus, has the option to buy the Killibrew property on Apple Street. The option agreement is for a conference center. The area of land is approximately 17 acres. Negus then outlined to the Board what his company does. It is called Training Systems, Inc. He said, "My partners have been looking for a piece of property on the North Shore to conduct programs on site. I'm not insensitive to this situation of a very large piece of property. We have no intention of subdividing and no intention of putting condominiums up there." Regnante - "We would purchase the property, use the residence itself for a conference centre for 60 to 75 people. If that works out we may want to entertain in the future. We would like, perhaps, to have people stay over. We want to get a feel from the Board for this." Regnante added that he feels the zoning by-laws do not really define businesses and the special permit does not address a conference centre. There would be an executive director living there so it would be a residence. Ginn questioned whether there would be traffic of 30 to 40 cars on Apple Street at one time. Negus - "Our type of business is such that we have flexible training schedules." Madsen felt perhaps it should go through the special permit process as a private school. W. Burnham - "Where Apple Street is considered a scenic way there are residents who protect it wholeheartedly. Regnante - "How do you feel about this case?" W. Burnham - "The one largest concern is the one Joe brought up which is access. You may want to conduct a traffic study."

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Regnante - "We can. We have done a preliminary investigation of the septic system and it is inadequate."

Attorney Mark Glovsky, representing John Coughlin, met with the Board to submit a building permit application for property at 144 Main Street.

E. Burnham moved that the Board find the plans for property at 144 Main Street submitted by John Coughlin to be more detrimental to the existing non-conforming use, the plans indicating a further increase in the non-conforming sidelines and does not show the thirty foot frontage setback for parking for the proposed business use, and therefore deny the application for a building permit. The motion was seconded by Wilson, with W. Burnham, E. Burnham, Dunn, Ginn, Story and Wilson in favor. Madsen voted present.

The Board reviewed the definitive plan of Pine Ridge subdivision to make their decision. Attorney James Bagshaw, partner of attorney David Babson, was present, representing the applicants, Wheeler Street Riverside Realty Trust. Madsen - "What is the applicant's position on the water?" Attorney Bagshaw - "I cannot speak for my clients as they are not present, but it would seem it would not be economically feasible." Land Planner Gene Hayes, representing the applicants, said he went to a contractor and came up with a price of \$210,000.00 to bring water to the site, if everything went correctly. Hayes also stated that if the question was one of safety, then there are other ways of having water, as with a fire pond. Story said he could not go along with the project because there would be eight more septic systems draining to the lake. The water also is definitely a problem, which will ultimately drain the other wells in the area. There is also the inadequacy of the road.

Wilson moved that Pine Ridge Subdivision, applicants Wheeler Street Riverside Realty Trust, plan of land on Pond Street dated December 7, 1988, be approved with modifications and waivers, the waivers as follows: 1) Property lines rounded with a minimum radius of 10'-0"; (2) Minimum centerline radius 200'-0"; (3) Minimum tangent length between reverse curve - 100', and the modifications as follows: 1) Resolution of the public water supply and (2) Intersection of subdivision road and Pond Street as shown on plan dated March 1, 1988, finding that the application meets the subdivision control laws of the Town of Essex, and pending approval of the Conservation Commission and the Board of Health. The motion was seconded by E. Burnham. W. Burnham asked the applicants' counsel if they would grant an extension in order to bring more information to the Board on the water supply. It was indicated to the Board that without the applicants being present that decision could not be made. Madsen said, "The real issue here is the water issue and you may want to grant us an extension to make a decision after you have explained the possibilities of bringing in water. We have brought up this issue from the beginning. I have no problems with the subdivision plan except for the water issue. Also the lots you are creating are much more valuable if serviced by the water."

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Story made a motion to move the question; seconded by Ginn, with the Board voting unanimously in favor.

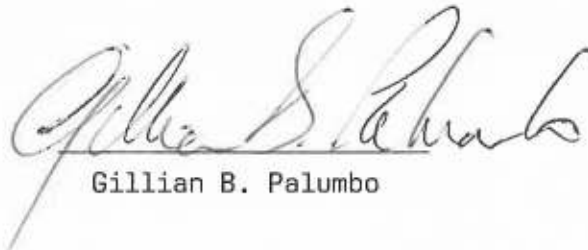
The voting on the motion is as follows: In favor - W. Burnham, E. Burnham, Ginn, Wilson; Opposed - Dunn and Story; Madsen voted present.

The Board review/the definitive plans of Essex Reach subdivision, Eastern Avenue, to make a decision on the second phase of the project.

E. Burnham moved to approve the Essex Reach subdivision as shown on plan dated January 17, 1989, subject to approval of 8.8% waiver from Station 6+00 to 6+99.73 and subject to modification of the road width to twenty feet (20'), finding that it meets all subdivision requirements, and pending approval of the Conservation Commission. The motion was seconded by Story, with W. Burnham, E. Burnham, Dunn, Ginn, Story and Wilson voting in favor; Madsen voted present.

Dunn moved to adjourn; seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned at 11:20 p.m.



Gillian B. Palumbo

AGENDA

- 7:45 p.m. ... Michael Stroman - Low Hill
subdivision
- 8:00 p.m. ... Continuation of public hearing -
Pine Ridge, Pond Street
- 8.45 p.m. ... Review of PMC Realty plan
- 9:00 p.m. ... Eugene Roberts - for 63 Main Street
- 9:10 p.m. ... John Duncan - Form A
- 9:15 p.m. ... Tom Dietrich - for property on
Western Avenue
- 9:25 p.m. ... Draft copy of Home Occupation
By-law

Mark Glovsky will be coming in at 8:30 p.m.
to present plans of John Coughlin for 144
Main Street (if the hearing is over).

Essex Planning Board

March 1, 1989

Present : W. Burnham, Chairman; Frances Dunn; Everett Burnham;
Joseph Ginn; Alden Wilson; Dana Story; Rolf Madsen (9 p.m.)

Meeting called to order at 7:30 p.m.

Engineering Clay Morin and Michael Stroman met with the Board to discuss the subdivision road now being built for Low Hill subdivision. Morin gave the Board a previous estimate and said more work had been done from this. All blasting is now completed. They have paid R.B. Strong, the contractor, in the vicinity of \$126,000. The total bill will come to about \$203,000, which would leave between \$76,000 and \$80,000. Stroman gave the Board a letter of credit for \$86,000. The Board also reviewed the reports from the Clerk of the Works. E. Burnham said he felt the figures presented appeared to be more realistic. W. Burnham said he was satisfied holding \$86,000 for completion of the road.

Wilson moved we release the covenant and accept the letter of credit as a performance guarantee for Low Hill subdivision road construction. The motion was seconded by Ginn, with W. Burnham, E. Burnham, Dunn, Ginn, Wilson and Story voting in favor. Richard Penta asked, "As the road continues and monies are paid out to Strong, will the Board adjust the Letter of Credit?" W. Burnham - "It can be adjusted as necessary."

A continuation of a public hearing was held at 8:04 p.m. relative to a proposal for a subdivision of land located on Pond Street, submitted to the Planning Board by Wheeler Street Riverside Trust.

Attorney David Babson, for the applicant, with offices at 111 Main Street, Gloucester, was present.

W. Burnham said additional information was received from the Board of Health. This was read into the hearing as follows: "...the Board of Health hereby submits the following comments as a follow-up to our January 30, 1989, correspondence, along with our recommended approval: 1) Clayton A. Morin, P.E. has submitted, as requested, percolation and soil testing data; and has added locations of referenced testing to Sheet 4 of 7, Topography Plan; 2) Review indicates that at least two-thirds of the total (8) lots proposed meet minimum requirements for the subsurface disposal of sanitary sewage; 3) As always, a number of factors must be considered in the design of individual septic systems to service the lots. The Board of Health anticipates that the individual designs will consider these factors, reflect good engineering, and meet Title 5 and local regulations." W. Burnham - "Early in the preliminary stage of getting together, a proposal was made to cut the corner for site distances. Nothing came out at the hearing so I was

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wondering what the status was." Engineering Clay Morin - "We have a drawing showing what we would do. We will cut back the right side about seven feet." Burnham felt the plan should be entered into the hearing as part of the record.

Mary Stavros - "The visibility in the road seems to be a problem from Patrican's to the Watson property, because several accidents have almost occurred there. I feel the road from Patrican's to Watsons is not adequate." George Harvey, Pond Street resident, said, "I'm not sure if it's a reflection on the Planning Board or Department of Public Works, but with construction going on on Conomo Drive, there have been low-bed trucks tearing up the road. We are now talking about putting in an eight-lot subdivision. Who is responsible for maintaining the road? Can the road safely uphold the additional traffic, and who is going to look into it?" W. Burnham told him that it is up to the Planning Board to determine the adequacy of the access. At this time the site plan of the proposed grade and site changes at the intersection of Pond Street and the subdivision road, showing work to be done on Pond Street, Preliminary Road Profile dated March 1, 1988, was entered as part of the information for the public hearing. Wilson said he would like to regulate the salt usage on the road. Mary Stavros - "Our fields are next to this pond. We have a high water table already, so where is the water going to go?" Morin - "On the high side of the parcel we do not have the water problem. It will go down to the pond. We have directed it to the swales, it evens out and takes the natural flow. This water eventually will get to the pond as it always does, but we have designed it so it will come off the roadway and be detained to a rate as it is now. I do not expect to see any change." As there were no further comments from the Board or the public, Wilson moved to close the public hearing, seconded by Dunn, with the Board voting unanimously in favor. The hearing closed at 8:32 p.m.

Attorney Mark Glovsky, representing John Coughlin, submitted plans for a proposal for property at 144 Main Street. Glovsky said the plans call for moving the structure back on the site, removing the garage, and adding a small addition to the left-hand side of the building to correspond to an existing wing on the right-hand side of the building. The building is presently 5' from one side line and will be 17' from the other side. They will be modifying a non-conforming structure.

W. Burnham - "We asked before whether this is in the bounds of By-law 6-4.2, Non-Conforming Uses." Glovsky - "Because the By-laws are somewhat ambiguous, we are asking for a denial so that we can go to the Zoning Board of Appeals." Wilson said that if shops are made within the building, it will definitely be far more non-conforming than 6-4.2 states. Glovsky said he would be asking for specific variances, i.e. 1) side yard; 2) parking for front yard requirement, and 3) square footage of parking area. Story said the real problem the Board had with the previous submittal was the generation of traffic, which we

March 1, 1989

know is intolerable in that area. Glovsky - "At this point we do not know who the occupants will be. As a percentage of traffic on Main Street, I don't think this will be significant, but we could get a traffic study if necessary. Glovsky was told to return with a building permit application in order for the Board to act on it.

Review of the Preliminary subdivision plan for P.M.C. Realty Trust, Western Avenue.

The area of land is eleven acres and it will be divided into two lots. There is an existing house and barn on the property which will be moved. Engineer Clay Morin said they do not know the intent as yet for the property; there are no set plans. The reason why it was only divided into two lots is the significant amount of wetlands on the property. They are requesting no waivers. The proposed road is 650 feet long. The Board said the hydrants shown on the plan will have to be moved. Morin said they would agree to the change of location of the hydrants, and to remove the existing buildings. They will also agree to a modification of the water line.

Story moved that we approve the preliminary subdivision plan of Gateway subdivision, owner P.M.C. Realty Trust, dated January 21, 1989, subject to removal of existing buildings, and subject to modification of water lines, as required by the Department of Public Works. The motion was seconded by Dunn, with the voting as follows: W. Burnham, E. Burnham, Ginn, Dunn, Story and Wilson in favor, Madsen did not vote.

Eugene Roberts met with the Board to discuss the proposal to purchase 63 Main Street and change it to an antique shop on the first floor and an apartment on the second floor. Roberts said they have a license for 77 Main Street and would like to transfer the license from there to this property. The present owner had been selling antiques there, and Madsen felt it wasn't a change of use, but a change of owners. Roberts said there will be an antiques co-op in it, with four rooms used to display antiques. Madsen asked if all four rooms were used to display antiques. Ms. Randall, the present owner, said they were. W. Burnham - "Based on what we have heard, there does not seem to be a change of use, and it is the Board's opinion that you have a right to continue the use.

John Duncan, Western Avenue, presented a Form A plan for a subdivision of one parcel of land. Upon the Board's review of the plan it was found the acreage of the remaining parcel was not noted on the plan, and therefore the Board could not act on the plan at this time. E. Burnham questioned whether Duncan's barn was a principal structure on one lot of land, in which case it should be 20 feet from the side line, or if it was an accessory building which must be 10 feet from the side line. There was also a sliver of land drawn on the plan

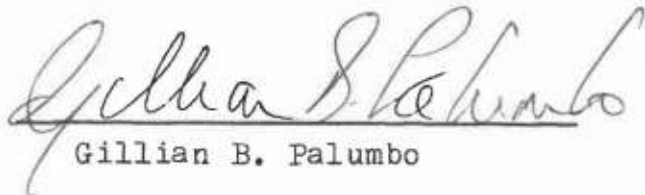
March 1, 1989

which the Board could not understand and felt Duncan should refer to his original plan. At this time Duncan withdrew his Form A application and plan.

The Board discussed the final draft of the Home Occupation By-law which was to be an article for the annual Town Meeting.

Madsen moved to hold a public hearing on April 5, 1989, for a by-law presented to us to be placed on the Warrant by petition. The motion was seconded by Dunn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Dunn, with the Board voting unanimously in favor. Meeting adjourned at 11:00 p.m.


Gillian B. Palumbo

AGENDA

- 7:40 p.m. ... George Stavros, Cape Ann Golf Course,
John Wise Avenue
- 7:50 p.m. ... Charles Richards, Discussion on
bringing water to Pine Ridge Subdivision
- 8:00 p.m. ... Public Hearing - Pine Ridge subdivision
- 9:00 p.m. ... Public Hearing - Essex Reach, Eastern
Avenue

Essex Planning Board

February 15, 1989

Present : Westley Burnham, Chairman; Everett Burnham;
Frances Dunn; Joseph Ginn; Rolf Madsen; Dana Story;
Alden Wilson.

Meeting called to order 7:40 p.m.

George Stavros, Cape Ann Golf Course, met with the Board to discuss a building permit issued to him by Richard Carter, the Building Inspector. Carter said he issued a building permit for construction of an addition for a restaurant and 'pro' shop. Since that time he has had a lot of static that this was a change of use of the building in question. Carter said he felt the only change he could see was the addition of a kitchen. It had always been a part of the golf course, and the only change is a member of the family will be living upstairs. The lot is conforming, with the lot size measuring two acres, so there would be enough acreage for both uses. Carter said he wanted the Board's opinion as to whether he erred in issuing the building permit. Madsen said in his opinion he did not.

A public hearing was held at 8:00 p.m. relative to a proposal for a subdivision of land located on Pond Street, submitted to the Planning Board by Wheeler Street Riverside Trust.

W. Burnham said before the discussion of the subdivision he wanted to say he had a telephone call from the Postmistress that he found rather upsetting. Apparently someone had made copies of the public hearing notice with the Planning Board heading and his name on it and distributed in the post office boxes in the Post Office without being mailed. This was a violation and should not occur again.

Land Planner Gene Hayes presented plans to the Board of Pine Ridge subdivision. He said, "This is a proposed development of fifteen acres with eight building lots on a cul-de-sac road, 1,200 feet long. Our primary criteria was not to meet the Town's requirements as minimum them. We wanted a high quality design and to work with the terrain to make a pleasing development. Two variances from the regulations are being requested: 1) to reduce the curvature of the cul-de-sac from 200 feet to 150 feet, and 2) the curve ratios of the road to allow the road to curve around trees to make it more country like. Going with the tighter radius allowed us to stay out of wetlands and therefore not encroaching on the wetlands. There are three wetlands areas along the road to be considered. For drainage, there will be a gravel swale on each side of the road. Approximately half way down the road we have put in two catch basins to minimize any icing at the base of the hill. The detention pond will slow down the water leaving the site.

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Each lot has one and some lots have two perc tests." Engineering Clay Morin said Health Agent Linda Wimer did not do the perc tests, C.T. Male did. This was in reference to a letter received by the Planning Board from the Health Agent dated January 30, 1989, which stated she recommended rejection of the plan as submitted because the Board of Health had not yet received definitive information related to soil testing done on the parcel. She felt until they received such information it was impossible to assess the suitability of the soil for subsurface disposal of sanitary sewage. Morin submitted a revised plan identifying the perc tests, together with a copy of the data regarding these perc tests, which he said was the only modification to the plan. He said Health Agent Wimer would reply to the Planning Board upon review of this additional information. W. Burnham also read letters into the hearing from the Conservation Commission, dated February 14, 1989, the Fire Department dated February 13, 1989, and the Department of Public Works dated January 26, 1989. Story - "Will the catch basins be encased in plastic?" Hayes - "No, filter fabric." Madsen - "How is the existing drainage occurring on the parcel now and how will that change with the building of the road?" Morin pointed this out on the plan. Ginn - "Will the water reaching the pond be in any greater volume than it is now?" Morin - "That is the reason for the swales. No, there will not be a greater volume." Wilson - "Is a portion of the pond on part of the Stavros property. Do you have an easement for that?" Morin said that part of the wetland was on the Stavros property and showed the Board how the drainage flowed, but he felt that because the detention pond was an existing pond and because of the way of the flow into the abutting property, there was no need for an easement. Madsen - "Is there a reason why a filing has not been made with the Conservation Commission, because one of the requirements is a concurrent filing with that Board?" Morin - "There is no reason except we were waiting for comments from this Board." Mary Stavros, abutter, - "I want to talk about Pond Street itself, with the extra traffic, etc, that will be imposed on it from this development. It is important that whatever is done will not interfere with the environment and the wells that people have in the area. There is a little brook which we have not interfered with in the area, because we feel it is important in the environmental chain. Also, Pond Street itself, and the fragility of the little bridge at the beginning of the street with the heavy equipment. What condition is the bridge in? Can it take the heavy equipment? One area we are concerned with is the abutting field." Tom Foley, Pond Street - "Phosphates leaching from leaching fields into the Lake are causing problems. There are just too many septic systems leaching into the Lake. A lot of people are having problems with their wells and salt water. I know of someone who has had to drill another well. Another issue is

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the fire hydrant issue. How are they going to get water down there?"

Ronald Nickerson, Pond Street - "One concern I have - my property is to the north of Parcel No. 1; my well is 100 feet from a perc site. What assurance do I have my well will not be contaminated from this perc site."

Morin - "There will be an upgrade of the system on No. 1. Designs are in the process now."

Nickerson - "Is the Board of Health aware of this?"

Morin - "We have a meeting with them on February 28 to discuss this."

Attorney David Babson, Gloucester, Ma., representing the applicants - "They have a right to put it there. It is existing. We have a limited right to move it and the reason to move it is the road. We have no control over what the owners do on their property. We have a legal right to put it there."

Foley - "There is a lot of ledge, so it doesn't take very much to flow through cracks of ledge. Another concern - we have had all kinds of carcasses dragged over on to our property and I'm not sure if it should be checked or not."

Applicant Ronald Ober - "Mr. Watson did eliminate a horse or two. I have not seen any carcasses or bones recently though."

Mary Stavros - "The two things I'm really concerned about are the fragility of the environment and the possibility of Pond Street, as it is existing now, to be able to contain the traffic for this development. I think it is a good time to bring up the question of Pond Street itself, whether it is really a lane, and its ability to be able to handle this."

Ronald Nickerson - "What assurance do we have that the road will not be linked to another development?"

E. Burnham - "Any additional development will have to come before us."

W. Burnham - "I feel a connecting road to Peter Van Wyck's parcel is not a viable proposition and an unlikely proposition."

Madsen - "Did we get a response from the Police Department?"

W. Burnham - "They did not answer, so I'm going to allow a two-week comment period."

Ginn - "How many of the lots you have now could be broken into two lots?"

Hayes - "The only lot with enough frontage and area is Lot No. 8, but most of that is wetlands. I really feel we have all that is possible."

Madsen moved to continue the public hearing to 8:00 p.m. on March 1, 1989. The motion was seconded by Story, with the Board voting unanimously in favor.

A public hearing was held at 9:10 p.m. relative to a proposal for a subdivision of land located on Eastern Avenue, submitted to the Planning Board by Barnside Realty.

Ginn moved that we cancel the public hearing because of improper notification of all abutters, and readvertise and

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hold a public hearing on March 15, 1989 at 8:00 p.m.
The motion was seconded by Madsen, with the Board voting
unanimously in favor.

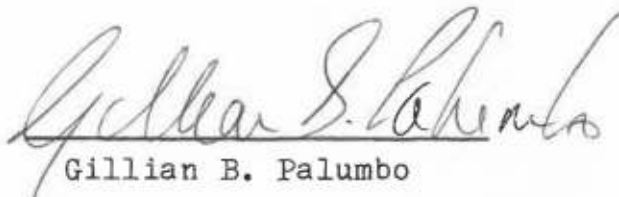
Low Hill Subdivision - A letter of credit was presented to
the Board as a performance guarantee from Richard Penta,
Trustee of C.D.M.R. Realty Trust. The Board requested that
they be given the following: 1) Two or three estimates of
what it would cost to build the road; 2) What has been done
up to this point - some type of documentation; and 3) The
balance of what is to be completed.

Engineer Clay Morin presented the preliminary plan for
Gateway Subdivision, property of P.M.C. Realty Trust, 239
Western Avenue.

The Board discussed the draft copy of the Home Occupation
by-law.

Wilson moved to adjourn the meeting; seconded by Dunn, with
the Board voting unanimously in favor.

Meeting adjourned at 10:45 p.m.


Gillian B. Palumbo

only needs
eff. (type)
for the book

Present: Wes, Pat, Koif Dave
Alden, those

Special meeting Feb. 8, 1989
Calvest to order at 8 pm

Proposed home occupation
by-law change.

We need a number of hours
to clarify H.O. by law.
We would also.

The Green Belch R., Feb 8

Page 2. - Allowed them
on. Are these allowed
in by law. What size is
the sign.

we 11 is 6 sq ft.

The will be defined in this
we. It already is

The ^{or several residents} seems to fairly vague
so that you can ^{se} arbitrarily
make a decision

We Rose would apply to
confirming that. We confirm
uses could fall under
6-4-2.

There are a few instances

an authority that we could
oppose and some we cannot.

The intent is to put something
we can use.

The reason we chose SP
it would not be a grandfather
deal.

With the intent of SP e.g. if
I was a guy with subarhat
where I spoke out
with - work could not
be done on the premises
but want to have two
people working there.

The Bill it ~~be~~ because of
according to the terms
of the Bill ~~depending on~~
it could be disapproved
with one Bill and not by
another.

Atal do. A good case in
point to Water Act
whose originator is the O.

and was sensitive to it and
he really moved on to
some other place.

we need to ^{give} specific guidance.

Edwin York

As a granted occupation
would they still have to
come before the P.L.S.D.

Wes: There's no requirement
to come to the P.L.S.D.
The

2017 existing HO will be
allowed to exist as they
already have

This will be several
addresses

Make feel what's written
in A2 depicts it more
clearly.

help Re entered level 5 and 6
create something that is so
much to help people
in town

All Pharmacy Grove St
Auto Body shop
Re town

We have a lot of small
businesses that have grown
and make it so
much they are, cannot

Yes. What we don't have is
to have an HD and allow
to grow.

The key ^{issue} to this is the
addition of the S. P.

And numerous instances
where you do have aligned
these things to happen.
Some are very blatant.
and the genealogy of the

person is the main factor.

Bruce feels under S.P. that anyone who wants to do doll houses has to go through the same process as someone who wants to do an airport.

Healton says property has much more potential if the blog can cover a H-O. You could something in black and white that we can conduct an interview in an enclosed environment. If you were to say that it will be with that all you as a neighbor care about. You are putting more authority on the P.L. to decide. One thing that wasn't handled before was commercial parties and so you should have in addition

to be done by law

But if you make a will
black and white in fact
(a).

Blue what is not clear are the
rights of the property owner.
This cannot be adopted as
part of a Sy law.
What don't you like
since cross of special points
starting

If you are going to amend
Sy-law you have to
amend in 3 different places
And the definition
~~Supplementary Sy~~

- 1)
- 2) Adaw
- 3)
- 4) T

Since reviews the
the sequence of
Fees S.P. should be eliminated

Bare send matters less
of 30,000 H.O. by (orwards)
to price of home

Order H.O. by (or)
plus more checked to
see if it works
it similar to those we
are trying to set up.

We try to give the SP
to ~~people~~ to give some
flexibility to some
who don't fall under
It's too bad if ^{some} the process
isn't work but

Rolf We have seen some
patents which says
H.O. have not seen

Rona Wenberg - Foster
would like to know change

in a (1).

Because that has been
abused by employers
concerns family members

There are a lot of non-copy
yes in the Town. When the
by law change it will not
affect the existing owners

May Ann Provost

If 710 is not supposed
to be used why does
no 5 state you can have
no more than 2 commercial
vehicles isn't that
contradictory.

Rolf

May Ann would you
accept written consent
with full -
yes. We would encourage

Next suggest any concerns
be sent to A Bd by the
next meeting.

Note. There are no funds for
enforcement but if you
can ^{have} all the S₁ laws
but unless they ~~can be~~ can be
enforced they are ~~house~~
then = no use in making
So we need to and keep
them as simple as possible

Deadline for comment
Wed. Feb. 15

Roll me to derette heary
linked here.
All in favor.

Covered at
Advised 10

Essex Planning Board

February 1, 1989

AGENDA

- 8:00 p.m. ... Tom Dietrich - wishes to move his autobody shop from 245 Western Avenue to across the street
- 8:15 p.m. ... Robert Nelson - Renovations to 113 Main Street (across from Max Callahans
- 8:30 p.m. ... Michael Stroman - Low Hill, off Story Street
- 8:45 p.m. ... Keith Zellman - changing one family to two family, Lufkin Street
- 9:00 p.m. ... Review of definitive subdivision plans of Pine Ridge and Essex Reach

Essex Planning Board

February 1, 1989

Present : Westley Burnham, Chairman; Francis Dunn; Everett Burnham; Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order 7:40 p.m.

Thomas Dietrich met with the Board to discuss a proposal to move his autobody shop from 245 Western Avenue to 1 Redgate Road. He wants to install a 60' x 40' building for his business. The residence will remain the same. Madsen told him he would need to have 60,000 square feet if he wanted to have both residence and a business. Madsen also said he would be hard-pressed to call an autobody shop a home occupation. Dietrich was told he could turn the house into offices or another business use and have his shop on the property as well, but the combined use was not allowed. W. Burnham said the Board had no mechanism to allow Dietrich's request. Dunn said she had a problem with the denial because the Board had allowed Byrne Brothers Landscape Company to operate nearby. E. Burnham said Byrne Brothers had bought a home with an existing home occupation and their work was done off the property. A request by the Byrne Brothers to have offices in an accessory building they wanted to build was denied because it did not conform to the home occupation by-law.

Robert Nelson and Mark Allen met with the Board to discuss a proposal to turn the vacant utility building across from Callahan's Restaurant, and owned by Robert Offenberger, on Main Street into a two-story building with two offices on each floor and two handicapped bathrooms. The Board was concerned about the parking, as Callahan's Restaurant uses the area for its parking. The Board requested an overview of the whole property including the restaurant to determine the amount of parking required. Allen said there will not be any antique shops in the building. Madsen said he would feel more comfortable if they calculate the parking for retail stores.

Michael Stroman met with the Board to submit a Letter of Credit for the Low Hill subdivision road, off Story Street. Stroman felt ninety days would be enough, and said the Board could always ask for an extension. W. Burnham felt at least a year would be more viable. Clerk of the Works, James Staline, and D.P.W. members Bruce Julian and Damon Boutchie, met on site and decided the figures quoted were adequate for the roadway. W. Burnham said he wanted to discuss this with the D.P.W. to be sure all the figures were accurate. E. Burnham asked who determines the amount of the project. Madsen said that in the past the Board has requested two or three estimates for the job. The Board requested documentation from the contractor also who is doing the work.

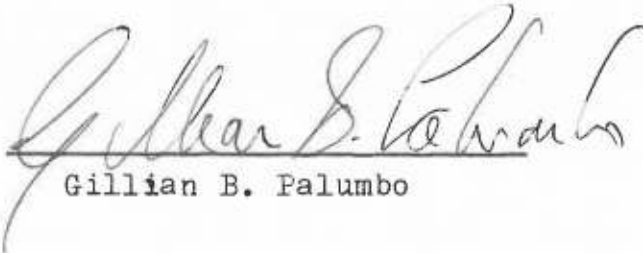
February 1, 1989

Keith Zellman, Lufkin Street, met with the Board to discuss a proposal to change an addition which was approved July 1, 1987, for a family room into an apartment. The house is located on 11,000 square feet of land. Zellman said there would be no change in the number of bathrooms, but he will be eliminating one bedroom and turning that into an office. A second kitchen will be added. W. Burnham said the Board would require a letter from the Board of Health that the septic system is adequate, and also letters from abutters stating they have no objection to the proposal.

The Board reviewed the subdivision plans of Pine Ridge and Essex Reach.

Madsen moved to adjourn the meeting, seconded Dunn, with the Board voting unanimously in favor.

Meeting adjourned at 10:20 p.m.


Gillian B. Palumbo

AGENDA

- 8:00 p.m. ... Jon Flood, Landvest - Form A
submittal for Dr. Harris,
John Wise Avenue
- 8:30 p.m. ... Discussion of home occupation
by-law (postponed)
- 9:00 p.m. ... Jeffrey Walsh - re: 103 Main
Street
- 9:30 p.m. ... Clay Morin for Essex Reach
Submittal of revised plan for
Pine Ridge subdivision

Michael Cataldo may come in at
9:30 p.m. to discuss home
occupation by-law following the
last appointment.

FINVA

① W. Dunbar arrived ①
8.55 pm

Jan 18, 1989 Dave, Joe, Pat
Rosal R. (Channing) Rose, Alder
~~minutes of Jan 4, 1984 meeting~~
~~minutes of Jan 4 meeting~~ minutes of Jan 4 1984
were read

~~Alder~~ Alder moved to accept
minutes of Jan 4
seconded ~~Pat~~ Alan furber

Jim Flood, land vest ~~agreed~~
D. H. Lewis, ~~subdivided~~ ~~of~~ ~~town~~ ~~A~~,
John W. ~~subdivided~~ ~~an~~ ~~undivided~~
parcel, ~~project~~ ~~in~~ ~~town~~ ~~where~~ ~~the~~
and ~~create~~ ~~a~~

To prepare
to approve

26 1/2 acres John W. ~~and~~
Choate

They would like to subdivide ~~it~~
into ~~three~~ ^{four} lots (50
access)

2 1/2 lots on John W. ~~side~~
Lot 1 access of 1

Using common driveway for
lots 3 and 4.

Lot 1 7.1602 ± acres

frontage ~~200~~ 897'

Lot 2 - 4.79 acres

270.97' frontage
across Choate St.

Lot 3 - 5.9 acres

frontage 235'

(2)

(2)

Lot 4. F. 2596
frontage 459'

These have we approve the plan
of land in Essex of
Herbert I and Emily
Kashis drawn by
Hancock Assoc. dated
Jan 11 1989 and of
~~not subject to~~ approval
under the subdivision control
law not required

Sealed Don
Alin furor

Jeffrey Walsh
Gary Palanti ~~retail to~~
Main St.

SD for
drafting
a copy

Re Plan shows the existing
bldg with Septic system
at rear of bldg and then
proposals to ^{move the sign further} bring
it to front and move the
bldg ^{back} while ^{back} the
back and move the septic system to the front to meet

(3)

(3)

The proposed ones separate
antique shops on the first floor
and 2nd floor - plus an
opt on 3rd floor.

The town council said
perhaps the P.D. would
make them adhere to
30' setback for parking
which would interfere
with the parking plan.

Gay would like to know with
what problems you find this
so we ~~can~~ can address them
stay - that problem is
that this is the most commercially
used area of the town
and you are asking for
4 more shops. ~~you will~~
~~be generate a~~

It was the ^{assault}
The bldg was a doctor's office
and 2 apart mts.

Gay ~~we are only~~ If we are
to ~~we will~~ we will the bldg as it
is is this something the SD

would rather see.

Damn I ^{just} feel this area is getting very congested as it is

Older I cannot see the problem with the antique shops ~~people~~ even though parking is provided people still park on the street

Answer

6280 sq feet of space with the old.

Letters ~~wanted~~ were given to the Bd from architect

Master felt the plan ~~presented~~ ~~was~~ very ~~poor~~

There will be 4 units with dreamit including living quarters. ~~for~~

Gary

You will have to definitely show there will be sufficient parking for the services concerned also there should be ingress and egress.

Yunus said he would prefer to see the bldg refurbished ^{more or less} and parking ~~put back~~ at the back of the house.

Dwanter on the amount of traffic that was generated.

Mr. Bantam feels the AD is not within the bounds of the bldg. It's another situation if you leave the bldg there it is and I modify it slightly.
+ effect

6

Essex Road
North Hall / Clayden

Adding ~~300~~ 600 ft
additional road

list of requested changes came
with plan

1) 7.02(a) 2ca) Minimum
width of pavement provide
18' from station 3+00 to
Sta. 6+99.73

2) Street grade provided 8.8%
instead of maximum
8% from Sta. 6+00 to
Sta. 6+99.73

W. Duke moved to WTD
a p/h on Essex Road
on April 15 at 9pm
requested Aide
All - favor.

Michael Cataldo =
Home Occupat - by law

(1)

Open space are talking
to someone to do some
mapping for them

~~to better. would like to~~

W/D
15th Feb
to schedule for
Feb 8.

on Feb 8 at 8 am
W/D - P.H. for
concerning / to figure out H.O. and
Special Permit

W/D
have to hold a ph on Feb 8
at 8 pm concerning By-law
6-6.3 (d) - home occupation

Severed Pat
All in favor
Are Pat moved to
adjourn
Severed Tre

Pat = pro
10 pm

Essex Planning Board

January 4, 1989

Present: W. Burnham, Chairman; E. Burnham; Frances Dunn;
Joseph Ginn; Rolf Madsen; Dana Story; Alden Wilson.

Meeting called to order 7:40 p.m.

The Minutes of the meeting of December 7, 1988, were read. Madsen moved to accept the Minutes of December 7, 1988, with the following modification: that the motion to sign the definitive subdivision plan of Scot's Way was made by Rolf Madsen and not Dana Story as stated. The motion was seconded by Wilson, with the Board voting unanimously in favor.

The Board discussed the home occupation by-law. The Board felt time should be scheduled at the next meeting to continue this discussion with the By-law Committee.

The Board reviewed the modified definitive subdivision plan of Peter Van Wyck's subdivision called Turtlewife Loop, for applicable reasons for approval or denial. They discussed the accessibility of the bridge on Essex Park Road, and whether the plan could be approved until the necessary repairs have been made to the bridge to deem it as an adequate access.

John Lafata, Pickering Street, met with the Board to discuss his proposal to construct a second house on the same lot as his existing house. The lot at present is non-conforming with insufficient frontage. W. Burnham felt the Board would be over extending the bounds of By-law 6-4.2 to allow a second house on the lot with frontage only on a right-of-way. It was suggested Lafata get a percolation test first and perhaps pursue adding on to the existing house.

John Story/Paul Desmond submitted a plan and Form A application for property located on Martin Street and Western Avenue, to subdivide the property into three lots.

Madsen moved to deny the plan of land of John W. Story, dated November 1988, located on Martin Street and Western Avenue, finding it has inadequate frontage on Lots 1, 2 and 3. The motion was seconded by E. Burnham, with the Board voting unanimously in favor.


The Board reviewed the definitive plan of Pine Ridge subdivision, located off Pond Street. The Board was told that drainage of the road will be by leaching swales which will run parallel with the length of the road. The filter material will be crushed stone. Ginn was concerned if snow was piled on the sides of the road and there was a heavy rainstorm, that water would puddle in the lowest point of the street.

January 4, 1989

Madsen moved to hold a public hearing on February 15, 1989, at 8:00 p.m. for Pine Ridge Subdivision. The motion was seconded by Ginn, with the Board voting unanimously in favor.

Madsen moved to adjourn the meeting; seconded by Ginn, with the Board voting unanimously in favor.

Meeting adjourned at 10:15 p.m.


Gillian B. Palumbo