



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, DECEMBER 6, 1995

Meeting held at the Essex Elementary School, Story Street - Home Ec. Room

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| 7:00 p.m. | Read and approve minutes of November 15, 1995 and November 29, 1995 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Mr. Thad Beal |
| 7:45 p.m. | Derrick Perkins/Liberty Research |
| 8:00 p.m. | Sherman D.Jones/One Lot Subdivision off Apple Street |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, DECEMBER 6, 1995

Meeting was held at Essex Elementary School, Story St., in the Home Ec. Room at 7:08 p.m.

Attendees: P.Dunn, Chairperson, D.Jones, S.Pennoyer and G.Guerin

MOTION: GIL GUERIN MOVED TO APPROVE THE NOVEMBER 15, 1995 MINUTES. SECONDED BY DAVE JONES. ALL IN FAVOR WERE, P.DUNN, S.PENNOYER, D.JONES AND G.GUERIN. THE MOTION CARRIED.

MOTION: S.PENNOYER MOVED TO APPROVE THE MEETING MINUTES AS AMENDED FOR THE NOVEMBER 29TH SPECIAL MEETING WITH THE BOARD OF HEALTH. SECONDED BY G. GUERIN. ALL MEMBERS PRESENT WERE IN FAVOR OF THE MOTION. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR:

Bruce and Sandy Shaw, Seven Lufkin Pt. Lane, for a single family dwelling. 38x43x26ht., three bedrooms. Approved by the B.O.H., Conservation Comm.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR BRUCE AND SANDY SHAW OF SEVEN LUFKIN PT.LANE, ESSEX, FOR A THREE BEDROOM HOUSE, SEEING THAT IT MEETS ALL NECESSARY SETBACK REQUIREMENTS OF THE ESSEX SUBDIVISION CONTROL LAWS. SECONDED BY GIL GUERIN. IN FAVOR WERE, S.PENNOYER, G.GUERIN, D.JONES, PAT DUNN. THE MOTION CARRIED.

Ted and Charlotte Guldmond, Three Ralston Drive, Essex, to endorse enclosing a screen porch, to be heated. Not increasing the footprint. A motion was made to allow the construction of a front porch, and a rear porch under 6-4.2 on October 18, 1995.

MOTION: S.PENNOYER MOVED TO APPROVE THE REVISIONS TO THE BUILDING APPLICATION OF TED AND CHARLOTTE GULDEMOND OF THREE RALSTON LANE, ESSEX, TO ENCLOSE THE EXISTING SCREEN PORCH AS INTERIOR HEATED SPACE, SEEING THAT IT DOES NOT BECOME ANY MORE NONCONFORMING AS STATED UNDER 6-4.2. SECONDED BY D.JONES. IN FAVOR WERE, P.DUNN, S.PENNOYER, G.GUERIN, AND D.JONES. THE MOTION CARRIED.

RALSTON DRIVE: Ted Cook, Fletcher Oakes and Eric Corwin were appearing before the board to ask about a common driveway previously owned by David Sabitini. Apparently, the driveway (Ralston Drive) is in poor condition, leading the men to ask what the board could do, if anything, to cause Mr. Sabitini to repair the damages. The driveway is 900 feet, a single access driveway. Minutes pertaining to the ANR of the Ralston Driveway and properties surrounding it were approved and stated that, "...single access driveway, built to the planning boards' standards for ten homes..." The road has never been finished (coated), has holes, etc.. The board discussed the issue and it was decided that actions taken by the board could not be accomplished, as it is not a subdivision plan. The driveway is not town property. The matter was a private one, and not an issue that the board could rectify.

THADDEUS R. BEAL, JR./ANR: Paul J. Donohoe or Donohoe and Parkhurst, Inc. presented the board an application for ANR for 179 Southern Ave., Essex. Lots 1 and 2 each have the frontage area required by the Essex zoning bylaws. Book 9366, Page 302, Book 6812, Page 202, Book 6431, Page 375, Book 11829,

Page 349. Assessors Map 6, Lots 9, 14, 6, 40, 39 and 6A. Lot 1 has 7.04 acres and Lot 2 has 47.111 acres - both having the frontage required.

MOTION: S.PENNOYER MOVED TO APPROVE THE ANR PLAN FOR THADDEUS R.BEAL, JR. OF 179 SOUTHERN AVE., ESSEX, AS SHOWN ON A PLAN DATED 12/1/95 BY DONOHOE AND PARKHURST, SO. HAMILTON, MA, WHICH SHOWS THE DIVISION OF LAND OF TWO LOTS. LOT 1 BEING 47.111 ACRES, LOT 2 BEING 7.04 ACRES, WITH ADEQUATE FRONTAGE FOR EACH. SECONDED BY D.JONES. ALL IN FAVOR WERE P.DUNN, S.PENNOYER, G.GUERIN, D.JONES. THE MOTION CARRIED.

LIBERTY RESEARCH/DERRICK PERKINS: Filing application of intent for Special Permit under the Water Resource Protection District. Issues: size of impervious area and amount of water that falls into impervious area and the recharge measures taken. A proposal for constructing a building addition that would render impervious more than 2,500 sq.ft. of the total lot area.

S.Pennoyer read page 624 Sec.7 of Ch.VI, zoning bylaws: "Rendering impervious more than 15% of lot area or 2,500 square feet, to be approved only if using a system for artificial recharge of stormwater that will not degrade groundwater quality. Also read, was pg. 624 of same, the 6-13.3 (b), "The following uses are permitted by Special Permit, subject to the approval of the Special Permit Granting Authority under such conditions as they may require and also subject to Section a. above, to be approved upon finding that the proposal as planned will not have adverse impact upon ground or surface water quality within the Water Res. Prot. Dist., and that safeguards will be provided to adequately reduce risk of accidental water quality damage."

Mr. Perkins provided the necessary application, spec. permit fee of \$100.00, and the permit site plan. Also in the file, Hancock Environmental Consultants letter, proposing that the project is consistent with the requirements for a Spec. Permit. A Public Hearing will be scheduled for January 17, 1996 at 8p.m.

SHERMAN D. JONES/ONE LOT SUBDIVISION OFF APPLE STREET: Atty. Mark Glovsky was present during discussion of the decision of the subdivision. Due to the fact that there were three members of the board not present, Attorney Glovsky asked for an extension on the decision for January 3, 1996.

MOTION: S.PENNOYER MOVED TO ACCEPT THE EXTENSION FOR DECISION OF THE ONE LOT SUBDIVISION OFF APPLE STREET, ESSEX, AS STATED IN A LETTER BY THEIR ATTORNEY DATED 12/6/95. SECONDED BY GIL GUERIN. IN FAVOR WERE, P.DUNN, G.GUERIN, S.PENNOYER, AND D.JONES. THE MOTION CARRIED.

MOTION: S.PENNOYER MOVED TO CLOSE THE MEETING AT 9:00 P.M.. SECONDED BY PAT DUNN. ALL BOARD MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to: *Frances A. Dunn*

Next meeting: January 3, 1995, scheduled for 7:00p.m. at the Essex Elementary School.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, NOVEMBER 29, 1995

7:30 P.M.

7:30 P.M. Discussion of Gateway Approval

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 29, 1995

Planning Board Meeting was held at the Essex Elementary School at 7:30 p.m.

Attendees: W. Burnham, J. Ginn, D. Jones, G. Guerin, G. Stavros, S. Pennoyer and P. Dunn, Chairperson

SUBJECT: GATEWAY SUBDIVISION APPROVAL AND BOARD OF HEALTH
RECOMMENDATIONS FOR SUCH APPROVAL

On October 18, 1995 the Planning Board approved the Gateway Subdivision. Mr. Jacobi, the Health Agent, and members of the Board of Health were present to bring forth issues relating to the recommendations of their October 18, 1995 letter.

Number 2 of the letter, "Any proposed lots which intersect with a D.E.P. interim wellhead protection area shall be limited to a three (3) bedroom house (bedrooms as defined in the new code). The approval did not itemize the three bedroom recommendation."

The Planning board felt that the limitations of the bedrooms would be a condition set with the individual applicants who purchase the lots, as they would be going through the application process. i.e., approval from the board of health, the conservation commission, the planning board, etc.

Number 5 of the letter, "In construction of the stone lined infiltration trenches as shown on the plan: Removal of all the "o" horizon to expose the "A" horizon. Placement of 6 inches of poorly graded sand on top of the existing "A" Horizon. Placement of geotex fabric mesh over the sand and on top of which is place the stone to be used as velocity reducer. Due to the excessively drained characteristics of a Hinckley soil, it is necessary to treat and absorb as much of the nitrogen and heavy metals which is characteristic in street run-off. The sand layer will provide for nitrate absorption and bacterial filtration while the existing "A" horizon will provide binding sites for heavy metals and a carbon source for microbes. The above design should attenuate No3 and heavy metals from entering groundwater. It is requested that the site retain as much as 45% natural pervious cover and the *erosion techniques for site construction be incorporated into each site plan. Said plan to be prepared by a registered A.R.C.P.A.C.S. erosion control specialist. *References: Soil Conservation Service bulletin, "Erosion & Sediment Control In Site Development", and "Vegetative Practices in Site Development".

In laymen's terms, a layer of mesh along with a layer of sand would be placed within the infiltration trenches, for added filtration. This was not a required incorporation, but Mr. Jacobi felt that because of the Hinckley-type soil in this area, and the sensitivity of the land, this recommendation should be part of the Approval. The layer of mesh ("rip wrap") was carefully described and the board was in agreement that the above recommendation was a good idea. Attorney Paul Shea reminded the parties present that Mr. Coughlin has been accommodating throughout the whole subdivision process; there was an Approval already, and it was not in Mr. Coughlin's best interest to have to repeat the process or make costly changes for recommendations that were not mandated by the Subdivision Control Laws. Informally, Mr. Coughlin and the Board of Health would meet relating to the #5 requirement, hoping the changes would not impact the process. He wanted to be able to bring this situation to a close.

It was also noted by the Health Agent, that he wanted to (sic) "allow the amount of the lot to be impervious 45% in natural coverage." W. Burnham pointed out that the Water Resource Prot. District (sec.6-13) states that it is limited to 15% coverage or greater. Mr. Jacobi misunderstood the by-law, and to go over the 15% would require a variance. It was explained by S. Pennoyer, and Mr. Jacobi stated that he had made a mistake on this recommendation. No action would be taken.

The Planning Board had a better understanding of the recommendations when Mr. Jacobi spoke in detail, the reasons for the above changes. The issues are complicated for an individual not privy to engineering

designs of this nature. It was not the boards' intention to disregard Mr. Jacobi's letter, however, the Planning Board received the letter on the evening of the 18th, the same evening as the Public Hearing.

MOTION: J. GINN MOVED TO CLOSE THE MEETING AT 8:43 P.M. SECONDED BY G. GUERIN. ALL MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, NOVEMBER 15, 1995

- 7:00 p.m. Read and approve Minutes of November 8, 1995
- 7:15 p.m. Dick Carter/Building Inspector
- 7:30 p.m. Mark Glovsky, Atty. for Sherman D. Jones/One Lot Subdivision
- 8:30 p.m. Dennis Outwater/Belcher Street

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 15, 1995

The planning board conducted its meeting at the Elementary School at 7:00 p.m.

Attendees: P.Dunn, Chairperson, W.Burnham, D.Jones, G.Stavros, G.Guerin, S.Pennoyer, J.Ginn

Pat Dunn gave the board an overview of conversation with Town Counsel, Brian Cassidy regarding to the One Lot Subdivision off Apple Street/Sherman D. Jones. Several Points were made:

1. How does Atty. Glovsky get a Subdivision
2. If approved, deny all waivers.
3. Cannot approve with restrictions: No rights to restrict the frontage.
4. We are only approving the Lot.
5. Deny it - go for variance for frontage - would get the variance for frontage and does not open up for anyone else.

G.Stavros was present during the conversation with town counsel, and asked: "Why is he coming in for a subdivision?"

W. Burnham explained that it was grandfathered - it was a buildable property, and he (Jones) is trying to meet town By Laws with regard to frontage. This requires a variance. Creating a paper subdivision, restricting only his lot.

G. Stavros questioned the right of way issue. Eloise Hodges is on the application and the right of way (road) goes on the Hodges property.

MOTION: J.GINN MOVES TO APPROVE THE NOVEMBER 8, 1995 MINUTES AS WRITTEN. SECONDED BY W. BURNHAM. IN FAVOR OF THE MOTION WERE: W.BURNHAM, D.JONES, G.STAVROS, G.GUERIN, JOE GINN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR: Richard Salisbury - 119 Martin Street. Map 32, Lot 19, Lot Size 21,780. Alter building, but not increasing footprint. 30'x26', build 2nd floor, uninsulated and not wired, for storage only.

MOTION: W. BURNHAM MOVED UNDER 6-4.2 TO APPROVE THE ADDITION OF A SECOND FLOOR TO AN EXISTING BARN, FOR STORAGE USE ONLY, FINDING IT IS NO MORE SUBSTANTIALLY DETRIMENTAL THAN THE EXISTING USE. SECONDED BY J.GINN. IN FAVOR WERE W.BURNHAM, J.GINN, G.STAVROS, G.GUERIN, D.JONES. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

BARBARA LINSKOTT - 11 Prospect Street, Map 36, Lot 53, 18,00 sq.ft. Approve by BOH. Convert one family (3 bedroom) dwelling into two family dwelling. 1st floor unit consisting of two bedroom unit, second floor, one bedroom unit with the addition of a deck to the left and rear side of house. 40x24x24'hgt. Three parking spaces, ten rooms.

MOTION: W.BURNHAM MOVED TO APPROVE THE CHANGE OF USE FROM SINGLE FAMILY TO TWO FAMILY FOR BARBARA LINSKOTT, 11 PROSPECT STREET, ESSEX, FINDING THAT THE PROPOSED USE WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE UNDER 6-4.2. ALSO, FINDING BOARD OF HEALTH APPROVAL AND ADEQUATE OFF-STREET PARKING WILL BE AVAILABLE. SECONDED BY J.GINN. IN FAVOR WERE J.GINN, W.BURNHAM, G.GUERIN, D.JONES, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

MELANIE BURNHAM - Western Avenue. Wants a renewal on building permit. The board recommended that the Burnhams go to the Board of Health, for the Title V requirements.

MOTION: W.BURNHAM MOVED TO REISSUE THE BUILDING PERMIT FOR MELANIE AND DONALD BURNHAM FOR LAND LOCATED AT R200 WESTERN AVENUE, ESSEX, CONTINGENT UPON RE-APPROVAL OF SEPTIC SYSTEM FROM THE BOARD OF HEALTH. SECONDED BY J.GINN. IN FAVOR WERE W.BURNHAM, J.GINN, G.STAVROS, D.JONES, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

J.Ginn: Pigeon Cove Canvas and a complaint was brought to Joe's attention. He felt that Dick should be aware of the car situation (cars are being brought inside building).

Nine Harlow Street - Owners will let us know of the situation by the next meeting.

ONE LOT SUBDIVISION OFF APPLE STREET/SHERMAN D. JONES: Mark Glovsky, Atty. for Jones. P.Dunn reiterated the conversation between G.Stavros, P.Dunn and Town Counsel. Question of the Subdivision, and what constitutes this: If approved, cannot put restrictions on property. Can approve, but deny the waivers. Or, deny it and go to Appeals Board.

Glovsky: The waivers are consistent with subdivision control law, because it is a road adequate for one home only. A higher standard would apply, if more lots were proposed for building.

Eloise has the rights to the property on Apple Street.

Variance: Not a route to go, that would set a precedent. Giving a lot with no frontage, and client did not want to go this route.

Ginn: We should have counsel here.

What could happen if others want to build? We do have a right of way.

Glovsky: 1. Right of way goes 8ft wide. 2. Limitation of 1,200 ft., Waiver for Dead End Street. The Agreement states: No additional rights.

The Agreement between Jones and Hodges was read and copies were made for the board.

Ginn: In regard to potential for further developing, it would be slight. Permeability of soils. Land is tough.

The board came to a decision to draft an agreement. Gil Guerin had a draft that was read:

- Make findings - looked at facts to extent of development.
 - Traffic safety
 - Land keeping with site
 - Waivers - findings - Conditional approval based on findings.
- MEMO with Decision - REQUEST FOR FINDINGS

The board would decide upon a meeting between the Nov. 15 and Dec. 6 meetings for this decision. Glovsky was also willing to extend the final date, if necessary.

MOTION: W.BURNHAM MOVED TO ABORT THE DECEMBER 20TH MEETING FOR THE HOLIDAY SEASON. SECONDED BY D.JONES. ALL MEMBERS WERE IN FAVOR. THE MOTION CARRIED.

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GATEWAY: Marty Halloran contacted P.Dunn - Radius Waiver on Road "A" - need the waiver. It was not written in the Motion. A vote to modify approval could be done after the twenty day period. W. Burnham would investigate the matter.

DENNIS OUTWATER: The issue was an opening in a stone wall that was expanded without the proper permits, re: A Special Public Hearing. Attorney Alan Swan presented the argument for Dennis Outwater regarding the alleged expansion of a driveway on the Scenic Way of Belcher Street. He found that the Belcher Street Scenic Way was established at a March 3, 1986 Spec. Town Meeting. He felt that the opening was there in 1982 and in 1984, applied for a permit. Outwater requested that the DPW remove some rocks, as 4-6 ft was closed because of the rocks. 10 ft. or less was left. He thought that the DPW moved the rocks onto a neighbors' property. They maintained that the DPW removed the boulders, had some site work done, knocked 4-5 ft. of driveway, and then replaced it with stones. The DPW was not present for the meeting and the board was not clear where the DPW was involved or if the DPW did in fact open the stone wall. Mr. Outwater has maintained that he did not expand the opening.

It was clear that the board and Mr. Outwater could not agree who may have "expanded" the driveway. Even though several site plans were brought to the table, the board was unsure of the original widths, as one particular plan had no date or certification imprinted.

(9:15 p.m. Sheldon Pennoyer enters)

MOTION: W.BURNHAM MOVED TO RESCIND THE OCTOBER 12, 1995 LETTER FROM THE BOARD THAT THE BOARD WOULD NOT ACT ON THE REQUEST FOR PERMITS RELATING TO THIS PROPERTY BASED ON DISCUSSIONS TONIGHT, AND THE LACK OF FIRM EVIDENCE AND FACTS RELATING TO THE ACTUAL CONDITION OF THE STONE WALL PRIOR TO THE COMPLAINT THEREOF. SECONDED BY D. JONES. IN FAVOR WERE: W.BURNHAM, D.JONES, G.GUERIN. PRESENT: S.PENNOYER. AGAINST: J.GINN, P.DUNN, G.STAVROS.

PAT DUNN WITHDREW HER VOTE TO DENY. THE MOTION CARRIED BY A PRESENT VOTE BY PAT DUNN.

J.Ginn: Will not vote in favor because of the numerous complaints. There should be a hearing to allow for the expansion.

P.Dunn: Agreed with Mr. Ginn. She noted that the public that complained simply wanted the procedure done according to the laws.

In closing, the board suggested that Mr. Outwater go to the building inspector, get the proper signatures on the building application, before the planning board would approve the site plan.

MOTION: W.BURNHAM MOVED TO CLOSE THE MEETING AT 9:30 P.M. SECONDED BY G.GUERIN. ALL MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, NOVEMBER 8, 1995

- 7:00 p.m. Read and approve minutes of Oct. 18th and 26th
- 7:15 p.m. Dick Carter/Building Inspector
- 7:30 p.m. Liberty Research
- 7:45 p.m. C.T. Male/H.L. Graham Assoc.
Re: Discussion with Planning Board/Clerk of the Works
- 8:00 p.m. David Lenzi: Garage on Wood Dr.
- 8:15 p.m. Discussion and possible decision on Gateway
- 8:30 p.m. Discussion of decision regarding One Lot Subdivision off Apple Street

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 8, 1995

The meeting was held at the Essex Elementary school at 7:04 p.m.

Attendees: P.Dunn, Chairperson, W.Burnham, J.Ginn, G.Guerin, D.Jones, S.Pennoyer and G.Stavros

MOTION: J.GINN MOVED TO APPROVE THE MINUTES OF OCTOBER 18, 1995 AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE P.DUNN, J.GINN, G.STAVROS, G.GUERIN, D.JONES. THE MOTION CARRIED.

MOTION: J.GINN MOVED TO APPROVE THE MINUTES OF OCTOBER 26, 1995 AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE P.DUNN, J.GINN, G.STAVROS, G.GUERIN, D.JONES. THE MOTION CARRIED.

(W.Burnham and S.Pennoyer enter.)

Pat Dunn mentioned the Dennis Outwater situation after hearing from them by telephone. The Outwaters did not feel that they were obliged to respond to the Planning Board's request to rectify the stone wall/scenic way issue. Pat Dunn proposed sending the Outwaters a letter asking them to come into the board and discuss the situation to settle the matter.

DICK CARTER/BUILDING INSPECTOR: Peter Van Wyck, Apple Street. Lot 22. An application for a foundation on Turtle Back Road extension. The plot plan shows proposal for two story house. Mr. Van Wyck felt that based upon past agreements, it was clear that he had the right to build a foundation on the site. W.Burnham and S.Pennoyer explained that because the case had litigation pending, it was clear from town counsel's advise that the Board could not approve the plan.

Nancy Roberts: House across from Farnham's Rest. on Eastern Ave. Changes she may have for the property were addressed according to her questions. The small dwelling is 20x24 and rests on 2.75 acres. The board gave her guidance with the Essex Town By-Laws and Zoning requirements. Ms. Roberts asked questions about the proposal of building an additional home on the property, also. The board recommended acquiring the By-Laws and strongly suggested she get the calculations of the uplands on the site plan.

Liberty Research: Derrick Perkins returned with questions of zoning requirements. The impervious coverage issue was discussed, as was the Water Resource Protection District (6-13 b.7). The proposed addition would bring the coverage to 19.6%, which is in excess of the 15% allotment. The board recommended Mr. Perkins apply for a Special Permit to grant relief for the addition.

Note: Joe Ginn would not be voting on this permit, due to a business association relating to the Essex Park Road property.

H.L. Graham Associates, Inc.: Hugh "Larry" Graham, engineer, surveyor, planner, presented to the board his company for consulting. He wanted to know if the Planning Board would be requiring his services in the future, as the Town has not contacted him for nearly two years. The Board was grateful for the meeting and would consider Mr. Graham for Clerk of the Works, and as needed. The discussion led to the process of payment for this particular service: The Clerk of the Works would be paid by the Town, monies coming from the applicant, with the Board overseeing the process.

David Lenzi - 57 Wood Drive, Essex, for 30' x 50' wood garage with cement foundation, single story. Lot size 13,600, Lot 107, Map 4, DEP 210272. BOH, Conservation Comm., Wetlands, DPW approved.

MOTION: S.PENNOYER MOVED TO APPROVE THE SITING OF A STORAGE GARAGE FOR MARY AND DAVID LENZI OF 57 WOOD DRIVE, SEEING THAT IT MEETS ALL THE NECESSARY SETBACKS FOR AN ACCESSORY BUILDING. SECONDED BY JOE GINN. IN FAVOR WERE, S.PENNOYER, W.BURNHAM, G.GUERIN, J. GINN, D.JONES AND G.STAVROS. PAT DUNN VOTED PRESENT. THE MOTION CARRIED.

GATEWAY SUBDIVISION:

MOTION: I, WESTLEY BURNHAM, MOVE TO APPROVE THE DEFINITIVE SUBDIVISION PLAN KNOWN AS GATEWAY SUBDIVISION LOCATED AT 230 WESTERN AVENUE BASED ON THE FOLLOWING INFORMATION AND CONDITIONS:

A PRELIMINARY PLAN WAS FILED ON APRIL 5, 1995 FOR NINE LOTS.

THIS DEFINITIVE PLAN FOR SEVEN LOTS WAS SUBMITTED ON SEPTEMBER 6, 1995.

AFTER ALL REQUIRED NOTIFICATIONS AND ADVERTISING, A PUBLIC HEARING WAS HELD ON OCTOBER 18, 1995 AND CLOSED THAT EVENING.

THE FOLLOWING WAIVERS FROM THE ESSEX PLANNING BOARD SUB-DIVISION REGULATIONS ARE APPROVED:

1. RELIEF FROM THE REQUIREMENT OF 7.02 2 G, AND 7.02 4D WHICH REQUIRES A TEN FOOT RADIUS AT THE WESTERN INTERSECTION OF ROAD 'B'.
2. 'T' SHAPED TURN-AROUNDS WILL BE ACCEPTED IN LIEU OF CUL-DE-SACS AS RECOMMENDED IN 7.02 2J, AND 7.02 4C.
3. PAVEMENT WIDTHS WILL BE SIXTEEN FEET IN LIEU OF THE REQUIREMENTS OF 7.02 4A. SIXTEEN FEET EXCEEDS THE MINIMUM REQUIREMENTS OF 3.05 2 'STANDARDS OF ADEQUACY.'
4. THE REQUIREMENTS OF 7.02 4A FOR A 200 FOOT MINIMUM CENTER-LINE RADIUS IS WAIVED.
5. IN ACCORDANCE WITH 7.02 4H CURBING WILL BE REQUIRED ONLY AT THE TURN-AROUNDS, GRASSED SWALES ARE APPROVED FOR THE REMAINDER OF THE ROADWAYS.
6. SIDEWALKS ARE DEEMED NOT REQUIRED AS ALLOWED UNDER 7.02 4B.

THE FOLLOWING CONDITIONS ARE TO BE ATTACHED TO THIS PLAN AS PART OF PART OF THE APPROVAL.

1. TOWN WATER SHALL BE PROVIDED TO ALL LOTS IN ACCORDANCE WITH THE RULES AND REGULATIONS OF THE ESSEX DEPARTMENT OF PUBLIC WORKS.
2. ALL SEPTIC SYSTEMS SHALL CONFORM TO THE REQUIREMENTS OF THE ESSEX BOARD OF HEALTH, AND SHALL BE APPROVED PRIOR TO ISSUANCE OF ANY BUILDING CONSTRUCTION PERMITS.

3. NO CONSTRUCTION OF ANY KIND IS ALLOWED IN THE AREAS DELINEATED BY THE 'RAYTHEON' MAPS DESCRIBED IN TOWN OF ESSEX BYLAW 6.10 WETLANDS DISTRICT.

ENDORSEMENT OF THE APPROVAL WILL OCCUR AFTER THE FOLLOWING HAS OCCURRED:

1. A PERFORMANCE GUARANTEE IS IN PLACE AND AGREED TO BY BOTH THE APPLICANT AND THE ESSEX PLANNING BOARD. SAID AGREEMENT HAVING BEEN REVIEWED BY TOWN COUNSEL IF THE BOARD DEEMS NECESSARY.

2. AN INDIVIDUAL TO ACT AS 'CLERK OF THE WORKS' HAS BEEN DESIGNATED AND AGREED TO BY THE BOARD. THIS INDIVIDUAL WILL ANSWER TO THE BOARD AND WILL MONITOR CONSTRUCTION IN ACCORDANCE WITH THE APPROVED PLAN. A WRITTEN AGREEMENT TO FUND THIS INDIVIDUAL SHALL BE SUBMITTED TO THE BOARD BY THE APPLICANT.

3. WRITTEN CONFIRMATION THAT NO APPEALS HAVE BEEN FILED WITH THE TOWN CLERK WITHIN THE STATUTORY TWENTY-DAY APPEAL PERIOD. THE DATE FOR START OF THIS TIME PERIOD WILL BE WHEN THIS DECISION IS FILED WITH THE TOWN CLERK.

MOTION SECONDED BY S. PENNOYER.

AMENDMENT TO THE MOTION: W.BURNHAM MOVED TO ADD,

4. NO SEPTIC SYSTEMS OR BUILDINGS TO BE LOCATED IN THE AREA OF LOT 2 FROM WESTERN AVENUE TO STATION 2.00, AND AN APPROPRIATE COVENANT OR OTHER INSTRUMENT SHALL BE IN PLACE PRIOR TO FINAL ACCEPTANCE OF THE SUBDIVISION.

MOTION SECONDED BY S.PENNOYER. IN FAVOR OF AMENDMENT NO.4 WERE D.JONES, W.BURNHAM, S.PENNOYER, G.STAVROS, G.GUERIN. PAT DUNN VOTED PRESENT. JOE GINN ABSTAINED.

A ROLL CALL OF THE MOTION:

S.PENNOYER - IN FAVOR OF THE MOTION
D.JONES - IN FAVOR OF THE MOTION
G.GUERIN - IN FAVOR OF THE MOTION
G.STAVROS - IN FAVOR OF THE MOTION
W.BURNHAM - IN FAVOR OF THE MOTION
P.DUNN - IN FAVOR OF THE MOTION
J.GINN - ABSTAINS FROM VOTING

THE MOTION TO APPROVE THE GATEWAY DEFINITIVE SUBDIVISION CARRIED.

SHERMAN D. JONES - ONE LOT SUBDIVISION OFF APPLE STREET: A lengthy discussion continued regarding the subdivision and the driveway. The board wanted to come to a final decision regarding the restrictions placed upon the subdivision plan. Several ideas were submitted: Limitations of

clearing to the buffer zone, no further lots created on the road, no extensions of the road, and having town counsel help word the decision. J.Ginn proposed having the one lot with the single family dwelling, and restricting no further developing of lots be developed because of the roadway. Other scenarios were created, and in conclusion with tonight's debates, it was proposed that a draft would be written at the November 15 meeting, and it would then be given to town counsel for the proper legal wording.

MOTION: D.JONES MOVED TO ADJOURN THE MEETING AT 9:45 P.M. SECONDED BY J.GINN. ALL WERE IN FAVOR OF THE MOTION, AND THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

A handwritten signature in black ink, appearing to be "M. St.", written over the text "Attested to:".

ESSEX PLANNING BOARD MINUTES

THURSDAY, OCTOBER 26, 1995

This work session was held at the Essex Elementary School at 7:00p.m., in the teacher's lounge.
Attendees: G.Guerin, G.Stavros, P.Dunn, W.Burnham, J.Ginn and D.Jones

Schedule Change: The Meeting to be held on November 1, 1995 at the school will be rescheduled for November 8, 1995 at 7:00p.m., in the Home Ec. Rm. November 15, 1995 will be held at the regular time and place.

GATEWAY SUBDIVISION:

Members retraced the dates of the preliminary plan of 4/5/95, the definitive plan of 9/6/95, and the Public Hearing of 10/18/95.

The Waivers given on 7/19/95 were discussed, as was the review of the Wetlands (6-10).

Board of Health recommendations and the concerns of the Health Agent were noted. The letter of October 18, 1995 was reviewed, and it was noted that the subdivision would have to conform to Title V, the three bedroom max., and all regulations of the BOH.

DPW's concerns were met, as was noted during the October 18, 1995 Public Hearing.

J.Ginn noted that there was no suggestion of a review committee, nor an overseeing of the subdivision by a Clerk of the Works. The board agreed that perhaps in the future, this avenue would be advantageous to the town and the board. P.Dunn would look into the idea of the use of a Clerk of the Works to work with the board.

W.Burnham made notations from the board relating to the wording of the decision for the subdivision. He would come to the board with a final draft for submission well before the deadline.

SHERMAN D. JONES, ONE LOT SUBDIVISION OFF APPLE STREET:

P.Dunn discussed the concerns she had with the decision that the board was going to make. She came to reason with her decision, and was clear that the wording of this decision must be precise: One House, One Lot.

The members went around the table with their opinions/comments:

J.Ginn: Very specific regarding the wording of the decision. He wanted town counsel to help with the wording of the Motion. He would be for the subdivision, providing the wording was legally sound.

G.Guerin: Questioned the repercussions, and the precedence. He reiterated his view of wanting restrictions, and the prohibiting of bldg. out behind the land off Apple Star. He would be in favor of the one lot subdivision, and restrictions should apply to this application.

G.Stavros: Voting present, and did not want this to go to the Appeals Board, and felt that under the regulations, the board did have the right to give Mr. Jones the waivers he was asking for.

D.Jones: Strict restrictions should apply here, although he would favor the applicant's request for a one lot subdivision.

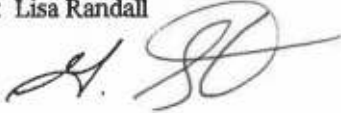
W.Burnham: 90/10, voting yes, with the hope that the board has met the intent that the public has given, re: trust. Drafting of the Motion will be precise, with the help of town counsel regarding the wording.

Members should draft their concerns relating to questions for town counsel. These questions should be prepared by the next meeting so that the correspondence can be forwarded well before the deadline for decision of this subdivision.

MOTION: P.DUNN MOVED TO CLOSE THE WORK MEETING AT 9:00P.M.
SECONDED BY J.GINN. IN FAVOR WERE: W.BURNHAM, J.GINN, G.GUERIN,
G.STAVROS, D.JONES AND P.DUNN. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Two handwritten signatures in cursive ink, one appearing to be 'A.' and the other 'JD'.

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, OCTOBER 18, 1995

ATTENDEES: P.Dunn, Chairperson, J.Ginn, W.Burnham, G.Stavros, D.Jones, G.Guerin
(S.Pennoyer present at 9:00p.m.)

Meeting opened approximately 7:04 p.m.

MOTION: J.GINN MOVED TO APPROVE THE MINUTES OF OCTOBER 4, 1995
AFTER CORRECTIONS GIVEN. SECONDED BY W.BURNHAM.
IN FAVOR WERE W.BURNHAM, D.JONES, G.GUERIN, J.GINN, PAT DUNN.
G.STAVROS VOTED PRESENT. THE MOTION CARRIED.

MOTION: W.BURNHAM MOVED TO APPROVE THE OCTOBER 10, 1995 MINUTES
AS REPORTED. SECONDED BY J.GINN. IN FAVOR WERE W.BURNHAM, J.GINN,
G.GUERIN, P.DUNN, D.JONES. G.STAVROS VOTED PRESENT. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR:

Ronald and Donna Gauthier of 14 Coral Hill, Essex for an addition approximately 4ft x 31ft. Addition to front of house. The applicants have gone to the Appeals Board for the permission of the 4ft addition, as it is being built closer to the line. Map 4, Lot E, 54 sq.ft., Lot size 5,700+, setback of approximately five feet.

MOTION: W.BURNHAM MOVED TO APPROVE THE BUILDING PERMIT FOR
RONALD AND DONNA GAUTHIER, 14 CORAL HILL, ESSEX, FOR AN ADDITION
OF APPROXIMATELY 4 FT. X 31 FT. TO THE FRONT OF THE HOUSE, FINDING THE
REVISED PLANS TO MAINTAIN THE NONCONFORMING SET BACK IS APPROX-
IMATELY FIVE FEET, FINDING UNDER 6-4.2, THAT THE EXISTING CONSTRUCTION
USE WILL BE NO MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD
THAN THE EXISTING STRUCTURE. SECONDED BY J. GINN. ALL IN FAVOR WERE,
W.BURNHAM, J.GINN, G.STAVROS, D.JONES, G.GUERIN. P.DUNN VOTED PRESENT.
THE MOTION CARRIED.

Theodore and Charlotte Guldemond, Three Ralston Lane, Essex. Application for partial screened-in porch on back, addition of front porch, remodel kitchen and dining room. 53'x 30' x 28 ht., Map 19, Lot 107, Lot size 13,600. One family residential. BOH, Cons. Comm and Wetlands approval.

MOTION: W.BURNHAM MOVED TO APPROVE THE APPLICATION FOR THEODORE
AND CHARLOTTE GULDEMOND OF THREE RALSTON LANE, ESSEX, TO ALLOW
CONSTRUCTION OF A FRONT PORCH, AND A REAR PORCH, UNDER 6-4.2
DUE TO TOTAL SQUARE FOOTAGE NONCONFORMITY, FINDING THE PROPOSED
USE TO BE NOT MORE SUBSTANTIALLY MORE DETRIMENTAL THAN ITS EXISTING
USE. SECONDED BY J.GINN. IN FAVOR OF THE MOTION WERE J.GINN, W.BURNHAM,
G.GUERIN, D.JONES, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

Dick Carter updated the board of the appeal relating to the Apple Street apartment building, which is being appealed by the new owners after the decision by the Appeals Board.

Nine Harlow Street - The tenants of concern are moving out, and the situation should be resolved by November.

Liberty Research - Derrick Perkins is filing a letter of intent to the Conservation Comm. to expand on Essex Park Road. He will be on the agenda of the planning board at the next meeting with a proposal for an addition.

RUTH MONTGOMERY - Pond Street. Atty. Faherty gave the board an overview of the property. One of the lots created by the plan is non-buildable due to no frontage. Building setbacks were made non-conforming on both lots with the submitted plan, and the applicant did not agree to labeling the lots as non-buildable lots. Since the board did not have a reply from town counsel concerning the above, Attorney Faherty explained that the land court situation was only to clear the record of title and this requires the planning board to endorse the plan when the applicant owns property adjacent to the parcel to be registered. The endorsement is required in addition to the standard surveyor's endorsement.

MOTION: W.BURNHAM MOVED TO ENDORSE THE PLAN FOR RUTH MONTGOMERY AS NOT REQUIRING SUBDIVISION CONTROL APPROVAL. FOR PURPOSES OF FILING THE PLAN IN THE LAND COURT ONLY. SECONDED BY J.GINN. IN FAVOR OF THE MOTION WERE, W.BURNHAM., J.GINN, D.JONES, GIL GUERIN, AND G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

Note: J.Ginn wanted it noted that the board was anxiously awaiting an answer on the above matter. The board approved this based upon no input or guidance from town counsel.

8:00 P.M. PUBLIC HEARING - GATEWAY SUBDIVISION

The Public Hearing notice was read by G.Stavros. Note: J.Ginn reserved his right to excuse himself from the public hearing due to a business association with PMC Realty Trust.

Marty Halloran reviewed the Subdivision Plan: Seven Lots, Surface Roads, Road "A" 800ft long, Road "B" is 370' long, both 16' in width, town water, outside sewerage disposal systems. All lots meet current regulations and several waivers are being asked for:

Paul Shea, Atty. for PMC discussed the concerns that the DPW had.... enlarging 340' hammerhead, req'd by Fire Dept., moving hydrants, and the administrative items, which were resolved.

Both W. Burnham and Pat Dunn explained to the public that the preliminary work done on the subdivision was strategized and debated for quite some time. Pat Dunn was proud to be a part of this plan, and felt that it was because of the input from everyone involved. The public came to the table with their ideas and concerns for the board and PMC Realty. This helped to construct a subdivision plan in which everybody could accept. W.Burnham added that because of the sensitivity of the land, the board spent a great deal of time examining the subdivision control laws. The lots were scaled down to a total of seven lots, not the original nine. The neighbors came to the board with their concerns of the road, and PMC Realty worked to make changes for their concerns. W.Burnham explained also the responsibility of the board and the rights of the applicant.

Questions from the public consisted of: Osborn Ward, 13 Red Gate Road wanted to know where the subdivision was in accordance with the wetlands. He wanted to know if the lots could access the lake, and after Marty Halloran showed Mr. Ward the lots, it was clear that there was no access to the lake.

AnnMarie Laton, Western Ave. asked about the roads, the electricity, and the utilities. Marty explained that septic systems, utilities, waterlines, cable, etc. would be put in before the lots could be developed. Her concern was a scenario of someone coming in and building apartments on the lots. It was explained that the person who purchases the lots would have to go to the town boards for approval for any building. W.Burnham noted that these lots are for single family with a possible in-law apartment. There was not enough land for an apartment use, and buying several lots would probably not be affordable for that

3
situation. The new Title 5 would nearly eliminate any possibility of apartment dwellings. Additionally, the Board of Health is requiring a cap of three bedroom homes only, on each lots.

Finalizing the Public Hearing, it was explained that the unusual shaping of the lot lines was to meet the regulations of the town, the various state regulations, and the Water Res. Dist. restrictions. The letter from the Board of Health Agent (Oct.18, 1995) regarding their recommendations would be addressed by PMC Realty.

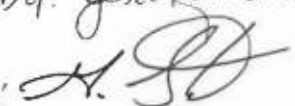
W.BURNHAM MOVED TO CLOSE THE PUBLIC HEARING FOR PMC REALTY TRUST AT 9:00P.M. SECONDED BY G.GUERIN. IN FAVOR OF THE MOTION WERE W.BURNHAM, G.GUERIN, G.STAVROS, D.JONES, PAT DUNN. THE MOTION CARRIED.

Scot's Way: A letter from the Board of Health, Mr. John M. Jacobi, Health Agent dated October 18, 1995 was read. W. Burnham dictated a letter that the planning board would send to the Board of Health. Attorney Paul Shea for PMC Realty was present during this discussion and was given copies of the letter. Joe Ginn expressed his concern that the Health Agent may not have all of the facts regarding Scot's Way.

MOTION: W.BURNHAM MOVED TO SEND THE LETTER BACK TO THE HEALTH AGENT VIA THE BOARD OF HEALTH STATING THAT IF HE HAS ANY FURTHER QUESTIONS, HE REQUEST A TIME TO VISIT WITH US. A LETTER WILL BE FORWARDED TO THE HEALTH AGENT RESPONDING TO THE REQUESTS MADE FOR THE PLANNING BOARD. SECONDED BY G.STAVROS. IN FAVOR WERE W.BURNHAM, G.STAVROS, D.JONES, AND GIL GUERIN. P.DUNN AND J.GINN VOTED PRESENT. THE MOTION CARRIED.

W.Burnham exits, S.Pennoyer enters. The board will conduct a work evening at the School on October 26, 1995 at 7:00P.M. Scot's Way was an issue to be discussed, as was Gateway Subdivision during the meeting. Also, any questions that the board had for town counsel would be drafted into a memo so that the decision-making process for the proposed subdivisions could be finalized.

MOTION: J.GINN MOVED TO ADJOURN THE MEETING AT APPROXIMATELY 9:25P.M. SECONDED BY G.STAVROS. IN FAVOR WERE J.GINN, G.STAVROS, G.GUERIN, D.JONES, S.PENNOYER. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

Presented by: Lisa Randall
Attested to: 

ESSEX PLANNING BOARD MINUTES

TUESDAY, OCTOBER 10, 1995

Meeting began at 7:40p.m. at the Essex Elementary School, Story Street.

Attendees: P.Dunn, Chairperson, W. Burnham, J. Ginn, G. Guerin and D. Jones

ONE LOT SUBDIVISION OFF APPLE STREET:

Discussion about the property of Sherman D. Jones and Eloise Hodgkins consisted of reviewing the required material of Subdivision Plans relative to subdivision control laws, Essex, MA. The materials given to the board were adequate, i.e., contact prints (ten) of definitive plan were distributed to appropriate departments for review, application for approval of plan, payment for \$100.00 for filing fee, copy of deed, abutter's list, section 7 waiver list.

The proposed development consists of construction of one single family dwelling and septic system. The landscape type is wooded plain. Minimal clearing is proposed to site house and waste disposal system. An overgrown right of way from Apple Street has been cleared to effect access to the site. Driveway construction is proposed within this right of way.

After addressing the location of the lot in conjunction with Apple Street, the driveway was of main concern. Since the property of Sherman Jones has an easement on the Eloise Hodgkins property, the proper wording of a covenant on the deed was a suggestion, noting that town counsel should draft a carefully worded decision, making absolutely sure to use the proper language regarding the roadway (proposed "driveway"). Please note the Section 7 Waiver List, attached hereto.

Comments from P.Dunn were clear: The applicant was creating frontage with the waivers. It was clear by MGL ch.41 sec.81-R that a waiver of compliance could be endorsed, as W.Burnham pointed out. J.Ginn stated that the applicant did have the right to ask for a waiver, and if denied, it would then go to the Appeals board, which could then go to Superior Court. The board conceded that they were all looking to the future of other situations similar to this case. They did not want to set a precedent, and it was repeated by J.Ginn that the wording for this one lot subdivision had to be carefully drafted by town counsel.

No decision was made as to what action would be taken, and past cases would be pulled from the files to use as references. Three new members of the board would need more information to assist them with the knowledge they needed to become familiar with the process of subdivisions.

J.Ginn brought up two cases to work on: Ron Ober/Pine Ridge and Scot's Way. The files will be pulled and the appropriate correspondence would be processed accordingly. The situation would be presented to the board by the secretary, at the October 18 meeting.

MOTION: DAVE JONES MOVED TO ADJOURN THE MEETING AT 9:15 P.M.
SECONDED BY: GIL GUERIN. IN FAVOR WERE: P.DUNN, W.BURNHAM,
J.GINN, G.GUERIN, D.JONES. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn

7.01

The proposed development consists of construction of one single family dwelling and septic system. (Septic system plans are currently under review by the Board of Health, approved by the Conservation Commission and incorporated as sheet two of the subdivision plans).

The landscape type is wooded plain. Minimal clearing is proposed to site house and waste disposal system. An overgrown right of way from Apple Street has been cleared to effect access to the site. Driveway construction is proposed within this right of way.

The proposed use seems entirely consistent with the planning goals of the Town of Essex, and will result in the development of a 3.8 acre parcel for one dwelling.

No waivers from Appendix A are hereby requested.

7.02,1.

The proposed driveway lies within an easement and is restricted by covenant with the landowner to have a maximum width of twelve (12) feet. No pavement is proposed.

7.02,2.

Alignment of the proposed roadway is consistent with the rules and regulations with the following exceptions:

- g. Property line roundings are not provided at Apple Street.

7.02,3.

The proposed roadway shall not be named, as constituting a driveway for one dwelling.

7.02,4.

The proposed roadway will not meet layout width requirements. The distance between the existing stone walls which define the easement will accommodate the proposed twelve (12) foot driveway.

No pavement is proposed.

Grades and intersection angles are consistent with the rules and regulations.

7.02,4. (continued)

No shoulders are provided; in the alternative, turnouts are to be incorporated in the driveway to allow a car to pull aside, allowing a car or truck to pass.

Centerline radii are not calculated. The proposed roadway will meander to remain centered between the existing walls which define the easement.

The proposed driveway will have a total length of approximately 870 feet between Apple Street and the proposed turnaround. No future extension of this roadway is contemplated except for purposes of access to the proposed dwelling shown.

No property line radii or curb radii are proposed.

Cuts and fills proposed will not exceed Planning Board specifications for grades and sideslopes.

The proposed roadway is crowned to provide for sheet flow runoff. No piped drainage is proposed.

No curbs or gutters are proposed.

Marginal planting shall consist of native vegetation.

Gravel specifications shall be met; no paving is proposed.

7.02,5.

No street drainage is proposed.

7.02,6.

No curbing is proposed.

7.02,7.

As the proposed roadway will function as a private driveway, no pedestrian and bicycle easements or amenities are proposed, other than those rights which may already exist.

7.02,8.

Native trees shall be allowed to grow insofar as they do not interfere with safe passage or maintenance of the roadway.

7.03

Drainage shall consist of sheet flow from the crowned gravel roadway. No piped or directed drainage is proposed.

7.04

Water for the proposed dwelling shall be provided by a well or by a private service designed in accordance with current D.P.W. standards.

The waste-disposal system for the proposed dwelling has been reviewed by the Board of Health.

7.05

No blocks (or additional lots) are proposed.

7.06

The proposed development consists of a single residential lot and a waived access roadway.

7.07

No monumentation is proposed, as the roadway is defined throughout its length by stone walls.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, OCTOBER 4, 1995

Meeting to be held at the Essex Elementary School, Story Street at 7:00 p.m.

- 7:00 p.m. Read and approve minutes of September 20, 1995
- 7:15 p.m. Dick Carter/Building Inspector
- 8:00 p.m. *tape 1 Side 2*
Public Hearing - Sherman D. Jones and Eloise Hodges - One Lot
Subdivision/Apple Street
- 8:30 p.m. Barry and Sarah Richards - Build on lot off Belcher Street
- 8:45 p.m. John Bryne/Bryne Bros. - Pavement Issue *John Bryne*
- 9:00 p.m. J. Michael Faherty, Atty. for Ruth Montgomery - Pond Street *-cancelled-*

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, OCTOBER 4, 1995

ATTENDEES: P.Dunn, Chairperson, W. Burnham, J.Ginn, G. Guerin, D.Jones, S.Pennoyer
(G.Stavros - absent)

Meeting was called to order at the Essex Elementary School by P.Dunn at 7:03p.m.

Pat Dunn wanted to comment on the Garcia Kimball property. Both Pat Dunn and Joe Ginn went to the board of Health - The property is still listed as three separate lots. The Board of Health requested a letter from the board on the opinion of the merging of the property. A proposal to draft a letter would be given to the Board of Health.

MOTION: J.GINN MOVED TO APPROVE THE MINUTES OF SEPTEMBER 20, 1995 AS WRITTEN. SECONDED BY GIL GUERIN. ALL IN FAVOR OF THE MOTION WERE, J.GINN, W.BURNHAM, S.PENNOYER, D.JONES AND G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

S.Pennoyer brought to the attention of the board, a telephone conversation initiated by Mr. Peter Vanwyck. Apparently, Mr. Vanwyck had an agenda to provide the board. Sheldon abruptly reminded Mr. Vanwyck of the ongoing litigation and negotiations. Personal matters regarding Mr. Vanwyck's situations were not appropriate for the board to become privy to, and the conversation was terminated by Sheldon.

DICK CARTER/BUILDING INSPECTOR:

Julie Hite and Mike Staid of One Beech Street, Hamilton, MA 01982, for a single family dwelling on 63 Wood Drive, Essex. The application is for a foundation siting, as there is no well as yet. Lot 1, Map 4, Lot 108, Lot size 41,000 sq.ft. Book 4615, Page 498. Approved by the Board of Health, Conserv. Comm., DPW, Wetlands.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR THE FOUNDATION SITING ONLY, FOR MIKE STAID AND JULIE HITE OF 63 WOOD DRIVE, ESSEX, AS LOCATED ON A SITE PLAN THAT IS DATED OCTOBER 4, 1995, SEEING THAT IT MEETS ALL OF THE REQUIRED SET BACKS. SECONDED BY W.BURNHAM. IN FAVOR WERE S.PENNOYER, W.BURNHAM, J.GINN, D.JONES G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

Albert Sivo of 54 Rear Martin Street, Essex, for a single family dwelling on Lufkin Point Road, Essex. Map 20, Lot 31, 71,897+sq.ft., 40'x56.8' and 33ft hgt, 3,500sq.ft. Approved by DPW, Board of Health, Conserv. Comm., Wetlands. Letter of Conditions, DEPE File No. 21.266.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR ALBERT C. SIVO OF LUFKIN PT.RD., ESSEX, AS SHOWN ON A SITE PLAN BY HANCOCK SURVEYORS, DATED 1/18/95, SEEING THAT IT MEETS ALL REQUIRED SETBACKS. SECONDED BY J.GINN. IN FAVOR WERE J.GINN, S.PENNOYER W.BURNHAM, D.JONES, AND G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

Turner & Walima MFG. Co., Western Avenue. Joe Ginn mentioned to the board that he has asked the Board of Health to investigate the issue of the septic system and the alleged improper installation. Pat Dunn

has also made inquires, and it was believed that a review of this case would be examined by the Board of Health.

David Coffin: ANR for 89 John Wise Ave., Essex. Book 279, Page 50. Two lots exist, one lot (D): Needs land for leaching field repair. A 3rd lot (F) is being created out of Lot (E). Lot F is nonbuildable. The two lots are approved ANR lots. No lot lines are being changed. No frontage is being altered. The lot F is being created with an easement for lot D.

MOTION: W.BURNHAM MOVED TO APPROVE THE ANR PLAN FOR DAVID COFFIN OF 38 HASKELL ST., GLOUCESTER, AND DAISY NELL OF 12 NASHUA AVE., GLOUCESTER, FOR THE CREATION OF LOT "F", A NON-BUILDABLE PARCEL, 4,368FT, WHICH IS TO BE CONVEYED TO THE ABUTTORS AND PRESENT OWNERS OF LOT "D", WILLIAM AND SHEENA POLLOCK, FINDING THAT IT DOES NOT REQUIRE SUBDIVISION CONTROL LAW APPROVAL, AND AS SHOWN ON THE PLAN OF LAND DATED 9/15/95 BY NO.SHORE SURVEY CORP. SECONDED BY S. PENNOYER. IN FAVOR WERE W.BURNHAM, J.GINN, S.PENNOYER, D.JONES AND G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

The board scheduled a date of Tuesday, October 10, 1995 at 7:30p.m. to be held at the school. This special meeting is to discuss planning issues: Water Resource Protection District, One Lot Subdivision off Apple street, and other business.

PUBLIC HEARING HELD OPEN AT 8:00 P.M., the Public Notice was read aloud by Pat Dun.

Mark Glovsky, Atty. for Sherman D. Jones describes the one lot subdivision off Apple Street, which has been owned by Jones since 1958. The plan shows approximately 4.5 acres for one single family dwelling, and an agreement by Eloise Hodges, who has given Jones an easement on her property to access his lot. A restriction for owner of property for no further subdivisions, with one single family dwelling and customary accessory buildings. Utilities would be underground, no wider than a 12ft. gravel road, no further rights to be granted, ecologically sound, driveway will serve only one lot subdivision with two turnoffs, hammer head for cul de sac. A three page waiver list was presented along with the site plan, done by Hancock Engineering. Approval from: Conservation Comm., DPW, Board of Health

Pat Dunn was concerned that there would not be a name given to the driveway, (see 7.02,3 on waiver list) and Mark Glovsky noted that the driveway was to remain private, and not as a public access, but a name would be given on the plan, if necessary.

Pennoyer questioned the type of precedence the one lot subdivision would be setting for the town of Essex. "We have a lot of back land in Essex. Even though Eloise Hodges has given restrictions on the property, its essentially no different than any of the other wooded lots in Essex. Is this any different?" Glovsky responded that "...it's not just a right of way to the property. We're submitting an application with the ownership to the strip that goes all the way to Apple Street. So it's distinguishable from a "land locked" piece to get to a lot of land. Every piece of property is different. The Hodges are concerned about the property on Apple Street. The neighbors are being supportive, and this allows Mr. Jones to build on his property, without creating a sixteen foot wide road."

B.J. Frye, of Apple Street was concerned of the amount of waivers, especially the 7.02 list. She felt that a request should be made for a twelve foot driveway which includes an Agreement with the Hodges for this plan. Then go to the Appeals Board asking to waive the footage on the frontage. Is this a subdivision, is it a subdivision road, or is it a driveway, a paper subdivision? Mark Glovsky felt that there were not a lot of waivers. The primary waiver was the width of the road. He also felt that the Appeals Board would not be necessary. Glovsky went on to say that a precedence was not being set, as the owner of the deed and the connector is part of this application, and is not just a right of way.

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A letter of concern was read by Gil Guerin. It was from Mr. and Mrs. Fawcett of Apple Street. Their concerns were: An alleged blind spot, a creation of access for three other lots, additional traffic hazards, and impacts to the river environment. J. Ginn asked about the three lots. Mr. Glovsky stated that the restriction of one single family dwelling was for the Jones' lot, and not the property owned by Eloise Hodges.

W.BURNHAM MOVED TO CLOSE THE PUBLIC HEARING AT APPROXIMATELY 8:40 P.M.. SECONDED BY J.GINN. THE VOTE WAS UNANIMOUS. THE MOTION CARRIED.

Dennis Outwater/Belcher Street: A scenic way with a stone wall being encroached upon. The board discussed enforcement of alleged violations.

MOTION: J.GINN MOVED TO NOT ISSUE BUILDING PERMITS ON D. OUTWATER LOT 5, 39 BELCHER STREET, ESSEX, UNTIL A PUBLIC HEARING IS HELD CONCERNING THE REMOVAL OF TREES, AS WELL AS ENLARGEMENT OF EXISTING OPENING FOR A DRIVEWAY CREATION. SECONDED BY D.JONES. ALL IN FAVOR WERE, D.JONES, W.BURNHAM, S.PENNOYER, J.GINN, G.GUERIN PAT DUNN VOTED PRESENT. THE MOTION CARRIED.

A letter would be sent to Mr. Outwater concerning the motion and the boards' intentions regarding the alleged removal of the trees and stone wall.

John Byrnes: Concerning the property at Western Avenue. He wanted to know from the board what he was to do to clear his name for selling the property free and clear. W. Burnham suggested that he rip up the hot top for the square footage to create a total of only 15% impervious. It was mentioned that he should contact the Building Inspector and the conservation Commission and let them become aware of his plans to remove the hot top.

Nancy and Stephen Scaldone: Property off Southern Avenue. Stanton Bigelow handed the board eight pages of correspondence relating to property off Southern Avenue presently owned by Deirdre Henderson. The applicants wanted an opinion of the board to whether the property is presently buildable without petitioning the Board for a Variance of Lot Frontage and/or Lot Width requirements of the local By-Laws and Regulations. The board was aware of the situation and knew that the property was "land locked". Issues of adequate frontage on a nonconforming lot: The existing way is Southern Ave., and it appears that a variance would be required. Therefore, the board suggested that the applicants go to the Appeals board with their case.

MOTION: W.BURNHAM MOVED TO CLOSE THE MEETING AT 9:25 P.M. SECONDED BY J.GINN. ALL WERE IN FAVOR OF THE MOTION. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, SEPTEMBER 20, 1995

Meeting held at the Essex Elementary School on Story Street, and began at 7:07 p.m.

ATTENDEES: J. Ginn, W. Burnham, D. Jones, G. Stavros, S. Pennoyer, Gil Guerin, Pat Dunn
(Meetings are now operating with the required seven members as Mr. David Jones was appointed at the Selectmen's meeting held on September 18, 1995.)

The first order of business was as follows:

Planning Board Correspondence: Mr. John Byrne of Western Ave. has requested meeting with the board, re: pavement issues. He will be notified that he will be on the October 4th agenda.

Cancellations: Ms. Sally Soucy and Mr. and Mrs. Richards

Further discussion relating to planning issues will be addressed later this evening, as time has been allowed.

MOTION: W. BURNHAM MOVED TO APPROVE THE MINUTES OF SEPTEMBER 6, 1995, AS WRITTEN. SECONDED BY S. PENNOYER. THE VOTE TO APPROVE WAS UNANIMOUS, WITH P. DUNN AND D. JONES VOTING PRESENT. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR: Catherine and Meredith Palmer of 5 Desoto road, Essex. A single ranch, requesting an addition - 2nd floor, 37x24, Map 34, Lot 89, 21,950 sq. ft., 20'x 40' and 20' in hgt. Move bedrooms from downstairs to upstairs. Non-conforming, not increasing the footprint. 6-4.2 finding.

MOTION: J. GINN MOVED THAT THE BUILDING INSPECTOR ISSUE A BUILDING PERMIT OF THE PALMER PROPERTY ON FIVE DESOTO ROAD, ESSEX, FOR A SECOND FLOOR. NOT TO EXPAND THE EXISTING FOOTPRINT OF THE BUILDING UNDER 6.4-2, FINDING THAT IT IS NO MORE DETRIMENTAL TO THE PROPERTY AS IT EXISTED, AND THAT A FULL SET OF DRAWINGS BE SUBMITTED TO THE BUILDING INSPECTOR. SECONDED BY W. BURNHAM. IN FAVOR WERE, J. GINN, GIL GUERIN, G. STAVROS, W. BURNHAM, D. JONES, S. PENNOYER. P. DUNN VOTED PRESENT. THE MOTION CARRIED.

TURNER & WALIMA MFG. CO., 191 WESTERN AVE. D. Carter refreshed the boards' memory concerning the meeting of 9/6/95, regarding the fifteen percent coverage in relation to the proposed addition. 54x32 coverage, lot size is 34,00+-, proposed addition is 720 sq. ft. is on impervious surface. The office is not covering any more than the existing. The 54x32 stays. New addition (office) is 26' setback. No increase of impermeable area.

MOTION: S. PENNOYER MOVED TO APPROVE THE APPLICATION FOR TURNER & WALIMA MFG. CO., OF 191 WESTERN AVE., ESSEX, FOR A NEW ADDITION OF 18' X 40' WITH A RELOCATION OF THE PRESENT OFFICE BUILDING AS DESCRIBED ON THE SITE PLAN DATED 9/20/95. SEEING THAT IT MEETS ALL THE REQUIRED SET BACKS AND DOES NOT INCREASE THE IMPERVIOUS AREA OF THE LOT. IF FURTHER

PARKING IS TO INCREASE ANY FURTHER AREA, PROPER STEPS WILL BE TAKEN BY THE APPLICANT. SECONDED BY GIL GUERIN. IN FAVOR WERE W.BURNHAM, G.STAVROS, GIL GUERIN, S.PENNOYER, D.JONES. OPPOSED WAS JOE GINN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

NOTE: Joe Ginn was concerned and wanted his comments noted in the minutes: He felt that the permits were not qualified to be approved, as the new sewer system that was installed may not have been done per plan. He reiterated that he may be mistaken, but noted that he would make an inquiry to the appropriate town boards.

RONALD AND DONNA GAUTHIER: 14 Coral Hill Road, Essex, a 10'x12' deck on the second floor of the garage. Plot plan approved by the Board of Health, Conserv. Comm., No setbacks. Increasing the footprint 24"x32', enlarging the first floor bath by 4' and enlarge the laundry/office by 4 ft. 6.4-2 finding, no more nonconforming, no encroachment of lot lines.

MOTION: S. PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR A 10'X'12' DECK AT 14 CORAL HILL, TO BE CONSTRUCTED OF THE GARAGE UNDER 6.4-2, SEEING THAT IT IS NO MORE DETRIMENTAL THAN THE EXISTING USE. SECONDED BY W.BURNHAM. ALL IN FAVOR WERE S.PENNOYER, W.BURNHAM J.GINN, G.STAVROS, G.GUERIN, D.JONES. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

SECOND PART OF REQUEST FOR BUILDING PERMIT OF CORAL HILL ROAD, AN ADDITION THAT FACES THE ROAD. A discussion ensued concerning increasing the nonconforming of the addition, being that the addition requested could not decrease the present five foot setback. The board could not approve increasing the nonconforming use.

MOTION: S.PENNOYER MOVED TO DENY THE BUILDING APPLICATION OF RONALD AND DONNA GAUTHIER AT 14 CORAL HILL ROAD FOR AN EXTENSION TO THEIR HOUSE, AS IT MAKES THE LOT MORE NONCONFORMING. THE PROPOSED PLAN IS EXTENDING THE BUILDING TO AN EXISTING LANDSCAPE/ CEMENT WALL. IT IS DETERMINED BY THE BOARD THAT THE PROPOSED ADDITION DECREASES THE PRESENT FIVE FOOT SETBACK ON THE NORTH PROPERTY LINE, MAKING IT MORE NONCONFORMING. SECONDED BY GIL GUERIN. IN FAVOR WERE, G.GUERIN, S. PENNOYER, G.STAVROS, W.BURNHAM, D.JONES, J.GINN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

EDWARD MARCHETTI, 20 Ralston Road, Essex, off Conomo Point Road. Lot 110 & 112, Book 7444, Page 94, Map 19. 78'.6 x 61' and 34' ht. Lot on 1.12 acres. Raze existing building and replace with a new single family home. Approved by Board of Health and Conservation Comm.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR EDWARD AND PATRICIA MARCHETTI OF 20 RALSTON DRIVE, SEEING THAT DEMOLITION OF ONE STRUCTURE AND CONSTRUCTION OF THE SINGLE FAMILY HOME MEETS ALL ZONING REQUIREMENTS AS SHOWN ON THE EXISTING SITE PLAN/ SEPTIC PLAN DATED 7/14/95 BY HANCOCK SURVEYORS. SECONDED BY G.STAVROS. IN FAVOR OF MOTION WERE: S.PENNOYER, J.GINN, W.BURNHAM, D.JONES, G.GUERIN, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

RHONDA AND STEVEN WOODMAN, 125r Main Street, 52'x32' and 27' ht., Map 37, Lot 48A, Lot size is 14,419 ft. 13'x16' addition off dining room, and 8ft. gable dormer off bedroom. Board of health and Conserv. Comm. approval.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATIONS OF STEVEN AND RHONDA WOODMAN OF 125R MAIN STREET FOR ADDITION AS SHOWN ON SITE PLAN DATED 9/20/95, UNDER 6.4-2, SEEING THAT IT DOES NOT EXTEND ANY NONCONFORMITIES. SECONDED BY J.GINN. IN FAVOR WERE: J.GINN, S.PENNOYER, G.STAVROS, J.GINN, D.JONES, W.BURNHAM. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

PETER VANWYCK- Turtleback Road, Essex. Subdivision, Map 9, Lot A, 2+ Acres, for three bedroom house having frontage on Turtleback Road. (It was determined that 24 acres was the amount being discussed regarding the application.)

Pending correspondence from Town Counsel to the Board, pending negotiations relating to a proposal by both attorneys for the parties, it was decided by the board that an approval could not be granted. Mr. VanWyck therefore withdrew the plans of the building application.

J. MICHAEL FAHERTY, ATTORNEY FOR RUTH MONTGOMERY, 79 Pond Street, ANR, three parcels, frontage on Pond Street, Plan of land dtd. 1/13/93, Book 6852, Page 348, Rear and off of 79 Pond Street, vacant land. Applicant wishes to register and confirm her title to the locus in the land court and to annex the same to adjacent land owned by her with adequate frontage on Pond Street (a public way).

Discussion of pre-existing lot, nonconforming use., and the board felt that if it becomes a separate lot, it becomes a nonconforming lot. The explanation by Attorney Faherty that the registration for confirmation of title was only a formality. He said that there was no breaking of the lots. The board concluded that they were not clear of ownership of the land. Pat Dunn suggested that town counsel be notified of the boards' questions. S.Pennoyer volunteered to investigate the concerns the board had with town counsel and would relay the opinion of town counsel to the board for clarification. Attorney Faherty was put on the agenda for October 4th at 9:00pm.

Note: Before the following presentation, Joe Ginn stated that he would refrain from future voting relevant to the Gateway Subdivision, as it posed a conflict of interest for himself and PMC Realty Trust at this time. He would, however, continue to discuss the project with the board.

GATEWAY SUBDIVISION/TECHNICAL REVIEW: Marty Halloran, engineer for PMC Realty Trust (John Coughlin) gave a brief overview of the subdivision, beginning with the explanation of a revised sheet (5 of 7) which outlined the water lines. The plans will be distributed to the appropriate town boards for their files. Seven lots - two lots off of Road "B", five lots off of Road "A". The roads were described in detail, giving length, widths, test pits, wetland areas, private septic, public water, square footage of uplands, etc. Greater detail was given concerning the entrances to the roads, noting that there was attention given to access of emergency vehicles by increasing the radius, and the water run-offs. After the overview, the board was comfortable with the changes made, and S.Pennoyer raised the waivers, and the intents of the road off Western Ave, particularly the vegetation that would be destroyed. It was agreed by PMC Realty and the board, that the area would be kept with the intent to preserve the vegetation in that area. A restriction on the plans would be added regarding the undisturbed area. Re: No residential construction in that area.

ATTORNEY PAUL SHEA, for PMC Realty, presented two special permit applications. The Wetlands Special Permit 6-10.3, and the Water Resource Protection District 6.13. The permits were dismissed, as the preliminary subdivision has already been approved, attesting that all of the subdivision requirements have been met. Any person purchasing the LOTS in the future would have the responsibility of abiding by the two aforementioned subdivision regulations.

Attorney Shea presented to the board a covenant in place of a bond on the Gateway Subdivision. It will be in the form of a formal covenant with the Town of Essex that would prohibit "sale of any lot in the subdivision or erect or place any building on any such lot until the ways and other improvements

necessary to serve adequately such lot have been completely constructed and installed in the manner specified in the aforesaid application and in accordance with the covenants, conditions, agreements, terms and provisions thereof." The board agreed that the covenant would be acceptable, and they would probably accept the terms of the covenant over a bond. The covenant would be formally written and would be presented at the public hearing scheduled for October 18, 1995 at 8:00 p.m.

PLANNING BOARD DISCUSSION:

Dominic de Lacy - 5 Harlow Street. Correspondence was read by Mr. de Lacy regarding the enforcement by Mr. Carter of the two family home on 9 Harlow Street. Mr. de Lacy was upset by the alleged lack of responses by the board and Mr. Carter, the building inspector. Pat Dunn did talk to Mr. de Lacy and a formal letter would be prepared for him regarding the situation. It was not in the purview of the board to enforce violations. (See pg. 615 of Essex Town ByLaws) The board noted that the alleged improper occupancy for the 9 Harlow Street home was to be corrected by the September 15 date. Re: The home is to be a two family home, and not a three family home, which it is alleged to be. The letter would be copied to Mr. Carter, also.

Belcher Street - G.Stavros gave the board detailed information relating to an alleged "opening" of a stone wall, water pipe lines, and the involvement of the DEPE regarding Dennis Outwater. This situation was not a planning board issue and no action would be taken at this time.

BOARD OF HEALTH: Regarding Building Permit Applications: Mr. Thompson suggested that motions not be made contingent upon approval of the Board Of Health. It was decided that the planning board would suspend all applications until full approval of the boards be indicated on the building application.

Pat Dunn will set up a meeting in early November of this year to discuss planning issues, concerns and/or changes the board would like to work on.

G.Stavros and W.Burnham will meet with Sally Soucy regarding town clerk/planning board issues. The meeting date was not final, but the two will inform the board of the meeting and outcome.

A Notification of Application - General Waterways Application. Robert K. Dutton, 4 Labo Lane, Bedford, MA, to construct and maintain catwalk, ramp and float located at Walker Creek. A copy of the application would be given to G.Stavros to handle as necessary. A file will be made for the towns' records.

MOTION: S.PENNOYER MOVED TO AJOURN THE MEETING AT 10:00 P.M. SECONDED BY G.GUERIN. ALL MEMBERS VOTED IN FAVOR. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, SEPTEMBER 6, 1995

Meeting held at the Essex Elementary School, Story Street

- | | |
|-------------|---|
| 7:00PM | Read and approve minutes of August 16, 1995 |
| 7:15PM | Dick Carter/Building Inspector |
| 7:30PM | John Coughlin - Definitive plan/Gateway Subdivision |
| 7:45PM | John Lawless - Mono Pole for mobil radio, 50x50 area,
equipment shelter 20x10 |
| 8:00PM | Public hearing - Mark Glovsky/Sherman Jones - One lot subdivision
Apple Street |
| 8:30PM | Meet with Selectmen - Appoint new member for Planning board |
| 8:45PM | David Coffin - Change in ANR plan |
| 9:00PM | Daniel Monroe - Application for building permit over Coolidge Trust
on Southern Ave. |
| Discussion: | Application list - Continuation
Form A fees |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, SEPTEMBER 6, 1995

ATTENDEES: Pat Dunn, Joe Ginn, Gil Guerin, Sheldon Pennoyer, George Stavros, Westley Burnham

Meeting: 7:10PM at Essex Elementary School - Media Center

First order of business was a motion to approve the August 16, 1995 minutes:

MOTION: J.GINN MOVED TO ACCEPT THE MINUTES AS WRITTEN ON AUGUST 16, 1995. SECONDED BY G.STAVROS. ALL IN FAVOR WERE: J.GINN, G.STAVROS, G.GUERIN, P.DUNN. VOTING PRESENT WAS W.BURNHAM. THE MOTION CARRIED.

PLANNING BOARD CHECK LIST - W.Burnham, J. Ginn, P.Dunn discussed the list, which was being implemented, yet unsuccessfully. It was felt that the concept was a good idea, but seemed redundant. A motion was made in the past to use the list, but the board wanted to discontinue to use the check list and would work on other templates at a later date. W.Burnham has been constructing forms similar to the check list, and will continue the effort. J.Ginn and G.Guerin discussed the need for some type of check list for applicants so that they would be better prepared. The building application did list specific required signatures, but not all applicants' applications are "boiler-plate". A future meeting will discuss details on these issues.

MOTION: W.BURNHAM MOVED TO DISCONTINUE THE PLANNING BOARD APPLICATION CHECK LIST AFTER APPROXIMATELY ONE YEAR OF UNSUCCESSFULLY IMPLEMENTING IT, THE BOARD FEELS IT SHOULD BE DISCONTINUED. SECONDED BY G.STAVROS. ALL IN FAVOR WERE W. BURNHAM, J.GINN, G.STAVROS, G. GUERIN AND PAT DUNN. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR: 174 Western Avenue, James N.Conway, E.J. Realty Trust, Nine Woodcrest Road, Manchester, MA 01944. Map #31, Lot 36, 2.41 Acres. Change of use on property, with two offices in front and light assembly in rear. Property in water protection district, Board of Health approved. 6-6.5- Assembly of product, which is the Roly-Safety Gate. Parts come finished to the building and will be shipped after assembling. Low volume of traffic, no night lighting. Approval based upon business use, and not industrial use as it meets the required guidelines.

MOTION: J.GINN MOVED TO PROVIDE JAMES N. CONWAY WITH A CHANGE OF USE FOR THE PROPERTY ON 174 WESTERN AVENUE TO HAVE A MIXED USE OF OFFICE AND LIGHT ASSEMBLY FOR HIS PRODUCT, MEZZANINE SAFETY GATE FOR USE OF THE PROPERTY. IT MEETS ALL THE REQUIREMENTS OF 6-6.5 BUSINESS LAND USE. SECONDED BY SHELDON PENNOYER. ALL IN FAVOR WERE: J.GINN, W.BURNHAM, S.PENNOYER, G.STAVROS, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

TURNER AND WALIMA MFG. CO. 191 Western Avenue, Map 8, Lot 54. Addition 18 x 40 onto the present building which is 40 x 40. 34,800 sq.ft. of land. Applicants want to move an office back

into the yard. Existing coverage of plot plan was not determined. There was concern by the board of the water resource protection district and the fifteen percent of impervious material. (refer to page 622 of the town's by-laws)

Since the Board was not clear of the total amount of impervious surfaces, they advised Dick Carter to return with the applicant's plot plan in accordance with the business use, parking, and the total amount his impervious area, since the property falls in the water resource protection district.

GATEWAY - DEFINITIVE PLAN: Marty Halloran submitted ten sets of a definitive plan, a hydrologic report, a subdivision booklet and forms and payment for the Gateway Plan. A date of October 18th for a public hearing will be scheduled. A technical review will be scheduled for September 20, 1995 at 8:30pm.

MOTION: W.BURNHAM MOVED THAT THE APPLICATION FEE FOR GATEWAY SUBDIVISION OF PMC REALTY TRUST BE SET AS \$150.00 (DOLLARS) PER LOT REPLACING THE \$100.00 PER 150 FT., AS A RESULT OF THE PRELIMINARY PLAN NEGOTIATIONS AND CONFIGURATIONS AGREED TO BY PMC AND THIS BOARD. SECONDED BY S.PENNOYER. ALL IN FAVOR WERE J.GINN, W.BURNHAM, S.PENNOYER, G.STAVROS, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

PUBLIC HEARING - Opened at 8:05PM. Sherman D. Jones/Mark Glovsky for one lot subdivision of Apple Street property. There are two applicants, Eloise W. Hodges and Sherman D. Jones. Because of an advertising error the board will re-advertise the Public Hearing. A date of October 4, 1995 at 8:00pm will be schedule.

MOTION: W.BURNHAM MOVED TO RESCHEDULE THE PUBLIC HEARING OF THE DEFINITIVE PLAN OF SHERMAN D. JONES AND ELOISE HODGES OF 93 APPLE STREET. SCHEDULING OF THE HEARING WILL BE FOR OCTOBER 4, 1995. SECONDED BY S.PENNOYER. ALL WERE IN FAVOR OF THE MOTION. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

APPROVAL NOT REQUIRED - Form "A", and the question of fees, and the authority of the planning board to impose fees to the town. The board will send a memo to the town counsel asking specifically the question of how an ANR fee should be implemented.

BY-LAWS - Discussion led the board to set a date for 9:15pm on September 20th to spell out changes that the board should examine. Board members will compile their outline of items.

8:45PM - JOINT MEETING WITH THE BOARD OF SELECTMEN FOR APPOINTMENT OF PLANNING BOARD MEMBER

Meeting was held in the gymnasium and present members of the Selectboard were: David Folsom, Rolf Madsen, Ed Neal.

The single applicant who had written to both boards was Mr. David B. Jones of 28 Apple Street. However, the applicant was not present for this meeting. The board members gave their opinions on whether or not Mr. Jones should be appointed as an interview could not take place:

Madsen: Felt this was problematic, since the applicant was not present.

Burnham: Would rather see a seventh member, rather than operate with only six until elections.

Pennoyer: Extend the application time: Have applicants come forth for interviews.

P.Dunn: Give Mr. Jones a chance to be interviewed. Maybe he felt that he did not have to come forth, as he had given his application in writing.

J.Ginn: Postpone the appointment until next meeting

G.Guerin: Agreed with J.Ginn, only one applicant meant that a position on the board is a "hard sell" at this point

G.Stavros: Agreed with above, but the position had been advertised.

Ed Neal: If Planning Board wants to wait and try again, he would be willing to postpone appointment also.

D.Folsom: Deferred to Planning Board - Appropriate to wait.

A September 18th meeting with the Planning Board was set for appointing a planning board member.

MOTION: S.PENNOYER MOVED TO EXTEND THE REVIEW PERIOD TO APPOINT A PLANNING BOARD MEMBER TO POSSIBLY THE SELECTMEN'S MEETING ON SEPTEMBER 18, 1995, A TIME TO BE DETERMINED. ALL IN FAVOR WERE, J.GINN, S.PENNOYER, W.BURNHAM, G.STAVROS, G.GUERIN, P.DUNN. THE MOTION CARRIED.

NOTE: 8:45 - D.Coffin - NO SHOW

9:00 - Daniel Munroe - NO SHOW

MOTION: S.PENNOYER MOVED TO CLOSE THE PLANNING BOARD MEETING AT 9:10PM. SECONDED BY W.BURNHAM. ALL MEMBERS WERE IN FAVOR. THE MOTION CARRIED.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, AUGUST 16, 1995

- 7:00pm Read and approve minutes of July 19, 1995
- 7:15pm Dick Carter/Building Inspector
- 7:30pm Evelyn Perkins - Request for signature / Chapter 91
- 7:45pm Mark Glovsky/Sherman D. Jones - Submission of Plan of land off Apple Street
- 8:00pm Tom Griffith - Addition to home on County Road
- 8:30pm James N. Lewiecki - Removal and reconstruction of stone wall on Belcher Street
- 8:45pm David Erwin - Request for permit to build home off Spring Street
- 9:00pm Executive Session - Discussion of resolution: Turtleback Loop and Lowland Farms

NOTE: September 6, 1995 - Meeting with Selectmen for appointment of a new Planning Board Member.

Meetings after August will be held at the Essex Elementary School

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, AUGUST 16, 1995

ATTENDEES: Pat Dunn, Joe Ginn, Gil Guerin, Sheldon Pennoyer, George Stavros

Meeting begins 7:05 pm at Scout House on Pickering Street.

First order of business was a motion to approve the July 19, 1995 minutes.

MOTION: JOE GINN MOVED TO ACCEPT THE MINUTES OF JULY 19, 1995 WITH THE CORRECTIONS AS NOTED. SECONDED BY GEORGE STAVROS. ALL IN FAVOR WERE, J. GINN, G. GUERIN, G. STAVROS, PAT DUNN.

DICK CARTER/BUILDING INSPECTOR:

Ray and Marion Cahoon, 12 Lakeview Road, Essex, a new single dwelling off Western Avenue, on 7a Patriots Landing, Lot 7a, 51,301 sq.ft., 86' x 60' and 32' in height. DEP# 21-265, includes a letter of conditions. Approval by the Board of Health, Conservation Commission, D.P.W., as well as Wetlands.

Note: Joe Ginn wanted it noted that he is not involved in this project as yet, but he did do the original roadway.

MOTION: G. STAVROS MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT TO RAY AND MARION CAHOON, 7A PATRIOTS LANE AS SHOWN ON LOT 7A, SIZE OF LOT BEING 51,301 SQ.FT., SINGLE FAMILY DWELLING, NOTING THAT THE BUILDING PERMIT HAS ALREADY RECEIVED APPROVAL FROM THE NECESSARY BOARDS. DEP# 21-265. SECONDED BY J. GINN. IN FAVOR WERE J. GINN, G. STAVROS, G. GUERIN, AND P. DUNN. THE MOTION CARRIED.

William Fraga, corner Lot off Belcher Street, Map 13, portion of Lot 19, total square footage of 67,593 ft. Address is five Belcher Street, a new single family home, 28'x56' and 18' in hgt. Approval by Board of Health, DPW.

Note: Joe Ginn wanted it noted that he is not presently involved with this project.

(S. Pennoyer is present for the following motion and remainder of meeting.)

MOTION: G. STAVROS MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT CONTINGENT ON THE CONSERVATION COMMISSION APPROVAL FOR WILLIAM FRAGA AND KELLY PATRICIAN OF BELCHER STREET, MAP 13, LOT 5 AND PARCEL A, LOT SIZE 67,593 SQ.FT. SECONDED BY S. PENNOYER. IN FAVOR WERE J. GINN, G. STAVROS, S. PENNOYER, AND G. GUERIN. P. DUNN VOTED PRESENT AND THE MOTION CARRIED.

Dick Carter brought up a question of whether or not the Flood Plain District as been recently changed in the by-laws. To the best ability of the board, they did not feel that there had been current changes to affect any kind of updating in the files.

Pigeon Cove Awnings: Dick Carter made note of the ongoing complaints given to Pat Dunn about the home business. It appears that there has been a tremendous amount of traffic on Dodge Street because of the growth of the business.

EVELYN PERKINS/CHAPTER 91 - 52 Lufkin Point Rd, Essex. After reading the application, a motion was made.

MOTION: J. GINN MOVED THAT THE CHAIRPERSON OF THE PLANNING BOARD SIGN AND APPROVE THE CHAPTER 91 FORM OF EVELYN PERKINS, 11 ASH ST. DANVERS, MA, FOR THE EXISTING PIER AND FLOAT AT 52 REAR LUFKIN POINT ROAD IN ESSEX. SECONDED BY S.PENNOYER. IN FAVOR WERE S. PENNOYER, G.STAVROS, J.GINN, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

MARK GLOVSKY/SHERMAN "DAVID" JONES: Filing plans for a one lot subdivision on Apple Street - entitled "Definitive Subdivision of Land off Apple St., Essex, Ma", dated July 26, 1995, located on the Northeasterly side of Apple Street. Approx. acreage of 4.4, Book No. 12778, Page No. 127. Note: Eloise W. Hodges, Apples Street, Essex, MA 01929, as owner of portions of "Cartway to Clay Point", as shown on the Plan. A public hearing will be held on September 6, 1995 at 8:00pm. Mark Glovsky presented the appropriate material pertaining to the requirements of the definitive plan. (Subdivision did not have sufficient frontage on Apple Street.)

MOTION: J.GINN MOVED TO ACCEPT THE SUBDIVISION DEFINITIVE PLAN OF APPLE STREET REALTY TRUST ON AUGUST 16, 1995, FOR A PUBLIC HEARING TO BE HELD ON SEPTEMBER 6, 1995 AT 8:00PM. SECONDED BY S.PENNOYER. IN FAVOR WERE J.GINN, G.GUERIN, G.STAVROS, S.PENNOYER. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

THOMAS GRIFFITH/APPLICATION FOR ADDITION: 43 County Rd., Essex. To remove existing porch and extend living room through and beyond this space, add bathroom in end of living room and enlarge bedroom above with bath.

The board could not distinguish where the building was, in conjunction with the plot plan, which was not submitted this evening. S.Pennoyer explained that the board could not determine whether the building was conforming, or where the set backs were. The board did not feel that they could accept the application, as there was no plot plan. Mr. Griffith was given an opportunity to resubmit the application later this evening, but he did not return and would have to return at a later date with the plot plan.

At 8:05PM, the board discussed the applicants interested for the vacant seat on the board. The board of selectmen would be contacted for a joint meeting to decide upon an applicant.

Discussions about working on by-laws and any ideas, changes, etc. was a focus for Pat Dunn. She suggested that a date be set at the last meeting in September to begin this project. A date sometime in October was tentatively agreed upon.

8:30PM PUBLIC HEARING OPEN: Public Hearing Notice Read by Clerk

James Lewiecki/Margaret M. Nelson of 35 Belcher Street, Essex. for the removal and reconstruction of a stone wall on a scenic way.

(Note: There was no opposition by the public during this discussion.)

MOTION: J.GINN MOVED TO CLOSE THE PUBLIC HEARING. SECONDED BY S.PENNOYER. IN FAVOR WERE J.GINN, S.PENNOYER, G.STAVROS, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

MOTION: S.PENNOYER MOVED TO APPROVE THE APPLICATION TO REMOVE AND RECREATE A STONE WALL ON BELCHER STREET, SUBMITTED BY JAMES LEWIECKI AND MARGARET NELSON, AS IT HAS GONE THROUGH THE PUBLIC HEARING AS A SCENIC WAY OF CHAPTER 40, SECTION 15C. SECONDED BY J.GINN. IN FAVOR WERE S.PENNOYER, J.GINN, G.GUERIN, G.STAVROS, AND PAT DUNN VOTED PRESENT. THE MOTION CARRIED.

DAVID ERWIN/BUILDING PERMIT APPLICATION OF SPRING STREET, LOT 23:

Brian Cassidy, the Town's Counsel was present for the discussion of this particular case, as the board felt it necessary to be apprised of the legal issues relating to an appeal by residents abutting the property. He explained that even though there is an appeal pending, the board could go ahead and issue a building application for this lot. The burden would fall on the owner/owners of the property as to the outcome of the appeal.

Attorney Mark Glovsky interjected and brought forth a confirmation by engineer Clayton Morin, which stated that the way meets the "Standards of Adequacy" in accordance with the requirements of Section 3.052b of the Subdivision Rules and Regulations of the Town of Essex. Bruce Julian of the DFW was present during the testing and confirmed this in writing to the board.

J.Ginn noted that the planning board did notify town counsel regarding his opinion of a "way". Mr. Cassidy felt that given the information that he had, he reiterated that this Lot met the requirements for a Form A. The appeal listed that basically the issue was that the information regarded as being received by the planning board was fully disclosed to them, they would be forced to refuse the plan. Then the Board exceeded its authority by endorsing the plan approval under subdivision control law required, etc.

Abutters Charles Bachini of 32 Spring Street and Anthony Taliadoros of

35 John Wise Avenue raised questions as to which plan was being approved, which was the original ANR plan. Comments from Mr. Bachini included his belief that the property should have been considered a "subdivision roadway". P.Dunn explained that the appeal was not an issue. The building permit was the only action being taken by the board this evening.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING PERMIT FOR DAVID ERWIN OF TWO MANOR DRIVE, WILMINGTON, MA 01881 FOR A HOUSE LOCATED ON SPRING STREET, LOT 23 AS SHOWN ON PLAN BY MORIN ENGINEERING DATED MAY 17, 1995 SEEING THAT THE BUILDING AND SEPTIC SYSTEM MEETS ALL OF THE REQUIREMENTS OF THE ESSEX BY-LAWS. SECONDED BY J.GINN. ALL IN FAVOR WERE J.GINN, S. PENNOYER, G.GUERIN, G.STAVROS. PAT DUNN VOTED PRESENT. THE MOTION CARRIED.

9:00PM EXECUTIVE SESSION - At approximately 9:05pm the board moved by unanimous role call vote, along with Rolf Madsen of the Selectmen's board, to discuss the strategy of litigation of Peter Vanwyck. Mr. Brian Cassidy, the town counsel, was present as well.

At 10:05PM a unanimous role call vote was taken to end Executive Session noting that the strategy of litigation of Peter Vanwyck was completed by the board, Rolf Madsen and Atty. Brian Cassidy.

PUBLIC SESSION BEGAN IMMEDIATELY FOLLOWING.

The board agreed to proceed with negotiations with Peter Vanwyck to settle the case against the town. There were conditions that the board wished to have drawn on the settlement. These included an agreement of negotiations subject to a final agreement of judgement. Talk included a requirement of a bond and a binder, excluding any references to the DPW, the paving of the road, ten acres of conservation property, a two lot approval subject to terms included above, and the approval of eight lots. Town Counsel would draft the proposal and notify the boards when the proposed draft of negotiations was complete and ready to approve.

MOTION: J.GINN MOVED THAT TOWN COUNSEL SHOULD PROCEED WITH NEGOTIATIONS WITH PETER VANWYCK TO SETTLE THE CASE AGAINST THE TOWN AS IT HAS BEEN PRESENTED TO THE PLANNING BOARD DATED AUGUST 16, 1995. ALL INFORMATION SEEMS TO MEET THE ROLE AND DIRECTION OF THE EXISTING BOARD MEMBERS. G.STAVROS SECONDED. ALL IN FAVOR WERE J.GINN, S.PENNOYER, G.STAVROS, G.GUERIN, AND PAT DUNN. THE MOTION CARRIED.

MOTION: S.PENNOYER MOVED TO CLOSE THE MEETING. SECONDED BY G.STAVROS. ALL WERE IN FAVOR. THE MOTION CARRIED.

Meeting adjourned at 10:20PM

PRESENTED BY:

Pat Dunn

ATTESTED TO:



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JULY 19, 1995

***** MEETING LOCATED AT THE SCOUT HOUSE *****

- 7:00PM Motion to accept resignation of H.Altholtz
- 7:05PM Approve minutes of 6/5, 6/21, 7/5
- 7:15PM Dick Carter/Building Inspector
- 7:30PM Filias Realty Trust
- 7:45PM White Mountain Realty Trust - Re: Byrnes Bros. Property
- 8:00PM Gateway Subdivision - Preliminary Plan
- 8:30PM Tom Griffith - County Road - Addition
- 8:45PM Jim Luwicki - Driveway on Belcher Street
- 9:00PM Gerome Crepeau - Chapter 91 Application
- 9:15PM Pat Erwin - Permit for new ~~dw~~lling on Spring Street

ESSEX PLANNING BOARD

JOINT MEETING WITH BOARD OF SELECTMEN

WEDNESDAY, JULY 5, 1995

ATTENDEES: P.DUNN, G.STAVROS, J.GINN, S.PENNOYER

Attendees of Selectboard: D.Folsom, R.Madsen, E.Neal

Meeting called to order at 7:10PM.

VANWYCK CASE: An offer was made two months ago to the planning board and board of selectmen which proposed a solution in resolving Mr. Vanwyck's legal situation with the Town. The two boards discussed the advantages of settling the case with Mr. VanWyck and decided to have a member of both boards meet and discuss proposals. Mr. Rolf Madsen would represent the selectboard. Joe Ginn suggested that Sheldon Pennoyer be the member to meet with Mr. Madsen, since he had past experience with this particular case, and would be able to approach the negotiating party with a clear sense of direction. Mr. Ginn also stated that in the event Mr. Pennoyer was unable to fulfill this obligation, he (Mr. Ginn) would be willing to collaborate with Mr. Madsen.

MOTION: JOE GINN MOVED TO APPOINT SHELDON PENNOYER IN THE DISCUSSIONS WITH THE SELECTBOARD. SECONDED BY GEORGE STAVROS. ALL WERE IN FAVOR. THE MOTION CARRIED.

INTERVIEWS WITH APPLICANTS FOR THE PLANNING BOARD

The following is the interested candidates for the planning board seat. The candidates were to respond in writing to the selectboard, their interest. The interview of interested parties would then be held this evening, having both boards asking questions and commenting on each of the candidates.

GIL GUERIN, JR.: Mr. Guerin's letter of request was read. Pat Dunn was concerned that Mr. Guerin be able to attend the first and third Wednesday evenings for meetings. Mr. Guerin replied that he had already adjusted his work schedule. He explained his involvement with

construction, plans, and plot plans. He stated that he has an open mind and is against major changes as he appreciates what Essex has to offer.

Mr. Pennoyer raised the issue of experience, because of the timing and the start up time for a new member. Mr. Guerin reiterated his experience with construction, although he admitted to not knowing the subdivision laws and guidelines, he felt that he could bring quality to the table.

Mr. ~~MADSEN~~ asked Mr. Guerin of his opinions relating to the planning boards' previous experiences. Mr. Guerin thought his opinions were based on "hearsay" or the newspapers, and did not want to appear "ignorant" of the issues. Mr. ~~MADSEN~~ indicated that he wanted to know the opinions that Mr. Guerin had. Mr. Guerin felt that the zoning laws needed to be looked into. He also felt that the board needed to find harmony, and also realized that not all the residents would be happy with all the decisions.

Mr. Ginn questioned whether Mr. Guerin would be interested in continuing on beyond the several months' of this term. Mr. Guerin felt that he would run in 1996. He felt that he has balance in looking at issues and can arbitrate. He said that he would like to view the board and come May - time would tell - would probably run.

MIKE CATALDO: Mr. Cataldo's letter was read by Rolf Madsen before the boards. He was asked whether he had the time or desire to pursue the position- He stated that he could bring five years of planning board experience, a positive image and knows the by-laws. Mike has been a resident for seventeen years and has been a past board member. He is a member of the open space committee.

P.Dunn asked if Mr. Cataldo would be available for the first and third Wednesdays for the meetings. Mr. Cataldo related that he was committed to the position and had adjusted his schedule accordingly. He also stated that he was willing to help the board for the duration but was not considering the position in the Spring of '96.

Mr. Ginn asked Mr. Cataldo about the "burn out factor". He (Mike) understood the comment and did not feel this to be an issue. He commented on his experience, his ability to listen to others and respect their opinions. He felt as though he was able to work with others despite differences of opinions.

JOE KNOWLES: His letter was read before the boards. Mr. Knowles was not able to attend due to previous plans already made.

ANNMARIE LATON: Her letter was read before the boards. Ms.Laton was not able to attend due to illness.

S.Pennoyer discussed the importance of attendance. The two candidates not present had two differences. One has experience and the other does not. He felt strongly that previous experience was important for the short term.

G.Stavros agreed with Mr. Pennoyer about the two candidates, Mr. Knowles and Ms. Laton. He has spoken to Mr. Guerin, and believes Mr. Guerin to be very serious about the appointment and the commitment.

P.Dunn agreed with the fact that Rolf stated which was the value of two past members, Mr. Cataldo and Mr. Knowles stepping in to help. She also stated that this was an extremely hard decision to make, noting that the two other candidates (Mr.Guerin and Ms.Laton) were valuable assets. She felt that it was very important that the board get along with each other.

Ed Neal stepped in and agreed. He felt that it was necessary to help in any way that he could with differences or questions relating to zoning issues and subdivision laws. He wanted to make town counsel available to the board when issues arose. He invited the board to Monday evening meetings when necessary. This issue would be discussed further at a later date. Mr. Neal was interested in appointing a member that would be able to commit themselves to the future of the planning board, as in a long term commitment. This would possibly smooth things out for the board.

S. Pennoyer believed in the value of the Towns' majority. He wanted to see all of this come together and felt that diversity was important.

MOTION: GEORGE STAVROS MADE A MOTION TO APPOINT GIL GUERIN, JR. OF 32 BELCHER STREET, ESSEX, TO FILL THE POSITION OF MS. KIMBERLY JERMAIN. VOTING YES WERE, G. STAVROS, D. FOLSOM, ED NEAL, P.DUNN, J. GINN. VOTING NO WERE, S. PENNOYER, R. MADSEN. GIL GUERIN HAVING THE MAJORITY OF THE VOTE, THE MOTION CARRIED.

After the roll call and appointment of Mr. Gil Guerin, Jr., the planning board ajourned for the evening at 8:30PM.

PRESENTED BY: LISA RANDALL

ATTESTED TO: *Amy J. St*



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JUNE *at*, 1995

***** MEETING LOCATED AT THE SCOUT HOUSE *****

- 7:00PM Read and approve minutes of June 7, 1995
- 7:15PM Dick Carter/Building Inspector
- 7:30PM Bill Holton and Town Counsel
Re: Questions concerning variance applications/Board of Appeals
- 8:00PM Gateway Subdivision: Preliminary Plan
- 8:30PM Discussion: Names of nominees to fill K.Jermain's position
Nominees by the board to be brought to Selectmen's Meeting

ESSEX PLANNING BOARD MINUTES
WEDNESDAY JUNE 21, 1995

ATTENDEES: W.BURNHAM, H. ALTHOLTZ, G.STAVROS, J.GINN, S.PENNOYER, AND PAT DUNN.

Meeting called to order at 7:07pm at the Scout House on Pickering St.

Minutes of June 7, 1995 were not approved at this time and will be amended and discussed at the next meeting which is scheduled for July 19, 1995.

DICK CARTER/BUILDING INSPECTOR: April 4, 1995, approval was given for foundation of 28ft x 40ft on corner of Essex Park Road. NSV Ltd. Partnership, Ipswich, MA, 116 Western Avenue, single family, three bedroom home in accordance with the plans. The first permit was signed off by the Conservation Comm., the Board of Health, 32,392 sq.ft. Ht. 30', septic system is in.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING PERMIT FOR NSV LTD. PARTNERSHIP OF IPSWICH, MA FOR A SINGLE FAMILY HOUSE LOCATED AT 116 WESTERN AVE, AND AS SHOWN ON THE DRAWINGS DATED NOV.15, 1994 AND AS REFLECTED ON THE FOUNDATION PLAN DATED JUNE 16, 1995. SEEING THAT IT MEETS ALL SETBACK REQUIREMENTS AND HEIGHT REQUIREMENTS. SECONDED BY JOE GINN, ALL IN FAVOR WERE S.PENNOYER, JOE GINN, W.BURNHAM, G.STAVROS, H.ALTHOLTZ. PAT DUNN VOTED PRESENT; THE MOTION CARRIED.

TIM CAIN, 26 Pond Street, location of property for approval is Off Pond Street, to construct a wooden frame single family residence on a concrete foundation 29.8ft x 58.8ft. Signed off by Board of Health, Conservation Comm., D.P.W.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING PERMIT APPLICATION FOR TIMOTHY L.CAIN OF 26 POND ST., FOR A SINGLE FAMILY STRUCTURE THAT IS 58.8FT X 29.8 AND 28FT HT. ON A BUILDING LOT THAT IS 10.5 ACRES,SEEING THAT HE WILL REMOVE ANY BATHROOM AND KITCHEN FACILITIES ON THE EXISTING COTTAGE WHICH MUST BE DONE BEFORE OCCUPANCY. SEEING THAT THE SITE PLAN MEETS ALL THE ESSEX SETBACK REQUIREMENTS, PRIOR REQUIREMENTS AND BUILDING REQUIREMENTS. SECONDED BY H. ALTHOLTZ, IN FAVOR WERE H.ALTHOLTZ, W.BURNHAM, J.GINN, S.PENNOYER, G.STAVROS. P.DUNN VOTED PRESENT.

THE MOTION CARRIED.

STEVEN HINES, 126 Eastern Avenue, Plot 32, 15,300 sq.ft., full shed dormer and roof opposite the street - replacing the roof and windows in the sunroom, move the rear door to the back of the sunroom, passed by the Board of Health. Adding dormer meets the setbacks on a non-conforming lot (lot size).

MOTION: H. ALTHOLTZ MOVED THAT THE BOARD AUTHORIZE THE BUILDING INSPECTOR ISSUE A PERMIT TO STEVEN HINES, 126 EASTERN AVE., FOR A FULL SHED DORMER AND ROOF OPPOSITE THE STREET, REPLACING THE ROOF AND WINDOWS IN THE SUNROOM, MOVE THE REAR DOOR TO THE BREAKFAST NOOK ~~FRONT WINDOW~~ AREA BY RIGHT OF THE ESSEX ZONING BY-LAWS. THAT A 6-4.2 FINDING IS NOT REQUIRED. SECONDED BY: S. PENNOYER. ALL IN FAVOR WERE: H. ALTHOLTZ, W. BURNHAM, J. GINN, S. PENNOYER, G. STAVROS. P. DUNN VOTED PRESENT. THE MOTION CARRIED.

DAVID AND MARY FERRANT, 158 Eastern Ave., Enclose an existing porch with screen and storm windows, 7ft x 14ft, and construct a 7ft x 14ft open deck. 79.54sq.ft.

MOTION: W. BURNHAM MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT TO ALLOW THE ENCLOSURE OF THE EXISTING DECK, THE ADDITION OF A 7FT X 14FT ADDITIONAL OPEN DECK SPACE TO DAVID AND MEREDITH FERRANT OF 158 EASTERN AVE, ESSEX, FINDING THAT THE CLOSING IN OF THE EXISTING PORCH AND ADDITION NOT TO BE ANY MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING USE IN ITS PRESENT STATE. SECONDED BY J. GINN. IN FAVOR WERE: W. BURNHAM, J. GINN, G. STAVROS. AGAINST WERE H. ALTHOLTZ, S. PENNOYER. P. DUNN VOTED PRESENT. THE MOTION CARRIED.

BILL HOLTON/BOARD OF APPEALS: McCollum and Woodman applicants and the use of 6.4-2 with respect to the proper channels the applicants follow regarding situations like the two aforementioned applicants.

Other cases were discussed by the building inspector, the board of appeals and the planning board trying to establish whether the town counsel could give the parties of interest a clear definition of the 6-4.2. A letter was dictated and specific cases would be included in the letter. Re: 158 Eastern Ave, McCollum, Woodman, and S. Payne case. The July 19th meeting would be the requested time for counsel.

GATEWAY: Marty Halloran reviewed past meetings and discussions concerning land use. A site visit led to a plan done by the engineer, Marty Halloran and Sheldon Pennoyer had drawn a plan also. Sheldon's plan was discussed. Sheldon's intent was to try to preserve some of the existing vegetation on Western Ave. He felt that it was an advantage to go into the road preserving as much vegetation and trees as possible, being aware of the residential properties near the subdivision. Frontage on this plan was an issue because of the regulations recently required. Mr. Coughlin was looking to leave the meeting with the general consensus of what would be acceptable to the board. Working with the land is the goal for all involved, realizing that the subdivision control laws, residents, and the board are of importance in dividing the land. A plan was proposed by Mr. Coughlin that incorporated portions of the inputs of all the plans presented.

Two Roads: Road A and B. Detailed discussions on the roads' shapes, lengths and the entrances, preserving as much as possible of the vegetation. The grade was an issue, sight distances, s-shaping, and the safety guidelines.

Concluding, the proposal was to appease all parties involved, abiding by the subdivision control laws, radius' of the roads, frontage, and all requirements relating to the plan. Input of the roads by all parties was examined: Putting in a steeper hill, a curve, keeping it straight, and the frontage being utilized to the fullest, and an abutter felt that the road be put as far away as possible from their property, wishing to see four lots, rather than six.

The Gateway Subdivision would be put on the July 19th agenda, with Marty Halloran incorporating the ideas and proposals brought forward this evening. The amount of lots has not been decided.

JOHN SARKIS OF JRC ASSOCIATES, INC. P.O. Box 333, Georgetown, MA 01833, ANR, Plan of land at the S.E. Corner of Choate and Belcher Streets - 15+ Acres, Book No.10889, Page No.287. Plan shows four lots, and existing house located on lot 3 of plan. Lot 4 to be sold to Mr. And Mrs. Thomas Ellsworth.

MOTION: W.BURNHAM MOVED TO APPROVE THE SUBDIVISION OF LAND UNDER APPROVAL NOT REQUIRED TO JRC ASSOCIATES, INC. LOCATED ON THE CORNER OF BELCHER STREET AND CHOATE STREET IN ESSEX, FINDING THAT

IT EXCEEDS ALL THE MINIMUM REQUIREMENTS FOR MULTIPLE PROPERTIES AS DEFINED BY THE ZONING BY-LAWS. PLAN DATED JUNE 18, 1995. SECONDED BY: S.PENNOYER. ALL IN FAVOR WERE: H.ALTHOLTZ, W.BURNHAM J.GINN, S.PENNOYER, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

PLANNING BOARD VACANCY: Discussion about possible applicants for the seat. Letters from interested parties should be forwarded to the Selectmen's office. The board understood that this applicant would fill the remainder of the term, until the '96 elections. The two boards would meet and vote by roll call. The issue that was considered to be of importance was experience, as was the energy and desire of the candidate. Time was a factor, also. It is imperative that the applicant have the time and availability to be at all meetings, perhaps also with the design on continuing on through the next election.

Names were given to the chairperson. Everett Burnham, Annmarie Laton, Mike Cataldo, Joe Knowles, Gil Guerin (A written letter was received by the board already). The above persons would be contacted by the board as nominees. They in turn are to write to the Selectboard for the final vote. A date will be determined by the boards to finalize the decision.

MOTION: G.STAVROS MOVED TO AJOURN THE MEETING. SECONDED BY W.BURNHAM. ALL IN FAVOR. THE MOTION CARRIED.

Meeting ajourned at 9:55pm.

PRESENTED BY: Lisa Randall

ATTESTED TO:

A handwritten signature in black ink, appearing to be "Meg J. ST", written over the "ATTESTED TO:" text.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JUNE 7, 1995

- | | |
|--------|--|
| 7:00PM | Read and approve minutes of May 17, 1995
Review Correspondence |
| 7:15PM | Dick Carter/Building Inspector |
| 7:30PM | Bill Blackwood
Walnut Park/Proposed Boat Storage |
| 8:00PM | Mark Glovsky/Stephen Gersch
Conomo Pt. Road/Building on Lot |
| 8:30PM | Gateway/Preliminary Subdivision |
| 9:00PM | Tim and Sue Cain
Preliminary proposal on Lot off
Pond Street |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, JUNE 7, 1995

ATTENDEES: P.DUNN/Chairperson, H. ALTHOLTZ, W. BURNHAM, J. GINN,
K.JERMAIN, S.PENNOYER, G.STAVROS/CLERK

Meeting called to order at 7:00PM.

MOTION: W.BURNHAM MOVED TO APPROVE THE AMENDED MINUTES OF
MAY 17, 1995. SECONDED BY H.ALTHOLTZ, K. JERMAIN AND PAT DUNN
VOTED PRESENT. IN FAVOR WERE W.BURNHAM, J.GINN, G. STAVROS,
H. ALTHOLTZ, THE MOTION CARRIED.

At this time, Kimberly Jermain stated that she had made a decision to
resign from the Planning Board, effective immediately. She forwarded a
letter of resignation to the Chairperson who then read the letter to the
board.

H.Altholtz was disappointed with this decision and made several
derogatory remarks about the competency of the board, stating that Ms.
Jermain was forced to resign because of the behavior and actions of the
board.

H.Altholtz: Kim has been thinking about resigning for over a year and I
have tried to talk her out of it..... I have no respect for Pat as a
chairman or as a person This resignation should be a "wake-up"
call for the boardKim did the best she could I am disgusted
with the board

As he continued on, P.Dunn responded several times for Mr. Altholtz to
stop. She stated that she would close the meeting. He stated that she
had no authority to stop him from speaking.

The board was disturbed about these remarks and was particularly upset
with remarks made by Mr. Altholtz about the chairperson's abilities.
During the outburst and H. Altholtz' verbal altercations, P. Dunn tried
continuously to control the meeting as best as possible, demanding that
Mr. Altholtz cease his continued speech, which he did not. Heated
verbal comments ensued and the rest of the board members present were

mostly silent and made only one or two comments concerning H. Altholtz' behavior toward the Chairperson.

After that, the Board reflected on past history and communications with each other. The result was that the discussion would continue later with the intention of resolving problems of communication and to better the working relationship of the board.

During this event, several town residents observed the discussion but no comments were made by any of the residents.

P.Dunn then stated that Ms. Jermain would be missed as she was a valued board member with much to give and had in the past been an asset to the board. Ms. Jermain then excused herself from the meeting.

After discussion of the resignation and the ramifications relating to a replacement, it was decided that a letter would go to the Selectmen with a copy of the resignation letter. The board would also investigate their responsibilities relating to replacement.

MOTION: W.BURNHAM MOVED TO ACCEPT THE RESIGNATION OF KIMBERLY JERMAIN. SECONDED BY S.PENNOYER. IN FAVOR WERE G.STAVROS, J.GINN. H.ALTHOLTZ WAS AGAINST, P.DUNN VOTED PRESENT. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR:

Thomas M. Weinburg, 156 R. Eastern Avenue, addition to present shop.

MOTION: W. BURNHAM MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO APPROVE THE APPLICATION OF BUILDING PERMIT OF THOMAS M. WEINBURG OF 156 REAR EASTERN AVENUE FOR THE ADDITION TO PRESENT SHOP OF SINGLE STORY BUILDING, ADDING THAT THERE WILL BE NO CHANGE IN USE. LOCATED ON LOT 40, MAP 15, LOT SIZE BEING 2.04 ACRES, THE BUILDING IS TO BE 28FT. X 38FT. SECONDED BY S. PENNOYER, IN FAVOR WERE H. ALTHOLTZ, J. GINN, G. STAVROS, P.DUNN VOTED PRESENT; THE MOTION CARRIED.

David H. Oliver and Mark E. Nelson, 72 Martin Street, adding one bay to right side of existing garage. Noting also that the abutters of 72 Martin Street have seen the plans for the enlargement of the Garage at

the address and have no objections to them. Four signatures are listed and attached to the building permit application.

MOTION: H. ALTHOLTZ MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO APPROVE THE APPLICATION OF BUILDING PERMIT TO DAVID H. OLIVER AND MARK E. NELSON OF 72 MARTIN STREET, FOR CONSTRUCTION OF ADDITION OF ONE BAY TO RIGHT SIDE OF EXISTING GARAGE AS SHOWN ON BUILDING PERMIT NO.59. APPROXIMATE SIZE TO BE 20FT. X 12FT. THE BOARD FINDS THAT AS A WHOLE THE ADDITION OF ONE BAY TO THE RIGHT SIDE OF THE EXISTING GARAGE WILL NOT BE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING USE UNDER 6-4.2. SECONDED BY J.GINN, IN FAVOR WERE W.BURNHAM, S.PENNOYER, G. STAVROS, P.DUNN VOTED PRESENT, THE MOTION CARRIED.

Andrew and Juanita Corrao, 54 Eastern Aveue, for building a deck on the back corner and side of house. Noting also that the abutters Harold and Kimberly Allen have given permission to build the deck to the property line. See building permit application file.

MOTION: W. BURNHAM MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT TO ANDREW AND JUANITA CORRAO, 54 EASTERN AVENUE, ESSEX, FOR THE CONSTRUCTION OF A DECK AS SHOWN ON BUILDING PERMIT PRESENTED TO US THIS EVENING. APPROXIMATE SIZE THAT IS 18FT X 20FT NOTING THAT IT WILL FURTHER ENCROACH ON THE PROPERTY LINE IN THE EXISTING HOUSE. THE BOARD FINDS THAT AS A WHOLE THE ADDITION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING USE UNDER 6-4.2. SECONDED BY S.PENNOYER, IN FAVOR WERE H. ALTHOLTZ, J. GINN, G. STAVROS. P.DUNN VOTED PRESENT; THE MOTION CARRIED.

BILL BLACKWOOD/WALNUT PARK: Respectfully requested a postponement for an indiscriminate amount of time upon seeking legal advice. P.Dunn noted that when Mr. Blackwood wanted to come in to the board that he make an appointment with the board and not come in under the building inspector, since there were concerns from the public regarding this matter.

H.Altholtz: Lot line switch, regarding property at Woodman's. In the newspaper, there were two appeals for variance. Several dwellings were on one lot and they wanted to carve it into two lots. They came in on a variance for the lot line set back.

W. Burnham: I believe that we had told them that it was feasible but we needed the appeal because of the sideline clearance and we couldn't give them the authorization.

H. Altholtz: They're splitting the lot into two lots and that's effectively an ANR.

W. Burnham: If they did in fact go and get the appeal, the twenty day period with no appeals, then I expect to see them in front of us for a signature.

There was a discussion and disagreement between H. Altholtz and W. Burnham and P. Dunn on variances from the appeals. The planning board cannot create the non-conforming lot. The appeals board could grant relief from any of the requirements in our town by-laws.

H. Altholtz: I thought that if you have a lot that doesn't meet the requirements and you want some relief because you want to build there, the board of appeals can do that for you. But if you have a lot that does meet the requirements, they can't break it in two and give you two lots that don't meet the requirements. I don't think that they can create new non conforming lots. They can help you utilize the ones you have.

W. Burnham: If the lot has been granted relief from the requirements that they don't meet by our appeals board, they have a variance on it, then I think we're obligated to sign them off.

S. Pennoyer: I agree with Westley, unless we were directed by town counsel otherwise....

H. Altholtz: Re: Resignation of Kimberly Collins Jermain. "I think it's a very, very serious thing for someone to resign from the board. And I know why Kim's resigning because she's been trying to resign for over a year now. And I've been talking her out of it consistently. And I think it's so serious that I'm going to say some very strong things and I just have to say it. I heard again that she was going to resign, I thought that I had two choices one was to call her up and try to talk her out of it again. And what I think we have to do to make ourselves better, and I think that her resignation should be some kind of "wake-up" call, and I really think that she's not resigning, she's really being forced out because based on what goes on here that really if you

have some sensitivities and integrity, you cannot just sit here and watch the kind of stuff that goes on here meeting after meeting without either losing your dignity or becoming part of the problem. And I really believe the problem, and this is strong, this is serious, is she's resigning because of this, she's a good friend of mine and I think it's disingenuous for anyone to sit here and say they'll miss her, because she was not friendly terms with people on this board and I know her quite well. The problem that drove her from the board, I believe, is ignoring of the law, disrespect for the process, each other, the way we treat each other, it's rude, its disrespect for the public, its exemplified by our attempts to consolidate, shorten the minutes so no one knows how decisions were made, or rude attempts to prevent the public from speaking, the cutting off communications with the secretary, it's a very bad situation and I've never seen it this way and I have experience with a lot of town planning boards. I was going to thank Kim for all her efforts, because they were all leaning, I believe in increasing the respect for the law, the process, the public, for each other. And try to force us to pay attention to things like ethics and enforcement. Because even our enforcement for instance, is not out of our jurisdiction, something we should be very interested in because we're here to administer the zoning by-laws, that of course, as you know. She took a lot of insults and attacks for her position. Everything ranging from what was beginning to happen was that any time someone voted 'present', they were pulling a 'Kim', to what was a well orchestrated obviously coordinated attack on her very rightful position of writing a letter to the board of appeals complaining about members showing up and speaking and being asked not to. She was attacked then. She was attacked when exercising her first amendment right to talk to the press. Even tonight there's probably some kind of bad joke going that Pat has some 'bee in her bonnet' about someone going over her head about something. And I'm sure other people are going to inform me about that. There's a lot of stuff that goes on around here and its pretty disgusting by some people. There's been lots of trouble in the last few years on this board, since Kim's been on, since I've been on. And I really believe that every bit of it is the result of unreasonable reaction of some of the members of this board trying to make a change for the good of the process. The reaction to our efforts to improve the process has been nasty. Its' an almost perfect backwards logic that goes through the people of the board who try to improve the process and follow the law. They actually end up having to defend themselves for pointing out the problems that exist, for following up on the proper decision. As was characterized of me, who goes on, on, and on,

'diarrhea of the mouth' and what ever nasty insult you want to say. I'm happy Kim went on about the stuff she had to say. I'm happy I go on and on, on, and on, because at that meeting I went on and on I stopped the vote to indefinitely postpone four of the by-laws of which none of them passed. So its not fun, sometimes you have some results because you.. She took a lot of abuse. I know how she feels - I've had some. My skin is thick. She couldn't take it. I thank her for disrupting the incompetence. It just amazes me that she even stuck it out this long.

P.Dunn: I think Kim Jermain resigned for her own reasons. Now this board is a seven member board, we have to go with the majority of the board. I was sincere in telling Kim Jermain that she did have a lot to offer this board. But I think that's within Kim. I don't think we want to sit here and discuss Kim's reasons for resigning. Kim gave it a lot of thought, she put her resignation in front of us. I've often thought I wanted to resign. I think that this is a difficult board. But basically I bounce back. I wanted to be here. Not to do everything wrong, but to see that things were done right. And I think that this board has done a damn good job. I'm not going to knock this board. I think that every member that I've worked with for the past nine years has done one damn good job. Kim Jermain - it was her own choice to resign and I cannot agree that this board would force her off. If she is that delicate, then she don't belong on the planning board, and I'm sorry and I don't mean it to be rude to her, but if she can't take it, then she shouldn't be here. And I include myself the same way. I did appreciate her being here and her thoughts, but I also think she should have made more of an effort to get along with the rest of the board and to work with them. I asked her to be clerk, she spent a long time down at the town hall, but she wouldn't be clerk. She would not work with me. It isn't only that I would not work with her. So that's it. I meant it sincerely. I do not agree that Kim was treated badly by this board.

S.Pennoyer: I have to go along with the idea that we don't get so personal as to talk about whether somebody's been forced off or not. I don't believe that's the issue. We have six minutes here to discuss what move here the board should make. I think what's appropriate here is that the board make a recommendation to the board of selectmen of a candidate that could be appointed. I think for until our next election, or through the term. I think in quickly thinking about this, I would suggest that we possibly write the selectmen a letter suggesting that

they appoint the individual in town who ran with George. That could be a choice. Let them take it from there.

W.Burnham: CC a copy of Jermain's resignation. The town counsel may have some ideas on how they (selectmen) want to proceed. As far as us recommending a replacement, I'd like to take a look at how the process goes before we start recommending people. I know we went through this before, because there was an individual that resigned before I ran and I was second runner up and I was not appointed.

J.Ginn: I am going to say something, and I want you to know Howie that I'm not pointing fingers. I think it's wrong and rude for you to be talking someone out of resigning and I think it's rude and wrong for the person to resign and do it a month or so after the elections. If she had been wanting to get off of this board so badly for the last year, I think she should have had the common courtesy. And you as well, thinking along these lines, of the replacement, of someone running for that position. If she wanted to resign, why wouldn't she have resigned before the voting.

Altholtz: I'm not going to speak for Kim.

J.Ginn: Well, you were earlier.

G.Stavros: Sitting here, with everyone arguing, I think its paramount that that stop. Where I work, we have a chain of command and we have respect. What my boss does, and if I don't like it, that's too bad. I think we need to quiet our voices, slow down, and just take a minute. And I know Howie, for you this was very personal, you lost a friend and I feel bad that Kim left and I did think she had a lot to offer and I wish she had stuck it out. She stood up a lot and it's too bad she folded under pressure. And I think this board needs the in-fighting to stop. Let's not be counter productive.

The board agreed that the Selectmen would be notified by us about the resignation and the board would also review their responsibilities regarding this situation.

MARK GLOVSKY/STEPHEN GERSH, CONOMO POINT:

A building used for housing, conference and dining purposes by the Applicants d/b/a/ Essex Conference Center and Retreat. A building containing two dwelling units, and two detached, accessory "sauna" and "maintenance" buildings. Applicants proposes to modify the existing "non-conforming" use of the subject property by changing the two-family building to a single-family building and by constructing a new, detached, single-family building in the location as shown on the accompanying plan. Basically, the present dwelling would be used only for and office and storage. The kitchen and plumbing would be dismantled. The Gersh's have grown out of the dwelling and wish to have a separate dwelling for themselves, separating them from the Essex Conference Center and the office.

The traffic flow would be the same. No new tenants to the present dwelling would occur. The Gersh's have a petition signed by the abutters who agreed that the plans would not substantially be more detrimental to the neighborhood.

Discussion of plans included W. Burnham's concern of a variance. He was not completely comfortable on what was there and whether our by-laws would allow, and whether or not we are over-stepping them. He wanted to be sure in his own mind that we are not over-stepping our bounds in at least a manner that he was not aware of inadvertently.

S. Pennoyer: I think there should be a mechanism at which point we are convinced that this has been recorded - That it is going to restrict the number of dwellings that are on the property so that at some point we should be notified that this was followed through.

Glovsky: I will bring evidence that this has been recorded at the Registry.

MOTION: H. ALTHOLTZ: I MOVE THAT WE APPROVE THE APPLICATION OF STEPHEN GERSH AND JUDITH ARISMAN OF CONOMO POINT ROAD FOR THE CONSTRUCTION OF A DWELLING ON A NON-CONFORMING PROPERTY. THEY ARE GOING TO CHANGE THE EXISTING TWO FAMILY DWELLING TO A SINGLE FAMILY DWELLING AND OFFICE USE AND CONSTRUCTING A NEW DETACHED SINGLE FAMILY DWELLING IN THE LOCATION SHOWN ON THE PLAN. APPROVAL CONTINGENT ON THE ABANDONMENT OF HALF OF THAT EXISTING DWELLING AFTER OCCUPANCY OF THE NEW HOUSE AND THE RECORDING OF THAT CONDITION AT THE REGISTRY OF DEEDS. UPON THE FINDING THAT THE PROPOSED USE AND PROJECT IS NOT SUBSTANTIALLY

MORE DETRIMENTAL THAN THE EXISTING USE TO THE NEIGHBORHOOD.
SECONDED BY W.BURNHAM. VOTING IN FAVOR WERE G.STAVROS, H.
ALTHOLTZ, S. PENNOYER, J. GINN. AGAINST WAS W. BURNHAM,
VOTING PRESENT WAS P. DUNN. THE MOTION CARRIED.

BILL HOLTON/BOARD OF APPEALS: Two applicants came in, and it appears that they by-passed your board. We voted both cases to allow them their changes that they wanted made. I would like our board and your board to sit down and go over these two, and create some type of mechanism so that this is not repeated. I was under the assumption that they had come to you. One is a lot line change and one is a non-conforming set back, they're adding on to the house.

The board has requested that the town counsel be at the June 21st meeting with the board of appeals to discuss the issues of appeals, variances, etc.

GATEWAY: PRELIMINARY SUBDIVISION

Four sets of modified plans brought to the board by Marty Halloran. After examining the plans, the wetlands concerning the land, some of the lots had changed from the original plan. The road lengths stayed the same. The walking trails were of concern, and also the lay out of the lots and land use.

S.Pennoyer did not find the same amount of lots as he walked the property in the past. He wanted to work with the group to create a subdivision keeping the walking trail and changing the lots, using the land to the best advantage of all. J. Coughlin was accommodating, and was very interested in Pennoyer's opinion, hoping to work together to create a plan that was agreeable to all.

Ann Marie Leighton/Western Avenue: Her concern was the impact of the development and what it would do to the land use. The road was also a concern for her, too. The number of houses on that land. What about septic systems?

Site Visit: A date of Tuesday evening, June 13th at 6:30PM, meeting at Quinn Bros. To all who would be interested in seeing the land, walking the perimeters and to generally familiarize the board with the preliminary plans.

SUE AND TIM CAIN/LOT OFF POND STREET:

A proposed dwelling, off Pond Road, a ten acre parcel with a 20 foot way that goes down toward it. Dimensions proposed to be 60' x 30'. The log cabin would be either torn down or made into a shed. The Cains would like to purchase the land and build a dwelling on it. The way has been in existence as far back as 1949. W. Burnham feels that it is older than that. It was thought to be an existing dwelling on an existing lot on a way that was in existence before the subdivision control laws. In conclusion, the Cains were asking what they had to do in order to get their plans processed.

W. Burnham suggested they complete the appropriate processes relating to their intentions and come back to the board at that time.

NAMES FOR DPW COMMISSIONER: Fred Faucett, Sandy Patrican, Jim Barrett
The board then decided, and made the motion as follows:

for 1989. 9/8/89
- E. Fred Faucett

MOTION: JOE GINN MOVED TO NOMINATE SANDY PATRICAN FOR DPW COMMISSIONER. SECONDED BY G. STAVROS. ALL WERE IN FAVOR, THE MOTION CARRIED.

MOTION: JOE GINN MOVED TO ENTER SUMMER SCHEDULE BEGINNING AFTER THE JUNE 21ST MEETING. SECONDED BY S. PENNOYER. SUMMER SCHEDULE WILL BE: JUNE 21ST, JULY 19TH, AUGUST 16TH, SEPTEMBER 6TH. ALL WERE IN FAVOR, THE MOTION CARRIED.

MOTION: S. PENNOYER MOVED TO ADJORN THE MEETING AT 9:50PM, SECONDED BY W. BURNHAM. ALL WERE IN FAVOR, THE MOTION CARRIED.

PRESENTED BY: LISA RANDALL

ATTESTED TO: *Meg J [Signature]*

Statement re Kim Jermoluk
resignation
by H. AITKIN

This resignation is a very serious moment and I hope it serves as a wake-up call for the board. Kim has been considering resigning for some time now and I have always done my best to talk her out of it, because I felt she had a lot to offer. Recently she has hung in there in the hope that AnnMarie would get elected to provide a little more support. Since that didn't happen, when I heard that Kim was ready to leave I decided that I had too much respect... and sympathy for what she went through, to try and convince her to stay. In my opinion, Kim is not resigning, she has been forced out based on the conduct of this board and what goes on here meeting after meeting. No one with a sense of decency and integrity could put up with these meetings for too long, after a while it will cause you to either lose your dignity or worse... become part of the problem. I know that these are strong words but this is serious stuff. And I think its completely disingenuous for people to sit here and say they will miss her because she was not on friendly terms with the members of this board. The problem is DISRESPECT. Disrespect for the process, for the law, for each other and for the public, as is evidenced by reducing the minutes to meaningless drivel so no one really knows what happened and the attempts to exclude the public from participation and cutting off communication with the board secretary. Thank you Kim for enduring as much as you did, the personal insults, the attacks...whether it is members beginning to refer to voting present as "pulling a Kim", to the well coordinated attack on you for writing a letter to the Board of Appeals correctly complaining about planning board members attending and speaking at appeals hearings, after they were asked not to, and for enduring the attack on your first amendment right to speak to the press. The atmosphere has been personal, rude pretty disgusting by some people. Even tonight the Chair has something planned because she's got some bee in her bonnet about people supposedly going over her head or something, which others probably have advance information about. In the last two years there has been a lot of trouble on this board. EVERY SINGLE BIT of it has been caused by the unreasonable reactions of certain members of the board to very reasonable and honorable attempts by Kim and others to follow and improve the process. And in an almost perfect backwards logic, those pointing out problems, and improper decisions end up having to defend themselves from attack. As I was attacked recently and accused of going on and on and on.... insulted by a board member who called it "Diarrhea of the mouth", and other nasty insults, I'm happy I went on and on.. at that recent meeting because I stopped the board from improperly voting to indefinitely postpone 4 bylaw articles, one of which ended up passing at town meeting. So its not fun but sometimes you have a victory. I know how Kim feels, maybe I just have a thicker skin. Thank you Kim for trying to disrupt the incompetence and disrespect, where letters never get sent, decisions are not properly recorded and laws routinely ignored. You've been treated poorly. You've done an honorable job in an impossible situation.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA FOR MAY 17, 1995

- 7:00PM Read and approve minutes of May 10, 1995
Review Correspondence
 - 7:15PM Dick Carter/Building Inspector
 - 7:30PM Appeals Board: Discussion about protocol
 - 8:00PM ~~Gateway: Preliminary decision~~ *cancelled*
 - 8:30PM Quinn Bros.: Decision of addition of Scot's Way
 - 9:00PM Discussion about definition of the positions of
the Planning Board
- Other Business

ESSEX PLANNING BOARD

WEDNESDAY, MAY 17, 1995

ATTENDEES: P.DUNN/Chairperson, W.BURNHAM, G. STAVROS, S.PENNOYER,
J.GINN, K. JERMAIN, H. ALTHOLTZ

Meeting called to order at 7:00PM.

MOTION: W. BURNHAM MOVED TO APPROVE THE MINUTES OF MAY 10,
1995. SECONDED BY S. PENNOYER, ALL WERE IN FAVOR. THE
MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR: Regarding Choate and Belcher Streets,
Gil Guerin's plans to build a house and a replacement of a trailer that
has been there since 1950's or so. A discussion to whether the proper
permits to replace the trailer are required, and who would issue the
permits. 6-4.2 and 6-5.12 trailer by-laws were interpreted. K. Jermain
disagreed with the assessment of the trailer definition.

Quinn Bros.: Has permit for improving the siding of a metal building.

Nine Harlow Street: Three tenants, paying rent, Has permit re: 6-6.3.

Village Bake Shop: Two people are looking at the property for a barber
shop/gift shop and a bake shop. No baking on premises, a change of the
entrance to access the handicap. The plans are not finalized and an
informal approval from the board was expressed.

School Street/Gaudet Residence: Complaints from neighbors on the
lawnmowers that are displayed on the lawn. Dick Carter has been aware
of this situation.

Bryne Bros.: Dick Carter felt that the building was being sold. K.
Jermain was questioning whether the paving had ever been taken up?
Jermain noted that the board had made a decision to deny the permit and
a letter should have been sent to Mr. Carter to enforce this decision.

Donald Delacey spoke of Harlow Street and he questioned the board on
what the mechanism he can use regarding property on 5 Harlow Street and
tenant situation there, re: permits, enforcement of by-laws. A
complaint should be submitted in writing to the building inspector. A
letter by the building inspector was sent to the owner of the property
and there is a 30 day period in which compliance to the by-law 6.6-3
should be acted upon. Dick stated that it was difficult to get to the
bottom of these problems because of the eviction process, and the
cooperation of the tenants. The planning board suggested that Mr.
DeLacey keep in touch with the building inspector.

BOARD OF APPEALS: Bill Holton and Gloria Story wanted a clarification
of the decision that was made concerning Brookside Apartment addition.

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W. Burnham noted that a decision was made and the information that came to the boards' attention was after the permits were given. H. Altholtz answered that he was against the decision. The project should have required a special permit, which requires a public hearing. It came in through the building inspector. The town counsel gave a verbal opinion that it required a variance. A freeze was put on this and a new opinion came from town counsel saying "In multi-family housing projects, a variance and a finding of non-detrimental standards is required." After three opinions from town counsel implicating a variance, the board voted again to reissue the permit. H. Altholtz disagreed with this decision.

J. Ginn: I don't think we ever rescinded on it. There was a suggestion that Dick put a hold on further building. I don't remember ever asking that the building permit be revoked, rescinded, or anything like that. Then they came back to the board (the applicant).

W. Burnham: I would also like to point out that no one voted against it initially. H. Altholtz: I voted present, saying that it should go to go to the board of appeals. W. Burnham: No one voted against it.

S. Pennoyer: We have to work together as a board here. We opted to leave it as is, and we could argue what each one of our positions are, but it will be left right now that they have a permit. We can't go back and rehash this.

Bill Holton: I was asking what the principle of this thing is, and where you are coming from on this and what if we get an appeal although the time has elapsed on this; it would be a concern.

W. Burnham: I don't think anybody would argue with that point. In retrospect, I do believe that we were wrong. However, at the time we took the initial vote, I believe that we thought that we were right. The board was in favor with no one voting against it, only "present".

In closing, the board thought that a letter should go to the town counsel. The contents of that letter will be given to the secretary.

Joe Ginn: A letter from Paul M. Shea, Jr., Esq. Was read and consisted of definitions of the proposed use of a "weir" system for the collection and release of surface drainage if the proposed subdivision was in fact the creation of a "wetland" and thus not countable for uplands determination. This is in relation to Gateway preliminary subdivision.

CANCELLATION OF GATEWAY PRELIMINARY SUBDIVISION BY PMC REALTY TRUST.

QUINN BROS.: S. Pennoyer felt that bringing the trucks to the back benefits the area and sees it conforming with the by-laws.

K. Jermain: How does it relate to the issue of percentage of paving?

S. Pennoyer: He has met the technical requirements for recharge under the by-laws.

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Jermain: Do you feel that the recharge system is as good as not paving those areas?

S.Pennoyer: Yes, by getting the machines moved, I feel that it is a benefit.

K.Jermain: How long will he put those machines under roof? He could just after building this addition find that he needs that space for something else and then again proceed to park that equipment back where he's been parking it and the space could be utilized for something else. And how would we as a planning board prevent that change?

S.Pennoyer: I would ask that you tell me that how in our existing by-laws you can control that?

Jermain: We have a fifteen percent impervious surface limit in the water protection district. Do you say that any commercial operation can pave 100 percent of the property if they put in a recharge system? Or do you say they can pave seventy five percent of the property if they put in a recharge system, or do you say that they can over-double the limit of fifteen percent if the planning board wishes to do that with a special permit. My feeling is that we have a by-law that is supposed to protect the water shed and that we've put on a fifteen percent limit to do that, to allow the water to recharge naturally. If we go and allow something that's this extensive to be recharged artificially. My big question, and what I've seen over and over again in my experience on this planning board is that we have absolutely no control over how something's maintained or continued. After someone gets a permit of this type we have absolutely no way to be sure that this is going to be done to the standards and specifications that we see here and whether it will be maintained to do what we want it to do. I feel that putting in an artificial installation is only asking for problems and we have a zoning by-law that stipulates fifteen percent, that we have to look long and hard to see if this is going to be a benefit to the town to allow something like this to happen. Before we make a decision of this type, that we look at how this property has developed up to this point. Was he given a permit to pave up to thirty five percent of this property to now?

S. Pennoyer: Yes he was. He came into us just last year with this plan, and none the less, he has the permits. An any one on the board, correct me if I'm wrong...

Jermain: I wasn't here when this came up.

S.Pennoyer: I believe you were. This was last year. Am I wrong?

Jermain: Well, I've never seen it before and I want to understand. Are we then going to set the precedent that we will approve things after the fact in our water protection district. If someone comes in and says that I want to get approval for what I've already done, plus I want to add on. And where do we draw the limits? Can someone pave up to seventy-five percent of the property in this area of town? Are you

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going to say that artificial recharge system is substantially capable of recharging in the same way that natural recharge would occur?

J. Ginn: I would have to say that this is actually a better system as recharging naturally. What happens when you have a watershed now, it goes to a catch basin, it goes to a stream, and its gone. Follow it down any street, the water, when it rains, the water goes to a catch basin, it goes to a pipe and it goes directly back to a stream. What they're doing here, if I understand this correctly with the information that I have seen on these is it's actually going back into the ground. It has a retention area. The water slowly soaks into the ground. If there is a heavy rain and the ground cannot absorb it through all these devices, than it has an allowance for spill over, just as a dam. In my opinion, as far as the recharge to the ground water, and that's what the whole object of the wetlands protection act and the recharge of all this is to add water back to the ground water.

JERMAIN: But you're saying that its better than what exists there now? Not better than natural recharge.

Ginn: Correct. And that was one of the questions that I asked the engineer that other night. Was how much water was actually going to reach the ground. And I think he said seventy percent versus watch when it rains - watch where it goes, and watch how it goes - bang - gone. To the Essex River, to the lake, to the swamp, where ever it goes.

Burnham: Coughlin was not cognizant of this law. He was the first one who got caught up in it. There was no malice or intent to circumvent the law. He came in after the fact. As far as what Joe says about this being a better system, I whole-heartedly agree. And as far as getting the trucks moved from where they're at, this is a much better system. Most likely problem that we're likely to have up there would be an oil spill from one of those trucks. This particular system I like much better. If you do have a problem, you can keep it out of the ground water. I feel that the proposed coverage is more than adequate, I think its well to the benefit of the area, I feel that its well to the water protection resource district the way that this thing is going to be set up. As well as the neighbors over Blueberry Hill side who were concerned about noises. The result is that the trucks are going to be moved further away from. The trucks will be maintained indoors. He doesn't have a long standing habit of that. He has an investment involved with those trucks.

Altholtz: If the recharge system would be constructed and as Coughlin says it will, then it will probably in my view meet the intent of the water protection by-laws. So that's the big if in a way. You're not going to assume any malcontent or malice. But I think the real test of that, and if it will move the trucks from over the wetland area and back up to the side where Sheldon understands it, the question is, is how do we understand that that's going to happen. And I think that the best way to understand that is to look at the last time the applicant came in, what representations he made to the board, and how he's lived up to it. I don't know, I wasn't here. We are saying he has a special permit now to have gone over. He got one. To get one, he represented he had

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constructed some sort of recharge system to meet the needs of the by-law. I'd be interested in how that's worked out and how he's fulfilled his commitment and obligation. If he has done that, then I'd assume that he'd do that again. I would feel comfortable. I really don't know how I would have thought.

Burnham: Mr. Coughlin, Quinn Bros., the original Gateway subdivision, 144 Main Street, the Olde Essex Village project, the land out in back, Post Office, having dealt with him on these different properties over the years, the one thing that I have observed with this individual is that when he says that he's going to do something, and he lays a plan on the table, he has to the best of his ability always complied to what he was going to do, or came back with the reasons why he can't. As far as his integrity on building this thing, he has a reasonable time frame in which to simply construct it. If it is not constructed, we can always withdraw the special permit, as he was in violation of the by-law. In other words, until he does construct it he is not in compliance with the process. To which point we can go out and serve him notice and we can start the fining process. There is an avenue where he decides not to do it.

Pennoyer: I'm not taking up engineering issues. I know the principles of what he is doing as well as anyone. I feel that this thing is meeting the intent of what the by-laws say in the recharge of the water, the parking of the trucks. I would spend some energy in passing this and moving on.

Jermain: I think your planning issues are well taken, and I agree with you on two of them, that they would be an improvement. But I have some real reservations with the way this is being done. I was not on the board when he got the special permit after the fact for this property to cover the paving over the fifteen percent. But I would like us not to take just personal verifications from individuals on the board regarding the person's ability to follow through. I think we need to look at actual plans and compare them to what exists. And I would like to refute what Westley's saying about other projects that have gone by this developer, and I'd like to say that there has been Cease and Desists from the Con. Comm. In the past and that there is a restoration order on one of the properties, and I don't know if that has been complied with, it's to be complied with by July 1st of this last year, but I think its really important that we know what's going to go on there, that we protect this area and follow the guidelines of the zoning by-law gives us and come up with a way to actually consider how much paving is okay in this area? Is it this time going to be 39 percent, almost 40 percent? And next time its going to be 60 percent? When are we going to decide that this artificial recharge system is maxed out on its ability to do what needs to be done in this area. And I think we need to do that before we approve it. We have to know what's going to happen.

MOTION: S. PENNOYER MOVED TO APPROVE THE SPECIAL PERMIT AT 239 WESTERN AVENUE, ESSEX, FOR THE PROPOSED EXPANSION AND THE

PAVEMENT AREA AND EXTENSION OF THE RECHARGE AREA WHICH WILL CHANGE THE IMPERVIOUS AREA OF THE LOT FROM 30,237 SQ.FT. TO 36,633 SQ.FT. WHICH BECOMES A TOTAL OF 39.5%, OR AN INCREASE OF 6.9% AND AS SHOWN ON THE DRAWINGS DATED APRIL 3, 1995. THE RECHARGE COMPLIES TO 6-13b.7. AND ALSO FINDING THAT THE PROPOSED EXPANSION IS IN CONFORMITY WITH THE EXISTING USE ON THE PROPERTY. SECONDED BY W. BURNHAM. IN FAVOR WERE G.STAVROS, J.GINN, S.PENNOYER, W.BURNHAM. AGAINST WERE K. JERMAIN. VOTING PRESENT WERE H. ALTHOLTZ, AND P.DUNN. THE MOTION CARRIED.

W.Burnham has offered to draw up duties of the officers and protocol. This will eliviate any questions concerning timely material and the requirements relating to documents, correspondence, etc. It would be brief and to the point.

Over-lay Map - S. Pennoyer is making copies for all. He is organizing the map with a title, scales, symbols, etc.

Filius Construction: A brief discussion of the status. The board felt that the applicant would return, although it was not clear what was needed to approve the Chapter 91 license. Expansion, dredging, recreational uses, documentation of a grandfathered structure, etc. Were discussed and the board agreed that they should be well informed of all these issues before granting a license.

The board then went on to dictate several letters:

1. Selectboard: invite a member of this board to sit on the town's building committee. S. Pennoyer was suggested to be the member.

2. Cassidy: Court Stipulation/Vanwyck's Settlement. 12/94 the runoff situation on the Browning property should have been corrected by that date. Lowland Farms: The Agreement between Peter Vanwyck and the Town of Essex included a resolution to the drainage problems on the Browning property. Please notify us to any action that will or should be taken.

Trailer issue: An applicant may be coming to us to replace an existing trailer. The board would like to ask your opinion regarding the replacement of a grandfathered trailer. If the trailer has been in existence since the 50's, is it grandfathered? Secondly, can it be replaced in the exact footprint with a new trailer under the current by-laws (6-3.38A, and 6-5.12).

What is your interpretation of the town sign by-law. Does it mean that you can have as many signs as you want on a business use as long as not individually over 32 sq. Ft. Per side, or does 32 sq. Ft. Refer to total cumulative area of all signs on the property? Please evaluate this against other sections of the by-laws regarding sign laws in the context of the other sections that refer to signs.

P.Dunn: Board of Selectmen would like at least two nominations for the D.P.W. position. Any nominations will be given to Pat to forward to the Selectmen.

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C
MOTION: S. PENNOYER MOVED TO ADJOURN THE MEETING. SECONDED BY W.
BURNHAM. ALL IN FAVOR. THE MOTION CARRIED.

THE MEETING ADJOURNED AT 9:50PM.

PRESENT BY:

L. M. Randall

ATTESTED TO:

W. J. St.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA FOR MAY 10, 1995

- 7:00PM: Read and approve minutes of 3/29, 4/19, 4/26, 5/3 and
Dick Carter/Building Inspector
- 7:30PM: Gateway subdivision and preliminary plan decision
- 8:00PM: John Coughlin: Public hearing for special permit concerning
lot on Scot's Way - Addition to building and parking area
- 8:30PM: Town Counsel - Discussion on ways and existence
- 9:00PM: Mark Glovsky for Dick Tomaiolo - Spring Street ANR
- 9:30PM: Board Elections

ESSEX PLANNING BOARD

WEDNESDAY, MAY 10, 1995

ATTENDEES: P.DUNN/Chairperson, G.Stavros, W.Burnham, H.Altholtz,
K.Jermain, J.Ginn, S.Pennoyer

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H.Altholtz felt that it was not a great project to have that many houses on the road like that, but it meets the requirements of our by-laws. The standards were too low, allowing ten houses with a sixteen foot driveway. He commented that the regulations should be looked at further.

J.Ginn asked Mr. Cassidy if he thought that this was a proper way in the way that it was presented. Mr. Cassidy said that there were already five houses on the property, the town has determined that it was adequate for the five houses. It appears there is a way.

After looking at the ANR and the plan of land, J. Ginn suggested that if this is considered a way, could there be a clause for a possible upgrade? Would other areas be subject to this same situation? Cassidy noted that the town clerk should have a definite map listing existing ways in the town.

Considering the adequacy of the standards, the planning board and Mr. Cassidy concluded that approval of the two lots would have to be granted.

K.Jermain wanted to know if a Dec.1994 Stipulation had been satisfied. A letter concerning drainage problems written by Donald Browning and the status of a court ordered stipulation will be handled by Mr. Cassidy to correct the situation.

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PRESENTED BY:

ATTESTED TO:

See orig. on top here. - This is a re-spacing for 10-May-95. The orig. - Printer skipping on spacer - Jack.

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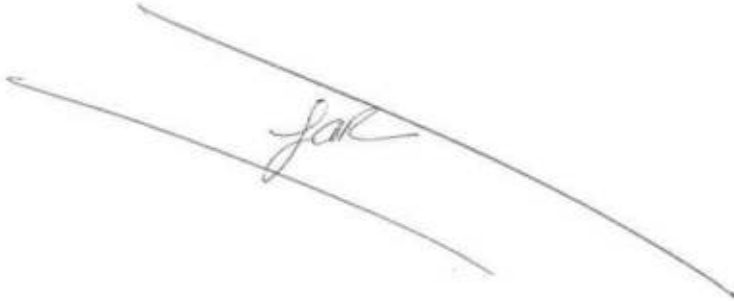
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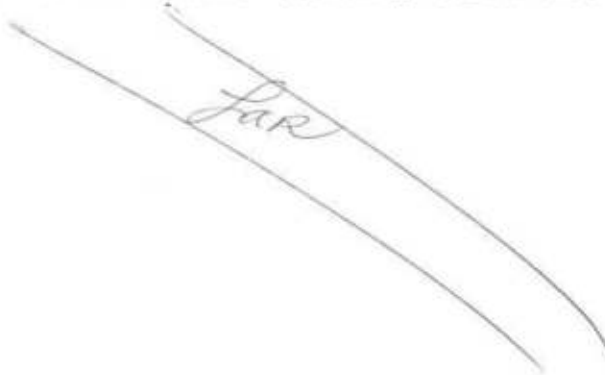
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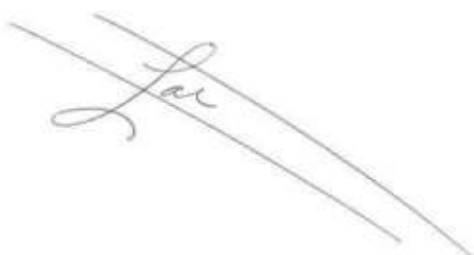
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ATTESTED TO:

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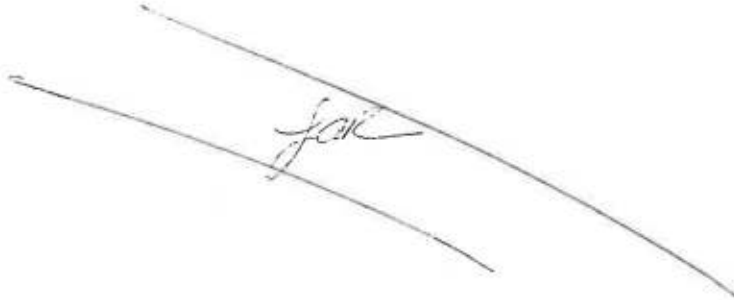
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subdivision control law became effective. It is adequate to provide safe access to the lots that it is going to serve.

Discussions continued with the board and attorney Glovsky regarding a ways and existence, meeting the standards of 3.05, and conditions that the lots not be further divided. Jim Prentiss contended that the planning board protect the by-laws, the neighborhood. He stated that his four different plans shows that the road was only an easement. Nelson Emmons stated the fact that there may be a safety issue relating to fire and apparatus that could block this way. Mark Glovsky stated that the cemetery road could be used to access any emergencies.

MOTION: H. ALTHOLTZ MOVED TO APPROVE THE APPLICATION FOR THE ANR FORM A FOR RICHARD A. STRATTON C/O MARK B. GLOVSKY, 8 WASHINGTON STREET, BEVERLY, MA 01915-5897, FOR DIVISION OF LOTS 23, 24 AND 25, IN THAT THEY HAVE FRONTAGE ON A WAY IN EXISTENCE WHEN THE SUB-DIVISION CONTROL LAW BECAME EFFECTIVE IN ESSEX, AND PROVIDED THAT THEY MEET THE STANDARDS OF THE PLANNING BOARD, IN ADEQUACY AS SET

OUT IN SECTION 3.05 AND FURTHER, THAT ANY SECTIONS THAT DON'T MEET BE BROUGHT UP TO CODE OF 3.05 STANDARDS OF ADEQUACY. FURTHER PROVIDED THAT THERE BE A COVENANT THAT ON THE DEED THE LOTS NOT BE FURTHER SUBDIVIDED. THAT THERE BE ONLY ONE SINGLE FAMILY DWELLING PER LOT. SECONDED BY S. PENNOYER. ALL IN FAVOR WERE W. BURNHAM, J. GINN, P. DUNN. VOTING PRESENT WERE K. JERMAIN AND G. STAVROS. THE MOTION CARRIED.

ELECTIONS OF BOARD MEMBERS.

W. Burnham nominated Pat Dunn for Chairperson, K. Jermain nominated Howie Altholtz for Chairperson.

Pat Dunn was voted as Chairperson on this day, May 10, 1995.

It was further decided that George Stavros would act as the Clerk to the Planning Board noting that he would be responsible for signing the Public Hearing Notices.

MOTION: J. GINN MOVED TO ADJOURN THE MEETING AT 10:00PM. SECONDED BY H. ALTHOLTZ. ALL WERE IN FAVOR. THE MOTION CARRIED.

PRESENTED BY:

Frances Q. Dunn

ATTESTED TO:

Frances Q. Dunn

*See the
10-May - Revised -
spacing was
corrected -
for.*



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA FOR MAY 3, 1995

- 7:00PM: Read and approve Minutes of March 29, April 19, and April 26.
- 7:30PM: Dick Carter/Building Inspector
- 8:00PM: John Coughlin: Public Hearing for Special Permit concerning lot on Scot's Way - Addition to building and parking area
- 8:30PM: Town Counsel - Discussion on Ways and Existence
- 9:00PM: Mark Glovesky for Dick Tomaiolo re: Spring Street ANR.

ESSEX PLANNING BOARD
WEDNESDAY, MAY 3, 1995

ATTENDEES: P. Dunn/Chairperson, W. Burnham, J. Ginn, J. Knowles

Meeting called to order at 7:20PM.

MEETING MINUTES:

Discussion with town counsel, Brian Cassidy regarding the answers to interrogatories of Atty. Clark (Peter VanWyck, Turtle Back Road). The answers must be given by next Wednesday, May 10, or Thursday at the latest (5/11). The minutes relating to the answers and information about the petitions on file and H. Altholtz' additional correspondence will be forwarded to Mr. Cassidy.

W. Burnham moved to open the Public Hearing at 8:00PM.

MOTION: W. BURNHAM MADE A MOTION TO CONTINUE THE PUBLIC HEARING FOR WEDNESDAY, MAY 10, 1995 AT 8:00 PM, DUE TO THE CONTINUANCE OF THE TOWN MEETING THIS WEDNESDAY EVENING, MAY 3RD. SECONDED BY J. GINN. ALL WERE IN FAVOR. THE MOTION CARRIED.

MOTION: W. BURNHAM MOVED TO ADJOURN THE MEETING AT 8:10PM. SECONDED BY J. GINN. ALL WERE IN FAVOR. THE MOTION CARRIED.

PREPARED BY:

Lisa Randa

ATTESTED TO:

Frances A. Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA FOR APRIL 26, 1995

7:00PM Respond to interrogatories served on the Planning Board by Mr. Van Wyck's attorney.

REMINDER: There will be a meeting scheduled for Thursday, April 27th at 7:00PM in the Cafetorium at the Essex Elementary School. The meeting will review and discuss the Scope of Work for the Facilities Planning. This will be the only opportunity to discuss the sewer issue before Monday's Town Meeting.

ESSEX PLANNING BOARD
APRIL 26, 1995

PRESENT: PAT DUNN/CHAIRPERSON, W. BURNHAM, H. ALTHOLTZ, K. JERMAIN, J. KNOWLES, J. GINN

MINUTES: The meeting was held at the Essex Elementary School at 7:20PM.

MEETING for THURSDAY, APRIL 27TH, will be held at the Essex Elementary School by the Board of Selectmen to discuss a plan relating to on-site sewerage systems and multiple group systems. It is an informational meeting which will inform all town Boards of the proposals that will be brought up at the town meeting.

INTERROGATORIES: Questions 8, 9, and 10 of Peter VanWyck's attorney were individually dissected by the Board. (A printed copy of the questions are in the appropriate file.) Previous Motions made by the members of the Board regarding the issues relating to the Turtleback Subdivision are located in past minutes. K. Jermain suggested that the two petitions by the public, pertinent to these questions be collected and made available to the board by the secretary. H. Altholtz will also add any information that he may have in his possession. The final packet of documents will be given to Mr. Cassidy after the board is satisfied that they have all pertinent discovery of the answers.

In conclusion, the Board felt that they had considered all parties of concern, and that their decision was based on the best interests of these parties. H. Altholtz will also forward any information that he may have in his possession to Mr. Cassidy.

BY-LAWS: P. Dunn presented a letter from Bruce Fortier re: Facts relating to formalities of Public Hearings. There was a question of whether or not the Board moved to re-affirm their stand on the proposed by-laws. An open discussion was suggested by W. Burnham, which was strongly opposed by H. Altholtz. J. Knowles wondered if the board should vote on individual articles and pinpoint problem areas. The concern was that the public would turn down all by-laws if the public was upset over one or more of the proposed by-laws. H. Altholtz passed a letter around from the Metropolitan Area Planning Council which concluded that the proposed changes were consistent with many cities and towns within the MAPC region.

H. Altholtz passed a letter around from the Metropolitan Area Planning Council which concluded that the proposed changes were consistent with many cities and towns within the MAPC region.

Each Article was discussed and 3, 6, 8, and 9 were of major concern to some board members. There was a conversation by P. Dunn, W. Burnham, H. Altholtz, J. Knowles and J. Ginn which included changes in the wording, postponement, and pros and cons of some of the Articles. Specifically 3, 6, 8, and 9. The Board was not in agreement with their positions or the problems of the Articles that would be brought to the town. A resolution did not materialize. No vote was taken.

MOTION: J. KNOWLES MOVED TO ADJOURN THE MEETING AT 8:55PM. THE VOTE WAS SECONDED BY J. GINN. IN FAVOR WERE P. DUNN, W. BURNHAM AND H. ALTHOLTZ.

PREPARED BY: *Beverly Randall*

ATTESTED TO: *Francis A. Dunn*



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA FOR APRIL 19, 1995

Meeting at the Scout House, Pickering Street

- 7:00 pm Read and approve minutes of April 5, 1995
- Review correspondence
- 7:30 pm Dick Carter - Building Inspector
- 8:00 pm Public Hearing on proposed zoning by-law change
- 8:30 pm Filias Realty Trust - Chapter 91 Application
- 9:00 pm Mark Glovesky - Representing Dick Tomailo on ANR plan
 off Spring Street
- 9:30 pm PMC Realty - John Coughlin Parcel A special permit of
 239 Western Avenue
- Business: Board members should prepare a list of duties that they
 expect of the secretary. We will have a discussion on
 this at an upcoming meeting.
- Reminder: Meeting on Saturday, April 22, 1995 at 10:00am until
 Noon at the Essex Fire Station. A tour of the Town Hall
 will follow.

ESSEX PLANNING BOARD
WEDNESDAY, APRIL 19, 1995

PRESENT: P.DUNN/CHAIRPERSON, W. BURNHAM, H. ALTHOLTZ, K. JERMAIN,
J. KNOWLES, J. GINN

MEETING CALLED TO ORDER AT 7:08PM

MOTION: W. BURNHAM MOVED TO APPROVE THE MINUTES OF THE APRIL 5, 1995 MEETING, H. ALTHOLTZ SECONDED. ALL WERE IN FAVOR, THE MOTION WAS CARRIED.

Correspondence addressed to the Planning Board was first order of business. Finance Committee will be contacted so that moneys can be distributed into the Planning Board budget. Discussion regarding the fees for permits that do not get deposited into the Planning Board account.

Letter from Tim Lane dated April 11, 1995 regarding GayBrook Garage and the back of the property. Complaint was handled by Dick Carter who assured the Planning Board that the situation of disturbances re: noise, physical conditions, etc. Would be corrected by the individuals concerned.

Letter from town counsel approving the by-laws for the town meeting noting only typographical errors. The Board discussed the proposed by-laws and decided to forward the finished document back to the Selectmen for the town meeting. The names of the presenters of the by-laws was discussed and no decision was made.

Open meeting forum: Ed Neal received correspondence from Attorney General - Re: Public not allowed to speak unless there is a Public Forum. They can attend but cannot be allowed input due to influences of the public concerning the board. There is a packet from the Attorney General's office explaining the Public Meeting Law. The Board will be given a copy.

W. Burnham opened the Public Hearing at 7:55PM. Copies of the by-law proposals and the explanations were distributed.

ARTICLE 2 - "cleaning up" of language to conform to state statues. Exempts single and two-family residential structures from any extensive

review by the Planning Board if the proposed project does not increase the nonconforming nature of the structure.

John Guerin - Can some houses which are existing non-conforming also be pre-existing non-conforming?

H. Altholtz - I would say that anything that is pre-existing is also existing.

Everything that is existing is pre-existing. June 7, 1972 is pre-existing and everything else is existing.

ARTICLE 3 - Changes in language of water protection by-law, removing the 40,000 sq. Footage requirement for residential development to conform with the rest of the town's by-laws. It changes language relating to the amount of impervious surface which could be created in the district from "15% or 2,500" to simply 15%. Also creates an exemption through a special permit for properties to cover more than 15% if creating an artificial recharge system. Previous language which included "or 2,500 sq.ft." was considered by the board to be vague and was variously interpreted as meaning 15% or 2,500 sq.ft. WHICHEVER IS GREATER by some, and as 15% or 2,500 sq.ft. WHICHEVER IS LESS by others. Board felt that it should be kept at the 15%.

W. Burnham - Bear in mind that this only applies in the Water Resource Protection District. From Alewife Brook and Apple Street area, from the Hamilton line out Wood Drive and Pond Street and there is some on Southern Avenue.

There is a map which draws out the Water Resource Protection District. An overlay map is missing as is a Raytheon map. It is unclear of who has the map(s) and this situation should be looked into.

John Guerin - In the 2,500 sq.ft., is there a potential in any condition or any lot in this town that if you put it down at 15% that you would be limiting the ability of anybody to physically build any lot in town? Basically a buildable lot that would be made unbuildable because of this and if so, wouldn't you consider this a taking, and who's going to pay for it?

W. Burnham - I don't know. The 15% mark on a one acre lot is not an encumbrance. When you get to smaller lots, older lots, they also have

to include the road going through as part of the impervious surface. Basically we're removing what I perceive as a cut off point which would allow the average homeowner a matter of right at least so much that we leave a reasonable amount of discussion in the matter of a driveway.

Discussion went on between J. Guerin, D. Carter and W. Burnham regarding hot top, driveways, and J. Guerin would like a change to read IF GREATER THAN the 15% or 2,500 sq.ft. H. Altholtz remarked that everyone would be grand fathered. Benefits of the water quality issues are of importance. Any existing houses are grand fathered. Special permits can create artificial recharge system that will allow owners to go above the 15%.

ARTICLE 4 - Language clarification to address situations that come across where the accessory building has been attached to the home such as an attached garage.

ARTICLE 5 - Correct typographical errors which had incorrect references to different sections of the by-laws.

ARTICLE 6 - Clarification of sign by-law for business use. Currently business can use signs that measure a maximum of 32 sq.ft. The way measurement is defined now is that "area limitations refer to the total sign area." Owners of existing businesses which have signs that at any time have been rendered non-conforming by any by-law which restricts the size or number are grandfathered.

Discussion relating to new business coming in (and change of ownership) and their requirements to conform, and buildings with lettering on their roofs or siding were discussed as well as D. Carter's opinion of signs.

ARTICLE 7 - This article reduces the maximum allowable size for internally lit signs to 20 sq.ft. This will ensure that those businesses with externally lit signs will not be overshadowed by new and increasingly brighter and more noticeable internally lit signs creating an incentive to produce bigger signs or switch to internally lit signs.

ARTICLE 8 - Lowers allowable lot coverage by impermeable surface from 25% TO 20%: Specifically defines coverage to include "pavement" which previously only referred to "buildings". Excludes wetlands from the calculations involved in computing lot area, previously only tidal marshlands were excluded. Changes provide consistency in the

definitions of lot coverage and lot area calculations throughout entire town, while maintaining a higher allowable percentage of lot coverage for the portion of town outside the water protection district. Ensuring better protection of wetland areas, preservation of open space and will prevent large projects from occupying relatively small areas. Consistent in many ways with by-laws in other communities in commonwealth.

John Guerin - What is the definition of pavement? Should this be changed to included impervious surfaces rather than pavement. Discussions of descriptions of pavement, brick, etc. Businesses would fall under this and be non-conforming.

H. Altholtz - Non-conforming would have to come before planning board and if the board found that the proposed activity didn't increase the non-conforming nature of the property there would be no finding required. If it was a business, the board would have to find that the proposed project was not substantially more detrimental to the neighborhood than the existing use.

W. Burnham - Arguments will have to be amended on the floor at the town meeting.

ARTICLE 9 - Increases the setbacks for nonresidential projects which occupy a land area greater than 10,000 sq.ft. from 25 ft. To 50 ft. For front yard setback and 20 ft. To 30 ft. For side yard setback. Prevents extremely large projects which might be over-imposing to a particular area from having any undue detrimental impact on the neighborhood or abutters. It is designed to allow maximum usage of private property by an owner while preserving important characteristics of the neighborhood and the rights of abutters.

W. Burnham declared the Public Hearing closed.

FILIAS REALTY TRUST - CHAPTER 91 APPLICATION - Looking for authorization of permit relating to permanent structure which is in place at this time. A picture was given to the board by Ms. Filias that was said to be dated pre-1972 proving pre-existence.

K. Jermain - Was the history of this structure said to be permanent at the last meeting?

Ms. Filias - It was. At the time we had to have the approval, and it's been there since pre-1972.

Discovery of the time frame was difficult but a letter of authenticity by the Air Photographics, Inc. A June 11, 1971 photocopy was shown.

K. Jermain - You don't have a copy of the structure when it was put in?

W. Burnham would point out that they should not be treated any differently than any other applicant regarding documents that are of question.

K. Jermain questioned the photocopy of 1971 that was handed to the board. She did not think that the quality of the photo could determine the exact location of the pier or the date that the structure was there. The photo copy came from the U.Mass. at Amherst, the Agricultural Photos. Jermain said that it could be anything out there in the water.

J. Ginn - In your Chapter 91 license that you are applying for now, is it exactly as what's there now?

Ms. Filias - Yes, but it's been moved back.

J. Ginn - So there will be no changes on this license.
So this is just for the permanent structure that is there now.

MOTION: J.GINN: I MAKE A MOTION FOR THE PLANNING BOARD CHAIRMAN TO SIGN THE APPLICATION FOR THE CHAPTER 91 LICENSE FOR FILIAS REALTY TRUST OF 5 LEDGEWOOD CIRCLE MANCHESTER FOR THE EXISTING PILING AND STRUCTURE ON THE UPLAND PORTION OF THE PROPERTY FOR THE USE OF THEIR DOCKS. SECONDED: H. ALTHOLTZ.

AS A RESULT OF NUMEROUS DISCUSSIONS REGARDING ABOVE APPLICATION LICENSE, RE: LICENSE TO EXISTING PIER AND PERMISSION TO DREDGE. CONFUSION AS TO WHAT THE CHAIRMAN'S SIGNATURE WOULD MEAN LEAD J. GINN TO WITHDRAW THE ABOVE MOTION.

GEORGE A. HALL, JR, ATTY. For Filias: We are filing for an application for a license and a permit with the Environmental Land Protection to maintain an existing four foot line, fifty foot long pile supported pier to install floats to accommodate 25 boat slips which is the number that

has been in the river apparently the last several seasons and to dredge in order to relocate those floats out of the federal and state channels and twelve feet further beyond that in order to comply with state and federal requirements with respect to docking facilities. The reason that we are here this evening is that in order to file the application and for that application to be complete, the clerk of municipalities has to sign this paper saying the proposed use will not violate or create a situation where there is a violation of the zoning by-laws. The permanent structure has been there since 1972 and what we are saying is that a portion of this project that includes all of these aspects that is subject to zoning is in compliance with zoning.

Discussions continued concerning the question of dimensions, the application relating to dredging, the photographs and the existence of the pier re: dates, procedure, etc.

J. Ginn - Recommended that the parties bring in an application specifically for the licensing operation of the "head wall" (Chapter 91 license). You need a chapter 91 for the existing pier that's on the uplands. And that's what the board can sign off for. As far as signing off on the other information on proposed dredging, the changes in floats, and so on, I think the board should look and study that a little closer.

Ms. Filias: ...Why do we have to be subject to scrutiny from half the town? I don't understand that. We're regulated by the harbor master, the DEP, the Army Corps. Of engineering, the conservation commission, coastal zone management, the planning board of ethics, I don't think that it's fair of you to scrutinize things that aren't of your perview. Permanent structure is your perview.

Conversations continued by all board members and applicants. Dredging cannot be done unless the chapter 91 application is signed. It was understood that maybe their were two applications listed on one document.

MOTION: H. ALTHOLTZ MOVE THAT THE BOARD CERTIFY TO THE DEP THAT THE EXISTING STRUCTURE OTHERWISE REFERRED TO AS THE FILIAS PIER, FILIAS REALTY TRUST OF 5 LEDGEWOOD CIRCLE, MANCHESTER IS NOT IN VIOLATION OF ORDINANCE ZONING OR BY-LAWS. THAT WE ARE NOT ADDRESSING THE DREDGING ISSUE AND FURTHER CONTINGENT ON THE FACT THAT ANY ADDITIONAL SLIPS OR INCREASED USE THAT DID NOT EXIST IN 1972 WOULD HAVE TO COME BACK TO THIS BOARD FOR A SPECIAL PERMIT FOR RECREATIONAL USE. SECONDED BY J. KNOWLES. AN AMENDMENT ON THE MOTION BY J. KNOWLES THEREBY DIRECT THE CHAIRMAN OF THE PLANNING BOARD TO SIGN THE LETTER. SECONDED BY H. ALTHOLTZ. IN FAVOR WERE, J. KNOWLES, OPPOSED WERE P. DUNN, J. GINN, W. BURNHAM.

MARK GLOVSKY, ATTY: Comments about patience and extensive research for the ANR regarding Spring Street. He feels that Mr. Tomaiolo has a situation here that does not constitute a subdivision. He's creating two lots that have frontage on a way that was in existence when the subdivision control law went into effect in 1956 in the town of Essex which is adequate according to your standards. We meet or exceed all of your standards, and I hope you have read the five page letter that I gave you and I hope that you do not need additional information. I would consider a reasonable enlargement of time for you to act on this application.

PAT DUNN - James Prentiss would like to have the board aware of some information he has to show.

An extension of time agreed to by Mr. Glovsky was drawn up and a date for extension was given for April 3, 1995.

JIM PRENTISS: Could not verify that D. Tomaiolo's map of 1956 is an accurate map. He feels that what is depicted in the map as the "old way" is incorrect. He (Dick) may be referring to Strawberry Lane. Mr. Prentiss feels that in 1956, it was a pasture. He contacted David Choate who said that there was never a way that went through there. In 1967, (A Map dated 1967 was presented) an easement was given to the Ringes so that they could pass and repass. The Map showed the easement. The original way was Sogenese Creek Road, out onto John Wise Avenue. He contacted Dana Story - No ancient way. Andy Lane - No ancient way. He

went to the town clerk to find a map for a year and date when Spring Street was certified which was in 1883. There was never a certification on the driveway that goes onto Tomaiolo's land. Dick Tomaiolo disagreed. He feels that he can prove otherwise and felt that the board may have been misled.

A written extension was granted by Atty. Glovsky for May 3, 1995.

GATEWAY - Preliminary review, on proposed subdivisions. Marty Halloran told of nine lot subdivisions off Western Avenue, with two cul de sacs, max. 810 ft. No proposals on variances with town. Four lots will include ground water recharge, catch basins, max. Grades 8%. Lot size calculations, percolation tests, an 810 ft. And 435 ft., dimensions of lots are over 4,000, details were shown on last page of plans. Water source protection comes into these properties, changes will be made on lot sizes if necessary to conform.

Meeting ajourned at 10:40pm.

PREPARED BY:

Lisa Randall

ATTESTED TO:

Henry J. Sullivan

This is a
corrected original.
(Clerical) spacing corrected.

ESSEX PLANNING BOARD
WEDNESDAY, APRIL 5, 1995

ATTENDEES: P. Dunn/ Chairperson, H. Altholtz, W. Burnham,, J. Ginn, K. Jermain, J. Knowles, S. Ponneyer

MEETING CALLED TO ORDER AT 7:10 PM.

MEETING MINUTES:

Correspondence relevant to Planning Board was first order of business, which included a Notice from the Conservation Commission for D. Laforge on Lake View Drive, Public Hearing of variance application of Bill Blackwood, Walnut Park on April 20th. Budget discussion called for meeting with Finance Committee. Letter from Brian Cassidy answering complaint from Peter VanWyck denying allegations, etc. Complaint from Donald Browning concerning water run off problems. A copy of this letter will be forwarded to Brian Cassidy via the Selectmen. K. Jermain has requested that in the letter sent to the Selectmen the Planning Board be apprised of any actions that may take place regarding this situation. A letter was sent requesting an answer relating to the question of D. Carter to the DEP on whether a basement could be considered a containment in terms of the Water Protection By-laws.

MOTION: W. BURNHAM MOVED TO APPROVE THE MINUTES OF THE MARCH 15, MEETING, S. PENNOYER SECONDED. H. ALTHOLZ WANTED TO ADD TO THE MINUTES HIS REASONS FOR BEING AGAINST THE PERMIT AT BROOKSIDE. ONE WAS THE PROCESS, AS I FELT IT SHOULD HAVE BEEN ON THE AGENDA, AND I FELT ALSO THAT IT REQUIRED A SPECIAL PERMIT. I KNOW OF THE THREE OPINIONS THAT TOWN COUNSEL GAVE THAT WERE IGNORED. THE THREE OPINIONS WILL BE ADDED TO THE MINUTES OF MARCH 15, 1995. A UNANIMOUS VOTE TO APPROVE THE ADDITIONS OF H. ALTHOLTZ, THE MOTION WAS CARRIED. DICK CARTER/BUILDING INSPECTOR;
MOTION: PENNOYER MOVED TO APPROVE THE BUILDING PERMIT FOR N.S.V LTD. PARTNERSHIP ON 116 WESTERN AVENUE, FOR THE CITING OF THE FOUNDATION THAT IS SHOWN ON CITE PLANS ON THE DRAWING. MOTION SECONDED BY W. BURNHAM. COMMENTS BY H. ALTHOLZ WERE THAT THIS IS A LOT THAT IS OF GREAT CONCERN BECAUSE OF THE WETNESS. HE WILL VOTE IN FAVOR BECAUSE IT MEETS ALL THE PLANNING BOARD REQUIREMENTS. H. ALTHOLTZ, S. PENNOYER, W. BURNHAM, P. DUNN, VOTED IN FAVOR, J. GINN AND K. JERMAIN VOTED PRESENT. THE MOTION WAS CARRIED.

PAUL DONOHOE OF DONOHOE AND PARKHURST, INC. Representing Sharon B. Means, Belcher Street, Essex, MA, regarding Form A, Assessors Map 13, Lot 19 Belcher Street, Essex, Ma.

MOTION; S. PENNOYER MOVED TO APPROVE THE FORM A APPLICATION SUBMITTED BY SHARON B. MEANS OF BELCHER STREET, ESSEX, MA FOR TWO LOTS BEING CREATED, LOTS 5 AND 6 AND PARCEL A IS A NON BUILDABLE LOT AS SHOWN ON THE FORM BY DONOHOE AND PARKHURST, INC. OF SO. HAMILTON, MA DATED MARCH 14, 1995, SEEING THAT IT MEETS THE MINIMUM STANDARDS OF THE TOWN OF ESSEX. MOTION WAS SECONDED BY W. BURNHAM, IN FAVOR WERE J. GINN, K. JERMAIN, H. ALTHOLTZ AND P. DUNN. THE MOTION WAS CARRIED.

Discussion regarding meeting with Chamber of Commerce on Wednesday, April 12, 1995 was topic, as decision of attendees were agreed upon and conversation about views of board members. H. Altholtz, W. Burnham, and J. Knowles will attend meeting at the New Ship Building Museum on said date.

Open Space Committee members, Daphne Borden, Martha Hoar, Terrin Warren and Mike Cataldo, along with S. Pennoyer discussed with the board their intentions for walking trails in Essex, specifically Conomo Point area, along the woods and the beach. A contour map is being produced. The Open Space Committee, at this time, has the support of the Planning Board with regard to the evolution process of the walking trails.

MARK GLOVSKY, ATTY. (please note that the applicant is Richard A. Stratton: Dick Tomailo was the former owner of the land regarding Plan of Land off Spring Street.)

Mr. Glovsky explained legal and historical research done, review of memo from Brian Cassidy of the Town Counsel and memo from Westley Burnham. Responding to the requests from the memos, Mr. Glovsky has prepared a letter to the Board outlining the law as he interpreted it. Historical data was provided and he notes that this plan is entitled to an endorsement pursuant to Massachusetts General Laws, Chapter 41, Section 81P as a Form A Plan not requiring approval as all lots have adequate frontage. His outline in the form of a five page letter was read by the Board. Attorney Glovsky then proceeded to explain the definition of the term "way".

He stated that his client's property meets or exceeds the minimum standards of the Subdivision Rules and Regulations, Section 3.05. P. Dunn then quoted from a letter dated 2/17/95 in which Brian Cassidy, Town Counsel referenced the definition of "way" and "right of way", concluding that the town clerk must certify either of the two as a public way, noting that the mere existence of a "way" does not

entitle an application to an ANR endorsement under G.L.c.41, sec. 81P.

P. Dunn suggested that the issues be brought forward in twenty one days to be put on the agenda for voting. This would be put on for 9pm on April 19th.

Jim Prentiss questioned whether the property in question would be a subdivision or a Form A. His concern was of the pond on Spring Street and the protection of other neighbors concerning the roads, floods and access. H. Altholz response was that the Board would take into consideration the standards of accuracy.

Charlie Bachini adding that in the interest of the Board and the Town that research of 6-3.36 Essex By-Laws regarding Streets be a focus of attention. Consistency and safety issues were raised, including property values, "rear" addresses and potential ecological disasters relating to fire or emergencies pertaining to situations similar to this issue.

A copy of the 4/5/95 letter from Mark Glovesky will be forwarded to the Selectman's Office to Counsel for response.

KIRBY BRAND representative of Tom Churches re: T.C. Enterprises. A landscape supply business has a P.S.A. with the Pikes Building on Western Avenue. Concerns of fertilizers, hot top and machinery were discussed. The Board was agreeable with the venture as long as conditions were met concerning water protection laws and any special permits needed in the future.

Martin Halloran: Engineer for John Coughlin submitted a preliminary plan Form B on "Gateway", 239 Western Avenue.

John Paulson described Plan of Land, and intentions for improving side of building and giving room for trucks. Intentions also include extending building by 50 feet to add 5660 SF. Of paved parking, to pave approximately 360 LF. Of gravel road, and to construct storm water runoff mitigation devices to control runoff from the impervious surfaces. The mitigation devices will include provisions for ground water recharge and treatment of the drainage discharge.

Notice of Public Hearing will be for Wednesday, May 3, 1995 on this application by PMC Realty Trust for special permit under Section 6-13, Water Resource Protection District of the Zoning by-law, rendering impervious more than fifteen percent of lot area.

Parcel A only will be covered by special permit and John Coughlin will bring in more information on May 3rd at 8pm. The preliminary subdivision will be on the agenda at 9:30pm on April 19th.

The meeting was adjourned at 10:10pm by J. Ginn; H. Altholz seconded.

Prepared by:

Lisa Randall

Attested by:

Frances O. Dunn

ESSEX PLANNING BOARD

MARCH 29, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, H. ALTHOLTZ, K. JERMAIN,
J. KNOWLES, J. GINN, W. BURNHAM

MINUTES:

HIRING OF PLANNING BOARD SECRETARY:

Applicants Scotti Robinson and Lisa Randall

Separate interviews of both applicants were conducted by the Board Members.

After discussions about both of the applicant's qualifications, the interviewing process evolved into conversations relating to conflicts of interest of both of the potential applicants. It was apparent that both applicants may or may not have conflicts relating to the position of secretary to the Board.

The procedure of the actual hiring of the secretarial position was an issue that needed to be resolved, as there were two qualified applicants, and an immediate need to fill the position. A motion was made:

MOTION: J. KNOWLES MOVED TO APPROVE THE APPLICANT, LISA RANDALL FOR PLANNING BOARD SECRETARY, SECONDED BY W. BURNHAM. IN FAVOR WERE J. GINN, AGAINST WERE H. ALTHOLTZ AND K. JERMAIN. P. DUNN WILL VOTE PRESENT.

MOTION: J. KNOWLES MOVED TO ADJOURN THE MEETING, SECONDED BY W. BURNHAM, J. GINN VOTED PRESENT, AGAINST WERE K. JERMAIN AND H. ALTHOLTZ.

PREPARED BY:

ATTESTED TO:

Lisa Randall
Frances Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA

MARCH 15, 1995

- 7 P.M. Read and Approve Minutes of March 1, 1995
Review Correspondence
- 7:30 Dick Carter Building Inspector
- 8 P.M. Daniel Laforge To add 2nd. Story to home on Lake Shore Drive
- 8:30 Debra Faucett To discuss Soganeese Creek Subdivision, Spring St.

Planning Board Business:

Brookside Apartments decision

Eileen's Resignation add for new secretary

April 19 ... Hold informal public meeting for by-law changes

Discussion:

Safety and Maintenance on Subdivision Roads

Scott's Way Final Coat of Hottop and Catch Basins unfinished

Ron Ober Subdivision Finished or not

ESSEX PLANNING BOARD

MARCH 15, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, H. ALTHOLTZ, K. JERMAIN,
J. KNOWLES, J. GINN, W. BURNHAM, S. PENNOYER

MINUTES:

MOTION: GINN MOVED TO APPROVE THE MINUTES, AS AMENDED, OF THE 2/15/95 MEETING, JERMAIN SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

MOTION: ALTHOLTZ MOVED TO APPROVE THE MINUTES, AS AMENDED, OF THE 3/1/95 MEETING, GINN SECONDED, ALL WERE IN FAVOR WITH KNOWLES, AND BURNHAM VOTED PRESENT, THE MOTION CARRIED.

BROOKSIDE APARTMENTS:


Discussion ensued relative to the decision at the meeting of 3/1/95 to have the building inspector put a hold on the issuance of a building permit for Scott DeWitt.

Ginn, Burnham, Knowles and Dunn were in favor of issuing the permit and allowing any parties wishing to contest the situation to appeal within the allowed timeframe. In favor of putting a hold on the issuance of the permit were Pennoyer, Altholtz and Jermain.

MOTION: BURNHAM MOVED TO AUTHORIZE THE BUILDING INSPECTOR TO ISSUE A PERMIT AS REQUIRED RELATIVE TO THE APPROVAL OF 2/15/95 ON THE BROOKSIDE APARTMENTS, STORY STREET, ESSEX. IN FAVOR WERE BURNHAM, GINN, KNOWLES, PENNOYER, AGAINST WERE ALTHOLTZ AND JERMAIN, DUNN VOTED PRESENT, THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR:

MOTION: PENNOYER MOVED TO APPROVE TO CHANGE THE BUILDING PERMIT FOR BARRY AND KELLEY STEELE OF 45 FOREST AVENUE, ISSUED AS SINGLE FAMILY DWELLING ON 1/18/95 TO CHANGE IT TO A TWO FAMILY DWELLING, FINDING IT DOES NOT CHANGE THE FOOTPRINT, PENDING BOARD OF HEALTH APPROVAL, BURNHAM SECONDED, JERMAIN, BURNHAM, KNOWLES AND PENNOYER WERE IN FAVOR, PRESENT WERE GINN, ALTHOLTZ AND DUNN, MOTION CARRIED.



MOTION: BURNHAM MOVED TO APPROVE THE APPLICATION FOR DANIEL AND LISA LAFORGE OF 40 LAKE SHORE DRIVE, FOR THE ADDITION OF SECOND FLOOR ON EXISTING FOOTPRINT, FINDING THE ADDITION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD, CONTINGENT ON CONSERVATION COMMISSION APPROVAL, GINN SECONDED, ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

PLANNING BOARD SECRETARY:

Dunn stated there were some interested parties in the position, and Dunn was going to advertise in the Gloucester Daily Times and post it at Town Hall.

BY-LAWS:

MOTION: GINN MOVED TO HOLD A PUBLIC HEARING ON WEDNESDAY, APRIL 19, 1995 AT 8:00 PM AT ESSEX ELEMENTARY SCHOOL REGARDING THE BY-LAW CHANGES WHICH THE PLANNING BOARD HAS CAUSED TO BE PLACED ON THE WARRANT FOR THE 1995 ANNUAL TOWN MEETING AND FURTHER TO AUTHORIZE THE CLERK OF THE BOARD TO ADVERTISE THIS HEARING, KNOWLES SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

DEBRA FAWCETT/ATTORNEY, SOGANESE CREEK:

Five families involved within larger family. The applicants would like to divide the property into nine lots, six or seven would be buildable for the five families in the trust, they could sell their lot or build their own house.

Jim Prentiss: This is an easement, not a right of way. We have a distance of 3,500 feet here, the town has already set a precedent on Peter Van Wyck with 1,200 feet. This distance far exceeds the regulations.

Altholtz: There are three houses there now? You want there to be nine?

Fawcett: Perhaps a maximum of six or seven.

Dunn: Would you be willing to put a deed restriction on this to restrict the number of possible lots?

Prentiss: You will need a town approved subdivision road.

Altholtz: The length of the road is definitely a problem, this is a very sensitive piece of property. Not every piece of land is developable.

Ginn: I have no problem with the length of road at this point, I do agree with Westley regarding the drainage issue, but I don't feel this board should be designing this plan.

Knowles: You shouldn't ask this group to design a proposal for you. Access and frontage and what is appropriate for our focus.

SUBDIVISION ISSUES:

A continuation of the discussion of 3/1/95 regarding the condition and maintenance of subdivision roads in Essex. Joe Ginn brought up the issue earlier regarding the need for safety vehicles to have access to all of these areas, but they are privately maintained.

A letter should go to Ron Strong to determine what the status is of the road on Pine Ridge.

JERMAIN/TOWN HALL:

Does the Planning Board want to take a position on applying for a preservation grant for funding 50% of a project that's on the register? Jermain went to the Selectmen's meeting Monday night to determine what their position is. This could assist the town in making Town Hall handicapped accessible while restoring it at the same time. The library also needs to be accessible. The building committee came to the conclusion that the Town Hall really is not adequate for offices, but should be restored and the library should be expanded.

MOTION: JERMAIN MOVED TO AGREE TO HAVE THE PLANNING BOARD WRITE A LETTER TO THE BOARD OF SELECTMEN TO ENCOURAGE THEM TO APPOINT AN HISTORICAL COMMISSION TO SEEK FUNDS FROM THE MASSACHUSETTS STATE HISTORICAL COMMISSION TO MAKE TOWN HALL HANDICAPPED ACCESSIBLE, BURNHAM WAS AGAINST, IN FAVOR WERE JERMAIN, KNOWLES, PENNOYER, ALTHOLTZ, BURNHAM WAS AGAINST, DUNN VOTED PRESENT, THE MOTION CARRIED.

PREPARED BY:

William Douglas

ATTESTED TO:

Francis A. Keenan

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PREPARED BY:

Cileen Douglas

ATTESTED TO:

Frances A. Dunn

FIRST
AMON

TOWN COUNSEL - BRIAN CASSIDY:

The Board of Selectmen invited Town Counsel to attend one hour of a planning board meeting to answer questions from the Board.

1. Burnham: The question of applicability on 6-4.2, on non-conforming lots. Can the structure can be extended, if it already doesn't meet current regulations?

Cassidy: You could make a finding that it is no more non-conforming, however, they would still need a variance on it.

2. Altholtz: For public hearings that are continued, if a board member does not attend all sessions of the public hearing, can they vote?

Cassidy: Generally, you should only vote if you have attended all the sessions of a public hearing. Obviously you would have to consider the issue of a quorum.

3. Burnham: Cease & Desist Order - Turtleback Road Extension: Does the building inspector have the authority to issue a cease and desist order?

Cassidy: The building inspector has the power to issue a cease and desist order if there is a violation of the of the state building code and to the extent that he's wearing the dual hat of the enforcement officer to enforce the town by-laws. Building inspectors don't usually enforce subdivision regulations.

Altholtz: Frequently, when someone is violating a subdivision control law they're also violating the town by-laws.

Cassidy: As I understand it, this board has rescinded their approval of the extension of the subdivision. I understand there is an issue regarding the installation of water mains in the subdivision that the subdivision approval has been rescinded.

Altholtz: We did rescind it. I would like to make a point of order. If we are going to be talking about our rescinding the approval of the Turtleback Road Extension, we should not be talking about this since this matter is in litigation right now. This isn't the forum to have this discussion.

Handwritten: Altholtz
Turtle

Handwritten: [Scribbled text]

RONAN, SEGAL & HARRINGTON

COPY

AVENUE
JACOB
HARRINGTON
GEORGE
BRIAN P. CASSIDY

FEDERAL OFFICE
CALIFORNIA
508
FAX

RECEIVED
DEC 1 1994
ESSEX
BOARD OF SELECTMEN

SECOND OPINION

November 29, 1994

Opinion No. 94-4
(Modifies Op. No. 94-3)

TO: Essex Planning Board
FROM: Brian P. Cassidy
Town Counsel
RE: Extension of Preexisting Non-conforming Structures and
Uses, G.L. c. 40A § 6; Essex By-laws
CC: Board of Selectmen
Building Inspector
Essex Zoning Board of Appeals

I recently revisited the issue of G.L. c. 40A, § 6, which was the subject of Opinion No. 94-4 dated October 11, 1994. After reviewing the pertinent cases and recent commentaries the status of the law appears to be as follows:

1. Modifications to Structures Other than Single or Two Family Residential Structures.

In Rockwood v. Snow Inn Corp., 409 Mass. 361, 364 (1991) the Supreme Judicial Court said that additions and alterations to non-conforming structures are allowed if the permit granting authority finds:

- (a) the extensions or changes themselves comply with the present zoning ordinance or by-law or, if they do not comply, a variance is granted; and,
- (b) the structure as extended or changed is found to be not substantially more detrimental to the neighborhood than the preexisting non-conforming structure.

Rockwood v. Snow Inn Corp., 409 Mass. 361, 364 (1991).

2. Modifications to Single or Two Family Residential Structures.

In Goldhirsh v. McNear, 32 Mass.App.Ct. 455 (1992), the Appeals Court departs from the Rockwood decision by distinguishing single and two-family structures from other structures. The Appeals Court determined that modifications to single or two-family residential structures require a five step process:

- a. owner must apply to the permit granting authority for permission to modify the structure;
- b. the permit granting authority must identify "the particular respect or respects in which the existing structure does not conform to the requirements of the present" zoning by-law;
- c. the permit granting authority must determine "whether the proposed alteration or addition would intensify the existing non-conformities or result in additional ones.";
- d. if the permit granting authority concludes that the proposed alteration or addition will not intensify the existing non-conformities the applicant will be entitled to a special permit;
- e. if the permit granting authority concludes that the proposed alteration or addition will intensify the existing non-conformities, the applicant is required to show that the change will not be substantially more detrimental than the existing non-conforming structure.

Goldhirsh v. McNear, 32 Mass.App.Ct. at 460.

I have attached examples of the application of Rockwood and Goldhirsh from a recent seminar on non-conforming structures for your information.

I also must caution the Boards that the Rockwood decision, which requires compliance with present zoning, does not distinguish between single and two-family structures and other structures. If Rockwood were to apply to single and two-family structures, a modification that increased the non-conforming nature of the structure must comply with the present zoning or be allowed under a variance, in addition to a Section 5 finding.

Section 6 of the Zoning Act is a very confusing provision and difficult to apply. Subject to the approval of the Selectmen, I would suggest that I be consulted on matters relating to this provision until the Planning Board and the Zoning Board of Appeals become more proficient in processing these applications.

Third Opinion

March 1, 1994

Opinion No. 94-4
(Modifies Op. No. 94-3)

TO: Howard A. Altholtz, Esq.
Essex Planning Board

FROM: Brian P. Cassidy
Town Counsel

RE: Extension of Preexisting Non-conforming Structures and
Uses, G.L. c. 40A § 6; Essex By-laws

CC: Board of Selectmen
Building Inspector
Essex Zoning Board of Appeals

You asked for a clarification of my memorandum of November 29, 1994, as it related to multi-family dwellings (copy attached). It is my opinion that Rockwood v. Snow Inn Corp., 409 Mass. 361, 364 (1991) requires the finding under G.L. c. 40A, § 6, that:

- (a) the extensions or changes themselves comply with the present zoning ordinance or by-law or, if they do not comply, a variance is granted; and,
- (b) the structure as extended or changed is found to be not substantially more detrimental to the neighborhood than the preexisting non-conforming structure.

To the extent that in Goldhirsh v. McNear, 32 Mass.App.Ct. 455 (1992), the Appeals Court created an exception to Rockwood, it only applies to single and two family dwellings.

I hope this clarifies the issue for the Planning Board.

TOWN OF ESSEX BYLAWS

8. Rear yard, principle building, minimum 30 feet.
9. Rear yard, accessory building, minimum 10 feet.
10. Building height, principle building, maximum two stories or 35 feet.
11. Building height, accessory building, maximum two stories or 25 feet.
12. Lot coverage of all buildings, maximum 25 percent of lot area.

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

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

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

d. **STORAGE AND DISPLAY.** All storage and display shall be conducted in an enclosed building or screened from abutters.

e. **SIGNS.** Total area of signs shall not exceed 32 square feet and shall conform to the requirements of section 6-5.10.

6-6.9 SPECIAL PERMITS. Upon approval of the planning board the following may be allowed:

- a. Airport.
- b. Recreational facilities for other than home use.
- c. Private schools.
- d. Public utility installations.
- e. Radio and television installations.
- f. Trucking terminals.
- g. Private hospitals.
- h. Nursing homes.
- i. Accessory activities permitted as a matter of right which are necessary in connection with scientific research or scientific development or related production, whether or not on the same parcel as activities already permitted as a matter of right.
- j. Conversion of an existing dwelling into three-family unit provided that:
 1. No dwelling shall be altered to accommodate more than one family for each ten thousand square feet of area of the lot.
 2. The planning board finds that such conversion would not be substantially more detrimental to the neighborhood than the existing use.
 3. Except for creation of additional exits if required by law, the structure is not substantially changed or enlarged.
 4. Parking as required in section 6-5.8b. is provided on the lot and behind the setback line.
- k. Multi-family dwelling and/or apartment land use, subject to at least the following requirements which shall in no way limit the right of the special-permit granting authority to impose stricter requirements and/or other conditions to the full extent permitted by law:

1. **DIMENSIONAL REQUIREMENTS:**

- four or more dwelling units, minimum 60,000 square feet;
 a. Lot area, three dwelling units, minimum 90,000 square feet.
 b. Lot frontage, minimum 300 feet.
 c. Front yard, minimum 100 feet.
 d. Side yard, minimum 100 feet.
 e. Rear yard, minimum 100 feet.
 f. Rear yard, accessory buildings, minimum 50 feet.
 g. Minimum land area per bedroom, 5,000 square feet.
 h. Maximum number of bedrooms per building, 8.
 i. Building height, principle building, maximum two and one-half stories and 35 feet in any case.
 j. Building height, accessory building, maximum one story and 15 feet in any case.
 k. Minimum distance between buildings, 20 feet.
 l. Percentage of lot area covered by buildings and paved surfaces, maximum 50 percent of lot.

2. **SIGNS.** Signs may be allowed provided that they are no larger than six square feet in area and that they conform to all other requirements of this bylaw.

3. **STORAGE.** All storage shall be enclosed and in the rear.

4. **PARKING.** As required by section 6-5.8b.

All purposed multi-family, conversions 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.

6-6.10 **APPLICATIONS. SPECIAL PERMITS.** Applications for special permits shall be filed with the planning board, and a copy of such application shall be filed by the applicant with the town clerk.

6-6.11 **TIME LIMITS. SPECIAL PERMITS.** Construction or operations must commence within two years from the date that a special permit is issued. Included within the specified time period is the time required to pursue or await the determination of an appeal.

6-7 ADMINISTRATION.

6-7.1 **ENFORCEMENT.** The zoning bylaws shall be enforced by the Building Inspector.

6-7.2 BUILDING PERMIT.

a. **REQUIRED.** No building or structure shall be erected, added to, moved, or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the site plans showing the buildings to be placed thereon and the proposed use there for, except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provisions of Chapter 40A, Massachusetts General Laws.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA

MARCH 1, 1995

- 7 P.M. Read and Approve Minutes of February 9, 1995
Review Correspondence
- 7:30 Dick Carter Building Inspector
- 8 P.M. Peter VanWyck To discuss the January 18, 1995 decision on
LowLand Farm Subdivion
- 8:30 Bill Blackwood Lot on Walnut Park
- 8:45 George Benoit Decision on A.N.R. Plan submitted February 15, 1995

Business:

Time requested by Houie Altholze to discuss Planning Board issues

Open Space Committee request for a meeting with Board on
April 1, 1995 at 8:30 to discuss walking trails

Board should discuss meeting with Chamber of Commerce
They would like to discuss our ByLaw Changes

ESSEX PLANNING BOARD MEETING

WEDNESDAY, MARCH 1, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, K. JERMAIN, H. ALTHOLTZ,
J. GINN

MEETING CALLED TO ORDER AT 7:30 PM.

MEETING MINUTES:

K. Jermain moved to approve the minutes of the 02/08/95 meeting, H. Altholtz seconded, in favor were Dunn, Altholtz and Jermain, Ginn voted present as he was not present at meeting of 2/8/95.

Dick Carter/Building Inspector:

Northstar Realty, foundation permit approved by this Board on 11/16/94, this application is for building 50' X 80'. Scot's Way, engineering drawings will be forthcoming.

Dennis Outwater, 39 Belcher Street, application is being put on hold, Dick Carter will contact applicant and advise him on what is needed.

Dick Carter:

The Building Inspector requested information on containment of fuel tanks in the water resource protection district.

Altholtz: I'm curious what the position of the DEP is on sump holes discharging oil into groundwater?

Carter: Under the Wetlands, the fuel tank has to have total containment, if it's inside and below grade, that's total containment.

Altholtz: It states that the storage containment must be designed to contain these spills to prevent any flow of petroleum produce through floor drains or exposed soils.

Ginn: New homes built in that district that have outside tanks must have total containment.

Altholtz: Why don't we send a letter to the DEP requesting their informal opinion?

Scott DeWitt/Brookside Apartments:

Can you extend non-conforming with variance? Brian Cassidy says "no". In the instance of the Brookside Apartment approval, we approved in error.

Ginn: Revisiting this thing won't change my mind.

Dick Carter: The footprint was not increased.

Altholtz: We had no power to issue the permit, the applicant needs a variance.

Dunn: I can call applicant and ask him to come back before us.

MOTION: ALTHOLTZ MOVED, BASED ON CLARIFICATION FROM TOWN COUNSEL, TO ASK THE BUILDING INSPECTOR TO PUT A HOLD ON THE ISSUANCE OF BUILDING PERMIT ON BROOKSIDE APARTMENTS, PENDING THE APPEARANCE OF THE APPLICANT BEFORE THIS BOARD, JERMAIN SECONDED, IN FAVOR WERE ALTHOLTZ AND JERMAIN, AGAINST GINN, DUNN ABSTAINED FROM VOTE, THE MOTION CARRIED.

John & Marilyn Heath: 83 Western Avenue, Form A, Lot #1 and Lot #2, East side of Wood Drive.

MOTION: ALTHOLTZ MOVED TO APPROVE THE PLAN OF JOHN & MARILYN HEATH FOR ANR - 2 LOTS CREATED ON WOOD DRIVE, HAVING FRONTAGE ON PRIVATE WAY FOR PUBLIC USE, MAINTAINED BY THE TOWN, ROAD MEETS SPECIFICATIONS, GINN SECONDED, IN FAVOR WERE ALTHOLTZ, JERMAIN, GINN AND DUNN, THE MOTION CARRIED.

Peter Van Wyck/Low Land Farms:

Van Wyck asked to come before the Planning Board tonight to state his position for filing suit against the board members relative to the approval with conditions for Low Land Farm Subdivision. Van Wyck stated the items which led to his filing suit were:

1. Timing (6 mth. and 2 year limits), he still needs to go before and gain approval of DEP and Conservation Commission. Van Wyck doesn't feel the clock should start yet.
2. The Browning/Hildonen issue. Van Wyck stated this is a personal issue, he has no intention of doing the wrong thing.

Dunn: I feel the decision we came to was the best for both parties.

Altholtz: I voted against the approval due to the Board of Health opinion.

Van Wyck: I'm not here to argue, you don't need to defend yourself. I just wanted to state my position.

B. J. Frye: In Westley's motion to approve, where did the stipulations come from?

William Blackwood:

Is currently before the Board requesting a denial on a plan for Walnut Park, so he may proceed to the Appeals Board for a variance.

MOTION: GINN MOVED TO DENY THE BUILDING PERMIT APPLICATION FOR WILLIAM BLACKWOOD OF 250 HIGH ROAD, NEWBURY, MA, FOR A NEW GARAGE/BARN 28' X 32' ON LOT #7 ON WALNUT PARK, LOT IN IT'S PRESENT STATE IS GRANDFATHERED UNDER SECTION 6-40A FOR SINGLE OR 2 FAMILY HOMES, APPLICANT IS NOT ASKING FOR THAT BUT FOR GARAGE NOT USED FOR DWELLING. LOT IS UNSUFFICIENT IN SIZE AND FRONTAGE TO ALLOW THIS AND PROPOSED STRUCTURE WOULD NOT MEET SETBACK REQUIREMENTS, PRESENT BUILDING PERMIT DOES NOT HAVE BOARD OF HEALTH, CONSERVATION COMMISSION OR DPW APPROVALS AT THIS TIME, APPLICANT IS SEEKING DENIAL FROM PLANNING BOARD SO HE MAY GO BEFORE APPEALS BOARD TO OBTAIN VARIANCE, JERMAIN SECONDED, ALL WERE IN FAVOR, MOTION CARRIED.

George Benoit:

George Benoit, 4 Point Road, Gloucester, ANR 3 lots on Western Avenue, end of Patriot's Lane. Applicant is creating frontage on lake for other lots, there is plenty of lot area, septic systems were approved by Board of Health.

Ginn: I was involved in the building of the subdivision road, I won't be voting on this one.

MOTION: JERMAIN MOVED TO APPROVE THE APPLICATION FOR GEORGE BENOIT FOR ANR CHANGING THE LOT LINES ON LOTS 7A, 3B AND 2B LOCATED OFF OF PATRIOT'S LANE OFF OF WESTERN AVENUE FINDING IT HAS SUFFICIENT FRONTAGE AND AREA, SECONDED BY ALTHOLTZ, IN FAVOR WERE JERMAIN, ALTHOLTZ AND DUNN, GINN VOTING PRESENT, THE MOTION CARRIED.

MOTION: ALTHOLTZ MOVED TO WAIVE ANY CONFLICTS THAT MAY ARISE FROM GINN'S POSSIBLE CONFLICT OF INTEREST AS HE MUST BE FOURTH SIGNATURE ON PLAN, JERMAIN SECONDED, IN FAVOR WERE ALTHOLTZ, JERMAIN AND DUNN, THE MOTION CARRIED.

Ginn:

1. On Scott's Way, there is only one coat of hot top up there, and the catch basins are not complete yet, who will put on the final coat? Is this work going to be done? Road is not up to town specification.

2. I'm concerned about the safety conditions in the subdivisions in town. They are privately maintained, if the road is icy, emergency vehicles couldn't get there!

Altholtz: Could that be a stipulation of the approval, that the road will be maintained?

Dunn: Let's schedule some time at the next meeting to discuss safety issues regarding subdivisions.

Dunn:

On Pine Ridge, has the developer ever completed? We could roll this discussion into subdivision discussion.

Altholtz:

- The Building Committee for future uses of town buildings, someone from the Planning Board should have been invited to sit on committee, Sheldon would have been a good choice, due to his technical expertise. I think we should send a letter to the Selectmen offering someone from this board.
- Warrant coming out, we should be ready to provide our recommendation for physical resources of the town.
- Blurb of annual town report. Pennoyer and Altholtz worked on one possible version, and Dunn didn't utilize their contribution.

Dunn: I was late, I had notes on what I wanted to say, and I asked Westley to put it together for me, I wasn't feeling very well due to my eye.

Altholtz: Can we find out if it's too late to make some possible changes here, if it hasn't gone to the printer yet?

Dunn: I'll check with Pat at the Selectmen's Office.

4. What is the status of Eileen?

Douglass: I'm stepping down, Howie.

MEETING ADJOURNED AT 9:40 PM.

PREPARED BY: *Joe Douglas*

ATTESTED TO: *Frances A. Dunn*

ESSEX PLANNING BOARD

AGENDA

FEBRUARY 15, 1995

- 7 P.M. Read and Approve Minutes of Feb. 1, 1995
Review correspondence
- 7:30 Dick Carter Building Inspector
- 8P.M. Mike Davis continue discusion on A.N.R. Plan of lots
located off Western Ave. (near former Glass Co.)
- 8:30 Bill Blackwood Discussion of lot on Walnut Park

Business:
Discuss Minutes

ESSEX PLANNING BOARD MEETING

FEBRUARY 15, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, W. BURNHAM, J. GINN,
H. ALTHOLTZ, K. JERMAIN, J. KNOWLES, S. PENNOYER

MINUTES OF 01/18/95:

Jermain requested additional time to review the tape of the 1/18/95 meeting before the minutes were approved.

The Board of Health had requested a copy of the motion to approve the subdivision plan of the Low Land Farms Subdivision and a copy of the approved minutes of the meeting. It was decided that Dunn would get a copy of the approval to the Board since the minutes were not going to be approved tonight.

Dunn commented that she would like to have a discussion later in the evening on what is really necessary to include in the minutes.

Ginn felt the minutes should be approved tonight.

MOTION: KNOWLES MOVED TO APPROVE THE MINUTES OF THE 1/18/95 MEETING, SECONDED BY GINN. JERMAIN INDICATED SHE FELT THE MINUTES WERE INACCURATE RELATIVE TO SOME COMMENTS SHE MADE THAT WERE INCORRECTLY REPORTED. JERMAIN SAID SHE MADE A REQUEST OF PENNOYER TO COME UP WITH HARD EVIDENCE WHY HE FELT WHAT THE BOARD OF HEALTH MADE AS A RECOMMENDATION WAS INACCURATE, AND THAT WAS NOT REPORTED IN THE MINUTES. BURNHAM SECONDED THE AMENDMENTS, IN FAVOR WERE KNOWLES, BURNHAM, PENNOYER AND GINN, OPPOSED WERE ALTHOLTZ AND JERMAIN, THE MOTION CARRIED.

Knowles said he did not feel that needed to be included in the minutes.

Burnham: We have on the agenda later to discuss the process of the minutes. Why don't we have the motion withdrawn, and discuss this later.

Ginn: On page 2, regarding the Lampi property, the Board decided to send a letter, I voted present on this, it says all were in favor,

Dunn: I will write on mine and get it to Eileen.

Altholtz: On the last page the vote on staying overtime was omitted. It was a three to three tie so it didn't pass. In favor were Pennoyer, Altholtz and Jermain.

Burnham: Last motion on page 10, By-law revisions and certain aspects of Site Plan Review.

MOTION: BURNHAM MOVED TO APPROVE THE MINUTES OF THE 2/1/95 MEETING, ON PAGE 1, JERMAIN SAID SHE DID NOT SAY SHE SAID NOTHING TO AMY SIM REGARDING PENNOYER, I SAID I'M NOT GOING TO DISCUSS A DISCUSSION I WAS NOT PRIVY TO, SHE CONTINUED ON PAGE 4 THE REASON I MADE THE MOTION WAS THAT IN THE DISCUSSION I SUGGESTED THAT WE SHOULD REQUEST INFORMATION SO THAT WE CAN INVESTIGATE OTHER ISSUES IN THE AREA REGARDING THE WAY AND EASEMENT ISSUE. JERMAIN WOULD LIKE ONE LINE INDICATING SHE MADE THAT COMMENT. JERMAIN SAID UNDER APPEALS BOARD AND EASEMENTS, IT SHOULD READ EASEMENTS ON THE WAY, APPEALS BOARD, WE DECIDED TO GIVE THE PLANNING BOARD AS A WHOLE AN OPPORTUNITY TO DECIDE IF THEY WANTED TO DRAFT A LETTER TO SEND WITH THE MINUTES RATHER THAN SEND A REPRESENTATIVE REGARDING THE POSITION OF THE BOARD. ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

CHAPTER 91 LICENSE:

MOTION: PENNOYER MOVED TO AUTHORIZE PAT DUNN TO SIGN THE CHAPTER 91 LICENSE FOR TOWN OF ESSEX, AND CONOMO POINT RELATIVE TO PIERS, RAMP AND BOAT DOCK, IF NECESSARY, GINN SECONDED, ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR:

Western Avenue Realty Trust, County Road, single family residence, 58 X 36, Wetlands and Conservation signed off, new construction.

Ginn: Has DPW signed off on the curb cut?

Lampi: I brought this to them, and they told me I was all set.

Pennoyer: But they didn't sign off on it.

MOTION: ALTHOLTZ MOVED WE AUTHORIZE THE BUILDING INSPECTOR ISSUE A PERMIT TO COUNTY ROAD REALTY TRUST, LOCATED AT 14R COUNTY ROAD, LOT #17, MEETS ALL REQUIREMENTS OF THE ZONING BY-LAWS, CONTINGENT ON DPW SIGN-OFF, PENNOYER SECONDED, GINN AND DUNN VOTED PRESENT, BURNHAM ABSTAINED, IN FAVOR WERE ALTHOLTZ, PENNOYER, JERMAIN, AND KNOWLES, THE MOTION CARRIED.

Single family dwelling, 27 X 46.6, John Lampi, Lot 18 and Lot A.

MOTION: PENNOYER MOVED TO APPROVE THE SINGLE FAMILY HOUSE SITING FOR COUNTY REALTY TRUST FOR 14R COUNTY ROAD, IN THE NAME OF JOHN LAMPI, HAMILTON, MA, AS SITED ON APPLICATION, THIS IS CONDITIONAL ON ANY APPROVAL BY DPW, SECONDED BY ALTHOLTZ. IN FAVOR WERE PENNOYER, ALTHOLTZ AND JERMAIN, BURNHAM ABTAINED, VOTING PRESENT WERE DUNN AND GINN, THE MOTION CARRIED.

Dewitt, Brookside Apartments, 23 Story Street, convert existing garage and maintenance area to storage for tenants and to build a 2 bedroom, 1-1/2 bath apartment, no increase in footprint. Non-conforming due to frontage, it meets all setbacks, it's a change of use, there will be more bedrooms than the land can carry. Dunn is abutter so stepping down as Chair for this discussion, and abstaining from vote.

MOTION: GINN MOVED TO ALLOW THE CHANGE OF USE FOR TRECOTT AND DONNA DEWITT, OF BROOKSIDE APARTMENTS, 23 STORY STREET, FOR THE EXISTING GARAGE AREA TO BE CONVERTED TO AN APARTMENT, NOT INCREASING THE FOOTPRINT, FINDING IT NO MORE DETRIMENTAL, PENNOYER SECONDED, IN FAVOR WERE GINN, BURNHAM, JERMAIN, AND KNOWLES, ALTHOLTZ VOTED PRESENT, DUNN ABSTAINED, THE MOTION CARRIED.

George Benoit:

Submitting ANR plan, with 21 days to act, will be on agenda for March 1, 1995.

Mike Davis:

Withdrawing Form A, John Sarafini will be submitting letter confirming withdrawal.

MOTION: BURNHAM MOVED TO ACCEPT THE VERBAL WITHDRAWAL OF A FORM A APPLICATION OF MIKE DAVIS FOR WESTERN AVENUE, AREA OF FORMER SKATING RINK AND GLASS COMPANY, KNOWLES SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

William Blackwood:

Blackwood: I would like to build a storage unit on a grandfathered lot on Walnut Park. I don't have frontage or square footage. It is grandfathered though, it has been in existance since 1915. I need to know if it is an accessory building or not.

Dunn: I cannot speak on this, perhaps my co-chair can speak on this, since I'm Chair. I should refrain from discussion as this is in my neighborhood, but I would like to offer my input.

The board was comfortable with Dunn remaining as Chair on the discussion and she should feel free to offer comment.

Blackwood: No plumbing or septic, there will be electricity.

Knowles: Even if the lot is grandfathered, you still need to meet the frontage requirement.

Altholtz: I think you can grandfather the frontage issue.

Dunn: I'm looking at this stream running through here, that is extremely sensitive.

Ginn: I'm not so sure that's a stream, as much as it's a drainage path, it is a sensitive area though. DPW is responsible for the neglect on their part for not maintaining an existing drainage path and allowing that house to flood.

Dunn: I know the applicant says he is just using the structure for storage, but if it is sold we will have no control over what the structure is used for.

Pennoyer: In order for this to meet the necessary setbacks as primary building it could be 18' wide.

Burnham: The definition of an accessory building is a building on the same lot with and customarily subordinate to the principal building. There is no principal building, so it doesn't fit.

Blackwood: It is accessory to my primary residence, which is elsewhere. Any items I wish to store from my primary residence, I would store here, it is accessory to my needs.

Altholtz: Much of the area is wetlands.

Dunn: We need to take into consideration the area surrounding there.

Phyllis Downs/Walnut Park: I don't want this, it makes my property less valuable. We have enough problems on that street, this isn't right.

Burnham: This structure would be the principal building, the principal building usually consists of a kitchen, bathrooms, a septic system, etc. We should look at this under the business land use.

Altholtz: I think he is grandfathered on the frontage, he has the legal right to build a residential structure on that property. If he wanted to build a home, we would have to say "yes" as long as it meets all Board of Health issues, but he couldn't get that due to septic issues, so he couldn't get it.

Burnham: We could consider it under our business land use, therefore he would not be conforming and it would not be grandfathered.

Dunn: What is the applicant looking for?

Blackwood: I was told I needed to get a denial from this board in order to go before the board of appeals.

The sense of the board appears to be if the applicant comes before us seeking the siting of a residential building, he would have to meet the residential requirements as far as setbacks and have an approval from the Board of Health. If he comes before us with a request for an accessory building then he could meet the setbacks, but would not be grandfathered for a business use.

BY LAW REVIEW:

MOTION: KNOWLES MOVED TO INCORPORATE BURNHAM'S LIST OF BY-LAW CHANGES INTO THE MINUTES OF TONIGHT'S MEETING, SECONDED BY PENNOYER. ALL WERE IN FAVOR, THE MOTION CARRIED.

ALTHOLTZ MOVED TO SEND TO TOWN MEETING ALL THE BY-LAW CHANGES, DELETIONS, EIGHT (8) ARTICLES, ADDITIONS, AMENDMENTS WORKED ON BY EVERYONE ON THE BOARD, AS WELL AS THOSE ITEMS BROUGHT TO US FROM OUTSIDE THE BOARD, AND RECOMMEND PASSAGE AT TOWN MEETING, SECONDED BY PENNOYER, ALL WERE IN FAVOR, THE MOTION CARRIED.

Peter Van Wyck:

Dunn explained Van Wyck wanted to discuss the approval of Low Land Farms and the time limits placed on the approval. Dunn indicated to him he should appear at the meeting on March 1, 1995 if he wanted to discuss it with the Board.

Secretary:

Scotti Robinson is interested in the secretarial work here. She has had experience in this type of stuff; she would be willing to help out. She said she would take the position if Eileen doesn't want it, but doesn't want to step on anyone's toes. The position would have to be posted and advertised appropriately.

PREPARED BY: Frances A. Dunn

ATTESTED TO: Frances A. Dunn

ESSEX PLANNING BOARD

AGENDA

FEBRUARY 8, 1995

7 P.M. Board discussion on Minutes

8 P.M. Public Hearing on By-Laws Changes

ESSEX PLANNING BOARD

WEDNESDAY, FEBRUARY 8, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, J. KNOWLES, W. BURNHAM,
H. ALTHOLTZ, K. JERMAIN, S. PENNOYER

THE PUBLIC HEARING WAS OPENED ON EXISTING BY-LAW CHANGES FOR THE ANNUAL TOWN MEETING:

Westley Burnham: 6-4.2, clears up loophole that has surfaced. Worded in such a way that anything prior to 1972 would be considered a non-conforming use. It's a technicality.

Bruce Fortier: Pre-existing non-conforming use, changed to existing non-conforming use.

Altholtz: 6-4.3: change "not subject to any findings" to read "not subject to said findings".

Maria Burnham/Southern Avenue: "substantially more detrimental to the neighborhood" are you changing that?

Westley Burnham: No, that will stay intact as it is. The only thing that's going to change is the title.

Altholtz: It is changing a little. It's exempting single family and two family dwellings from that analysis, that detrimental section.

Maria Burnham: If I have a single family dwelling, and I have a non-conforming use, some kind of home occupation, because I have a single family dwelling, can I make it larger?

Altholtz: As long as you don't make it any more non-conforming.

Maria Burnham: But it says, any alteration or extension.

Altholtz: Providing it doesn't increase the non-conforming nature of the structure.

Fortier: It only applies to the residential structure.

Altholtz: This isn't a use issue, it's a structure issue.

Westley Burnham: Our home occupations are still considered residential structures.

Fortier: This isn't changing the law, the state law already says this. This is a convenience to the planning Board to incorporate state law.

Maria Burnham: If I have a business in my single family house, I can expand my single family house, increase the footprint, without a permit from you, as long as it's the residence side, not the business side?

Altholtz: You'll still need a permit, you'll need a finding from us that it's not intensifying the non-conforming nature.

Maria Burnham: But what if I want to make the business bigger? Do I come to you?

Westley Burnham: If it's a home occupation, it's very simple.

Fortier: You have a right to double the size of your structure, if you have a home occupation to increase the size of your business. If it were an accessory building, and you wanted to double the size of your accessory building, that would be another thing.

Maria Burnham: If I have a business in my garage, and I want to double the business, I can?

Pennoyer: As long as you fit within the guidelines of the home occupation, you can. There are limits already in place, i.e. parking, number of employees, etc.

Westley Burnham: Under the definition section, accessory use/attached garage relative to sidelines. If it's a completely separate building, independent of the principal dwelling then it can go down to the 10 foot. If it's part of the principal structure, although it's still accessory type use, it should remain the 20' sideline.

6-3.14 "Family" definition. Delete in its entirety.

6-3.14 Remains blank for future use. We will not change this.

Change 6-3.18 to 6-3.23, 6-3.18 is impervious surface
In 6-5.11(d) change the reference to 6-3.17 to 6-3.6.

6-5.10(d) "cumulative" on signs and billboards.

Allowable signage (definition). Add additional
requirement for internally lit signs.

SIGNS: Signs shall be allowed provided that total
area of signage subject to 6-5.10 does not exceed 32
square feet. Except in the case of internally
illuminated signs which shall not exceed 20 square
feet.

Altholtz: Internally illuminated signs, I would
personally be comfortable prohibiting them all together.
I'm sure the rest of the board probably doesn't agree, but
that's my personal opinion.

Includes changing the definition in the following:

6-6.5 BUSINESS LAND USE.
d. Signs

6-6.6 MOTEL AND HOTEL LAND USE.
d. Signs

6-6.7 INDUSTRIAL LAND USE, CLASS A.
d. Signs

6-6.8 INDUSTRIAL LAND USE, CLASS B.
e. Signs

6-6.9 SPECIAL PERMITS.
k.2 Signs

Section 6-13 Water Resource Protection District

Delete the following in it's entirety:
6-13.3.a.13

Westley Burnham: Are we trying to encourage residential
uses in that part of town or are we trying to encourage
business uses up there? This by-law encourages business.

Altholtz: How about if we change it to read 15% or 2,500
square feet whichever is less, not greater?

Burnham: Why don't we make this for the entire town, not
just those in the water resource protection district?

Pennoyer: Why don't we eliminate the reference to 2,500 sq. ft, and just leave it at 15%?

Burnham: We're going to be arguing over 1 or 2 square feet. But, it's a good compromise.

Change 6-13.3.b.7 to read:

Rendering impervious more than 15% of lot area, to be approved only if using a system for artificial recharge of stormwater that will not degrade the groundwater quality.

Altholtz:

1. Lot coverage outside the water protection district is 25%. I propose to lower that to 20% coverage, maximum.
2. "Lot coverage of all buildings shall be a maximum of", I would suggest including "all buildings and pavement shall be a maximum of".
3. To exclude wetlands in the calculation of lot area, it's pretty common to exclude wetlands from the calculation.
4. On every project, which in the aggregate, occupies an area greater than 10,000 sf, we would increase the setback from 30 to 50 and the sideyard from 20 to 30 feet to protect abutters, and we would ask for screening.

Fortier: Screening by natural vegetive buffer, I disagree with that. That portion is going to be a mess with differing opinions. It's totally subjective, how will you know if it meets the requirement, or not? I'd cross out the whole sentence about buffering.

Ann Marie Leighton: I think screening should be in here. It's an important thing to look at.

Pat Dunn: Why can't we just say, "screened from view"?

Scottie Robinson: Why are all these questions on one vote? Can't you separate them?

Altholtz: We can break them up; we should segregate them.

Altholtz: Under 6-10.2.b definitions, to amend #11 in the last sentence to read, "in computing the area of the lot for purposes of dimensional requirements as set forth", section 6.6, "neither wetland nor tidal marshland shall be included in such calculation".

Bruce Fortier: In amending the last sentence, 6-3.2.3 by amending the last sentence of that to read: "in computing the area of a lot for purposes of dimensional requirements set forth in Section 6.6, neither wetland, as defined in Section 6-10.2.b. nor tidal marsh land shall be included in such computation". Section 6-10.2.b. is the section in the wetlands zone that defines the wetlands in those elaborate maps we have.

Pennoyer: I think we should eliminate the screening and come back to it another time.

Knowles: We're not the only group that could propose these, ten people can sign their name to a petition on the screening.

Jermain: I agree with Sheldon, screening tends to be artificial, no matter if you describe it as natural or not, the act of putting in a building many times disturbs the naturalness of the screening and often times they come in with something that isn't what you would want anyway.

Knowles: We've had two issues tonight, one was screening and the other was business uses, when to allow it. I think we should look into these further.

Altholtz: We should strike number 7 and 8 altogether.

MOTION: ALTHOLTZ MOVED TO CLOSE THE PUBLIC HEARING, SECONDED BY PENNOYER, ALL WERE IN FAVOR, THE MOTION CARRIED.

MOTION: JOE KNOWLES MOVED TO ADJOURN AT 9:50 PM, SECONDED BY PENNOYER, ALL WERE IN FAVOR, THE MOTION CARRIED.

PREPARED BY: *E. Douglas*

ATTESTED TO: *Frances A. Dunn*

ESSEX PLANNING BOARD

AGENDA

FEBRUARY 1, 1995

7 P.M.. Read And Approve Minutes of December 14, 1994 ...January 4, 1995 and
January 18, 1995

Read Mail

7:30 Dick Carter Building Inspector

8:P.M. ✓ Mark Glovsky for Dick Tomaiolo ... 2 A.N.R. lots off Spring St.

8:45 Ron Gauthier Addition to home on Coral Hill

9 P.M. Meet with Appeals Board

Business:

Discuss By-Laws Amended For Town Meeting

ESSEX PLANNING BOARD

WEDNESDAY, FEBRUARY 1, 1995

ATTENDEES: W. BURNHAM/CHAIR THIS MEETING, P. DUNN/
ATTENDING FIRST HOUR OF MEETING, S. PENNOYER,
J. GINN, K. JERMAIN, H. ALTHOLTZ, J. KNOWLES

MEETING OPENED AT 7:03 PM.

APPROVAL OF MINUTES:

MOTION: KNOWLES MOVED TO APPROVE THE MINUTES OF THE
12/14/94 PLANNING BOARD MEETING, DUNN SECONDED,
ALTHOLTZ AND JERMAIN VOTED PRESENT, IN FAVOR WERE
KNOWLES, DUNN, BURNHAM, GINN AND PENNOYER, MOTION
CARRIED.

MOTION: KNOWLES MOVED TO APPROVE THE MINUTES OF THE
1/4/95 PLANNING BOARD MEETING WITH THE ADDITION OF THE
COMMENT RELATIVE TO MIKE DAVIS' ANR STATING THE "WAY"
WAS IN EXISTENCE SINCE THE '50's, DUNN SECONDED, ALL
WERE IN FAVOR, THE MOTION CARRIED.

It was decided to hold off approving the minutes of the
January 18, 1995 meeting pending Jermain's review of the
tape.

POSITION OF PLANNING BOARD SECRETARY:

Dunn mentioned that the Secretary had been receiving
telephone calls from members other than the Chair, after a
motion had been made restricting calls. A discussion
ensued, Jermain and Altholtz felt access to the secretary
should be available to all members, the balance were in
agreement with the previous motion to restrict.

Eileen Douglass indicated she was concerned her other
responsibilities of her full time job would be getting in
the way of the duties of the Planning Board Secretary. She
informed the Board that of the three meetings scheduled for
February, she would be attending only one. Douglass stated
receiving telephone calls at her place of employment for
Planning Board business was intrusive, and suggested
perhaps the board should look for someone else may have
more time available.

BOARD OF HEALTH:

Pennoyer stated he received a telephone call from the Board
of Health. He said Jermain informed Sim that Pennoyer had
made unfavorable comments regarding the Board of Health at
the Planning Board meeting of 1/18/95 regarding the Low
Land Farm Subdivision. Pennoyer stated Amy Sim requested
an apology. Jermain stated she said nothing to Amy Sim
regarding Pennoyer, and he should not rely on word of
mouth. Pennoyer stated he would not apologize, but would
copy Sim on the approved minutes of the 1/18/95 meeting,
feeling they were accurate, and would indicate to Sim that
he said nothing negative regarding the Board of Health.

Pennoyer stated he felt Planning Board members should not be communicating with other boards without the input from all Planning Board members. Jermain said she was speaking to Sim as a private citizen, not a Planning Board member.

POSITION OF CLERK:

MOTION: ALTHOLTZ MOVED TO ACCEPT THE RESIGNATION OF JERMAIN AS PLANNING BOARD CLERK, KNOWLES SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

MOTION: ALTHOLTZ MOVED TO HOLD THE POSITION OF PLANNING BOARD CLERK OPEN UNTIL MAY, 1995. IN THE INTERIM, A DESCRIPTION OF THE DUTIES AND RESPONSIBILITIES OF THE POSITION WILL BE FORMULATED, PENNOYER SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

JOSEPH & JOSEPHINE ZAFFIRO:

Attorney Mark Glovsky representing applicants. ANR plan by Hancock Survey Associates, Lufkin Point Road and Lufkin Creek Road. Parcel A non-buildable with deed restrictions, 2 lots.

B. J. Frye: the "way" is not wide enough.

Jim Prentiss: Aren't by-laws supposed to supercede prior by-laws?

Burnham: Not for existing uses, they're grandfathered.

Jim Prentiss: The "way" is not 44' wide.

Burnham: If this was a new road, we would mandate the 44' width, for existing ways we don't need to.

B. J. Frye: But is the "way" adequate?

Altholtz: I'd like to have the opinion of the fire and police departments.

Glovsky: The way has met the needs of the homes that are off of it.

MOTION: PENNOYER MOVED TO APPROVE THE ANR APPLICATION FOR JOSEPH AND JOSEPHINE ZAFFIRO, PLAN BY HANCOCK SURVEY ASSOCIATES DATED 12/2/94, SHOWING 2 LOTS AND 1 NON-BUILDABLE PARCEL. IT WAS OFFERED THAT NO FURTHER SUB-DIVISION WOULD BE ALLOWED AND IT WOULD BE NOTED ON DEED, ALTHOLTZ SECONDED, GINN VOTED PRESENT AS THERE MAY A CONFLICT, BURNHAM, PENNOYER, ALTHOLTZ, JERMAIN, KNOWLES WERE IN FAVOR, THE MOTION CARRIED.

DICK TOMAIOLO:

Spring Street, ANR, plan by Donohoe and Parkhurst. Lots #23, #24. The board received a letter from Arlene and Anthony Taliadoris (abutter) stating they were opposed to the plan due to existing flooding problems and sewage seeping onto their property.

Altholtz: Would like to have comment from Board of Health.

Jim Prentiss: Is this a "way" or an "easement"? An easement allows someone to pass over your property.

Glovsky: The Planning Board is grappling with standards for "ways"; we meet minimum standards.

Nelson Amizone: Who maintains an easement? What provisions will be made for new neighbors to contribute to maintenance? Who will maintain the road?

Glovsky: That's a private arrangement between land owners. The sharing of expenses is not jerman to ANR plan.

Madeline Sullivan: It's a dirt driveway. There's been a good spirit of cooperation in the past, if you make it more than that, our fear is not 2 more homes, but it's opening up the way, it could be Pandora's Box.

Glovsky: Several homes have been built using that way for frontage.

Burnham: Found minutes from a Planning Board meeting from March of 1992. They indicated in 1988 a preliminary sub-division plan was approved, but a definitive plan was never submitted.

Pennoyer: It doesn't meet minimum standards; I would not be in favor of it.

Glovsky: Refer to Town Council, a decision doesn't need to be made immediately.

Burnham: A similar decision is going on elsewhere in town. Driveway versus existing way. This is a private driveway, Lufkin Point Road and Lufkin Creek Road are public ways.

Ginn: You're asking the board to accept this easement as way.

Glovsky: It's a right-of-way. Please make sure to make it clear what you're basing your decision on, so we'll know where to go from here.

Knowles: A path becomes an easement, then it's used for frontage.

Glovsky: It's been 50' wide for some time.

Knowles: The larger issue is at what point does an easement become a way, when does it supply frontage?

Altholtz: This is not an attractive proposition. How many lots are off that way?

Jim Prentiss: Eight different properties are using the easement, the Taliadoris' have access.

Burnham: Creation of frontage should go through sub-division process, this should be on a Form B.

Nelson: Previously the easement was used by clammers. Cloutier put up a fence with a chain so they couldn't access it, the clammers used to take it down. The current owners left the gate open.

Ginn: Did the Soganeese plan show the road upgraded?

Burnham: Yes, but all we had was a preliminary plan.

Glovsky: I haven't officially filed this plan. I won't file it if you need more time for clarification.

Burnham: Are you withdrawing this plan tonight?

Glovsky: Yes.

MOTION: JERMAIN MOVED TO SEND A SERIES OF QUESTIONS TO TOWN COUNSEL REQUESTING WRITTEN DEFINITION OF "WAY IN EXISTANCE" AND "EASEMENT", PENNOYER SECONDED, ALL WERE IN FAVOR, THE MOTION CARRIED.

APPEALS BOARD:

The Appeals Board again is attempting to clarify the relationship of the two boards, and how they can get information more efficiently on Planning Board denials that may come before them.

Jermain: We previously decided to send a letter and copies of the minutes relating to the application; not sending an individual.

Gloria Story: All we need is a copy of your minutes, we don't need a letter.

Bill Holten: If your minutes clearly state the reason for denial, that's all we need.

Altholtz: We need to discuss, as a Board, how we came to the decision. When we get the notice of the upcoming hearing, we will send a recommendation.

Burnham: It's a matter of time, they may not get the recommendation in time for their hearing.

Knowles: We should send a copy of our minutes, that should be sufficient.

Altholtz: We could devise a form that we could hand each applicant when we deny their application. Right here at the meeting, just briefly stating the reasons for denial.

Burnham: Eileen had a suggestion, after every meeting, she sends a letter to each applicant, whether it was approved or denied, detailing the motion for their records. She suggested she could send the appeals board a copy of each denial. That would probably take care of it.

GREENWAYS AND TRAILS GRANT PROPOSAL:

Altholtz stated he received a call from Carol Kawolski regarding a grant on a hiking trails project on the Cape Ann area. A map will be produced of existing trails and GIS map revisions. They are looking for a letter of support, they're not looking for money.

MOTION: PENNOYER MOVED TO ISSUE A LETTER TO CAROL KOWALSKI, REGIONAL PLANNER FOR MAPC, THAT THE PLANNING BOARD IS IN FULL SUPPORT OF THE EFFORTS MADE BY THE GREENWAYS AND TRAILS GRANT PROPOSAL FOR ESSEX, MANCHESTER, ROCKPORT AND GLOUCESTER, ALTHOLTZ SECONDED, ALL WERE IN FAVOR WITH BURNHAM VOTING PRESENT, THE MOTION CARRIED.

MEETING ADJOURNED AT 10:00 PM.

PREPARED BY:

Lee J. Duggan

ATTESTED TO:

Frances A. Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA

JANUARY 18, 1995

7 P.M. Minutes Read And Approve Minutes
Sort Mail

7:30 Dick Carter Building Inspector

8 P.M. Continuation of Public Hearing
Close Public Hearing
Discussion and decision

9P.M. Discussion on amendments to town By-Laws

Business:

Our Next Meeting will be Feb.1, 1995

There Will be a meeting on Feb. 8, 1995 To hold a public hearing
on Amendments to our By-Laws at 7 P.M. at the Essex Elementary School

ESSEX PLANNING BOARD

WEDNESDAY, JANUARY 18, 1995

PRESENT: P. DUNN/CHAIRPERSON, A. ALTHOLTZ, K. JERMAIN,
S. PENNOYER, J. GINN, W. BURNHAM

MEETING CALLED TO ORDER AT 7:22 PM.

DICK CARTER/BUILDING INSPECTOR:

Barry & Kelley Steele, 45 Forest Avenue, Map 10, Lot 2,
40,000 sf lot, single family dwelling, approved by Board of
Health, Conservation Commission, and Wetlands.

MOTION: PENNOYER MOVED TO APPROVE THE BUILDING
APPLICATION FOR BARRY & KELLEY STEELE OF 45 FOREST
AVENUE, ESSEX, FOR A SINGLE FAMILY DWELLING LOCATED AS
SHOWN ON PLAN DATED 9/14/94 BY MERIDIAN ENGINEERING
COLLABORATIVE AND AMENDED ON 12/7/94, IT IS UNDERSTOOD
THAT LOT #2 AND PARCEL "A" PROVIDE SUFFICIENT
FRONTAGE, ALTHOLTZ SECONDED, ALL WERE IN FAVOR, THE
MOTION CARRIED.

MAIL/H. ALTHOLTZ:

Memo from the County of Essex regarding mapping program.
To change to another set of maps would require a by-law
change, it would have to go to Town Meeting, currently our
by-laws state we use the Raytheon Maps. It was decided to
obtain a copy of the mapping program maps, and use them for
reference only; they cannot be used for enforcement.

Notice from the Board of Appeals that they denied the
appeal for 114 Western Avenue for Gloucester Bank & Trust.
Dunn advised that the Appeals Board questioned why the
Planning Board denied the application. Dunn stated she
copied the applicable section from the By-Laws and is
sending them to the Appeals Board.

Jermain: I thought we had agreed that any Board of
Appeal request would come before us and if we felt
that the minutes were insufficient to express our
joint opinion, we would decide if the board as a whole
wanted to draft a letter to send with the minutes,
rather than sending one member. I think we should do
that.

Dunn: In this instance, all they requested was
clarification on what by-law we denied it under, so I
sent the copy of that section.

MAIL: (con't)

Department of Environmental Management: Regarding some trails being established. The Open Space Committee is also working on this. When Mike Cataldo was here presenting those survey results, we discussed having a joint meeting, we should write them a letter to schedule them to come in.

Pennoyer: I'm on the Open Space Committee, we're in the process of working on some overlay drawings on some town owned property that is not currently being utilized and we think it could provide a good source for walking trails. We want to get the backing of the Planning Board. Pennoyer requested a letter go to Taran Warren, 52 Harlow Street to schedule a meeting.

MAESTRANZI: Letter withdrawing application submitted prior to the plan that was denied at the last meeting.

LAMPI:

J. Ginn: The Department of Public Works is concerned that the Planning Board approved a plan without the DPW being notified regarding the three lot ANR for John Lampi. DPW's sign-off was missing from the form submitted. A letter should be sent to Lampi informing him it is up to him to notify the DPW for the curbcut, and copy the DPW on it.

MOTION: ALTHOLTZ MOVED TO SEND A LETTER TO LAMPI INFORMING HIM HE MUST GO TO THE DPW, AND COPY THE DPW ON THE LETTER, SECONDED BY PENNOYER, ALL WERE IN FAVOR WITH BURNHAM ABSTAINING (AS ABUTTER), AND GINN VOTING PRESENT, THE MOTION CARRIED.

PETER VAN WYCK/LOW LAND FARMS:

THE CONTINUATION OF THE PUBLIC HEARING FOR PETER VAN WYCK ON THE LOW LAND FARMS SUB-DIVISION WAS CALLED TO ORDER AT 8:05 PM.

Frederick Fawcett read a letter written by him and Mrs. Fawcett (attached).

Dunn: Do we want to re-read the five reasons for denial as we did at the last meeting?

Ginn: What was the result of the question to Town Counsel on this?

Burnham: We asked Brian Cassidy that question in the parking lot the other night. He informed us that all information can be considered. If we would like to add additional restrictions based on the Board of Health input we can. However, I do not believe he said we must deny it

Altholtz: That is what he said. He did not provide us with a written legal opinion, because we did not ask him for one. He said we could use the Board of Health opinion in our denial, but his opinion was we do not have to deny it based on their opinion. We asked him informally and he told us we could consider all information presented.

Ginn: We were told by previous town counsel that we could only consider the areas relating to the reasons for denial. That is why we were so careful in the process of stating the five (5) reasons for denial.

Pennoyer: I provided some background to Cassidy. I told him when I was chairman I had written the various boards (DPW, ConComm, Board of Health, Fire Dept.) and asked for feedback. I told him since that time we have a new health agent, a fill-in. The letter we are looking at is from the new agent, Essex County Soils. He is looking at the same soil test pits that were available, nobody has dug any additional test pits. The Board of Health had someone who had no problem with the soil conditions and now they have a health agent who has a problem with soil conditions. It leaves us in a bad position.

Jermain: How does it leave us in a bad position? If we've gained new knowledge and new information.

Pennoyer: Is it new knowledge, is it new information? If it were new test pits and new soil analysis, then it would be.

Altholtz: What is it, a new interpretation?

Pennoyer: I think it is. I worry about a new interpretation, I worry about different interpretations between two professionals, one that was a full time health agent and this one that's a part time one.

Jermain: In 1980 based on the information at that time, the property was not in the condition where the town felt comfortable being developed. Now fifteen years later, why is it any different now? We now have a better definition of the wetland areas, we know that Lot #1 is so wet it can't be called buildable.

Pennoyer: I wouldn't deny that, but I've also walked the property and seen some of the traces of soil from various woodchuck holes, the whole thing isn't wet, there are wet areas, but there are dry areas as well.

Jermain: Do you feel comfortable looking at that drawing, where the septic systems are, where the lot lines are going, and the future of the property?

Pennoyer: Well, do you know from looking at this drawing where the test pits are on each lot?

Jermain: I see lot lines have been changed to accommodate test pits that were not the best.

Pennoyer: He had lot lines that were zig zag, and we asked him to parallel them.

Jermain: We're looking at a full development here. We're not looking at four lots, we don't know where the other lots will be. And now, the Board of Health is saying it's not acceptable, and you're saying they are not working with new information.

Pennoyer: I'm questioning it. I'm questioning the process we're going through. We went through this long drawn out thing based on this denial, with very specific issues right at this table. You're always talking about the process. Suddenly we have a piece of paper here, by this temporary agent, and this is going to be the basis for a denial and this is going to throw the applicant out the door.

Jermain: You ought to really think about what really has happened in the process. We haven't even had the courtesy to have this plan here, we haven't had the plan at Town Hall, we haven't considered the people who live down there. We don't let people finish, we don't let people say how they feel about this.

Pennoyer: What concerns me is we just got a letter making very specific accusations against the drawing, I'm looking specifically at the drawing. If you want to know my internal beliefs about this, we can talk about it another time, that has nothing to do with right now. What I'm seeing and what that letter says about drainage and where the water's going is not true. I can look at this drawing, and I probably know more about reading this drawing than anyone here, and it's not true. If there is anything pertinent, let's put it down on a piece of paper and let's weigh its value, because so much has been thrown at us.

Jermain: If you're the one who is so informed, then you should put that information down, so the people on this board can say this doesn't relate. Because I think it does relate, I think we would really be misrepresenting our position regardless of what you think of the Board of Health.

Ginn: I'm still very confused regarding the decision from Town Counsel. It has always been my understanding that the only items to be discussed were the reasons for denial. This has been a major discussion all along, why do we discuss things that are irrelevant, when we should have been discussing the reasons for denial.

Fred Fawcett: A resubmitted plan, a plan submitted as a result of a denial, is a new plan. Then you have a new public hearing, and you hear new evidence.

Betsey Fawcett: A planning board may not overrule an adverse position of another board.

B. J. Frye: This plan was disapproved for five or six reasons, they are there as a guide for the developer should he want to submit an amended plan (a new plan). You cannot approve something the Board of Health has disapproved. Sheldon is challenging the Board of Health, this is the first time anyone has questioned the Board of Health. My concern is what is really going to happen there. Lot #1
ESSEX PLANNING BOARD
Dupon, when the lot lines were straightened
JANUARY 18, 1995

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Jennifer Stephens: At your meeting with Town Counsel, was this put in writing? There seems to be some confusion regarding what he said.

Altholtz: No, he was not asked to put it in writing, it was informal. There is no confusion, he said we could consider all information, and we could use the Board of Health opinion in a denial.

B. J. Frye: If this was an approval with modification, then those modifications would be made, and it would be over, no public hearing, no nothing.

Altholtz: Regarding the conflicting opinions from the Board of Health, we should err on the conservative side. I don't agree with the opponents that say this is a new plan. I don't believe a resubmitted plan is a new plan, 81U specifically gives the applicant an opportunity to resubmit it in response to our line items of disapproval. But I do believe we should be guided by the Board of Health information.

Clark: In the By-laws, under Board of Health section 6.05 (1), it states the Planning Board is allowed to grant conditional approval. Peter would not be able to seek a building permit without the approval of the Board of Health, you're covered by your own rules and regulations.

Altholtz: We can issue an approval with conditions, or we can deny it.

Jermain: The applicant is asking us for a definitive approval so he can do whatever he feels like with all the things left unknown. He should bring in a preliminary plan for input from the Planning Board, this plan does not allow for that. The applicant needs to address the specific issue of Lot #1.

Ginn: I would not be comfortable voting on this tonight until I have some questions answered from our Town Counsel, the applicant's attorney has a different opinion from our attorney. Are the letters from the Board of Health to be used tonight in our decision? I'm very confused.

Altholtz: We asked Town Counsel, and he told us we could use all information available.

Burnham: He also said we could use the Board of Health report as a condition in an approval.

Jermain: What would be the point in having a Board of Health if you're not going to defer to them. Sheldon says he is probably more knowledgeable than the Board of Health.

Pennoyer: No I didn't. Don't misuse the information.

Jermain: I don't understand why we wouldn't want to use the information.

Ginn: My concern is I don't know if we can use the information for a denial.

Jermain: Sheldon feels that the person who is substituting was using old information and interpreting it differently. I think it's important that we include as many people's opinion in this, and we are not protecting the town's best interest.

Burnham: We can close the public hearing, and the public input has been more than adequate, I think we know everyone's position. We can ask the applicant for an extension to obtain town counsel opinion if we so choose.

MOTION: WESTLEY BURNHAM MOVED TO CLOSE THE PUBLIC HEARING ON LOW LAND FARMS, ALTHOLTZ SECONDED, ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

The Public Hearing was closed.

Altholtz: I feel comfortable using the information we obtained from Board of Health.

Pennoyer: Kimberly is taking this letter from the Board of Health, holding on to it and saying "denial". Maybe we use it as a denial, but maybe we use it in an approval.

Burnham: We need to vote on this tonight.

Dunn: I think this Board has a lot of information on this plan, and I think it's time to put it to a vote. It is unfair to the applicant to drag this on and on. We could sit here and pick this apart forever.

MOTION: WESTLEY BURNHAM MOVED TO APPROVE THE DEFINITIVE SUBDIVISION OF PETER VAN WYCK FOR THE LOW LAND FARMS SUBDIVISION AS PREPARED BY SURVEY ASSOCIATES, DATED SEPTEMBER 1, 1990, AND REVISED ON SEPTEMBER 30, 1994. THE PLAN MEETS ALL LISTED REASONS FOR DISAPPROVAL AS STATED IN ESSEX PLANNING BOARD DECISION DATED MAY 4, 1994 (SEE ATTACHED). THIS APPROVAL IS BEING MADE IN ACCORDANCE WITH MGL CHAPTER 41, SECTION 81U.

CONSTRUCTION SHALL COMMENCE WITHIN SIX MONTHS OF THE DATE OF ENDORSEMENT AND IS EXPECTED TO BE COMPLETED WITHIN TWO YEARS. IF EITHER OF THE TIME CONSTRAINTS SET FORTH CANNOT BE MET, THE ESSEX PLANNING BOARD SHALL EXERCISE ITS RESPONSIBILITY UNDER THE PERFORMANCE GUARANTEE IN EFFECT OR RESCIND THIS APPROVAL. ANY FURTHER PLANS SUBMITTED WILL BE CONSIDERED A NEW SUBMITTAL SUBJECT TO ALL REGULATIONS AND ORDINANCES IN EFFECT ON THAT DATE.

THE TERMS AND CONDITIONS RELATED TO THE LOW LAND FARMS PROPERTY WHICH ARE PART OF THE SETTLEMENT AGREEMENT BETWEEN THE TOWN OF ESSEX AND PETER VAN WYCK FILED IN ESSEX SUPERIOR COURT ON 10/26/93 SHALL BE INCORPORATED INTO THIS MOTION.

ANY FURTHER SUBDIVISION OF THE REMAINING PROPERTY SHALL INCLUDE BOARD OF HEALTH APPROVAL TO INSURE ADEQUATE PERCOLATION SITES ARE AVAILABLE ON ALL BUILDABLE LOTS CREATED PRIOR TO ANY FORM "A" APPLICATION SUBMITTAL.

THE APPLICANT SHALL ALLOW ACCESS FOR THE PURPOSES OF PASS AND REPASS TO THE IMMEDIATE ABUTTING PROPERTY OWNERS AND THEIR SUCCESSORS IN THE AREA OF THE ROAD INTERSECTION WITH APPLE STREET. AN AGREEMENT IN WRITING SHALL BE AVAILABLE FOR PLANNING BOARD REVIEW PRIOR TO ENDORSEMENT OF THE PLAN FOLLOWING THE REQUIRED APPEAL PERIOD.

THIS MODIFIED PLAN WAS SUBMITTED ON OCTOBER 5, 1994. THE REQUISITE PUBLIC HEARING WAS OPENED ON NOVEMBER 16, 1994 AFTER ALL REQUIRED NOTIFICATIONS AND ADVERTISING HAD BEEN PERFORMED.

THE PUBLIC HEARING WAS CLOSED ON JANUARY 18, 1995. ENDORSEMENT OF THE PLAN IS CONDITIONAL UPON THE FOLLOWING REQUIREMENTS:

- A. A SUITABLE PERFORMANCE GUARANTEE IN PLACE.
- B. WRITTEN AGREEMENT TO FUND A "CLERK OF THE WORKS" TO OVERSEE AND CERTIFY CONSTRUCTION IAW WITH THE APPROVED PLAN.
- C. WRITTEN CERTIFICATION FROM THE TOWN CLERK THAT THE TWENTY DAY APPEAL PERIOD HAS ELAPSED WITH NO APPEALS HAVING BEEN FILED.

THE MOTION WAS SECONDED BY PENNOYER.

Pennoyer: Do we want to make the road shorter, thereby restricting the number of lots?

Burnham: As far as reconstructing the road, we should have put that as part of the last denial. We have subdivision regulations in place which allow people to develop their property, I don't think that gives us the power to restrict the number of lots. We could make Lot 1 unbuildable in our motion.

Jermain: Why isn't it appropriate to deny this, and let the applicant come back with a plan that we will approve? Why do we need to decide how to restrict this? Let them come back with something to our liking, then we would want to approve it.

AMENDMENT TO MOTION: BASED ON THE RECOMMENDATIONS FROM THE BOARD OF HEALTH BASED ON THEIR LETTER OF 11/16/94, LOT #1 WOULD BE DESIGNATED NON-BUILDABLE, SECONDED BY WESTLEY BURNHAM, IN FAVOR WERE PENNOYER, GINN, DUNN, BURNHAM, ALTHOLTZ VOTED PRESENT, JERMAIN VOTED AGAINST, THE MOTION CARRIED.

Pennoyer: The Board of Health mentions the drainage issue, shouldn't we restrict the number of lots on the property?

Burnham: The maximum number of lots on the property would be 12, because he only has frontage for 12 lots.

Altholtz: How do we know if we restrict the number of lots, that the the drainage issue would be solved? We don't know what the right number would be.

Ginn: He can build as many lots as he wants, but he cannot get Board of Health approval until he gets a suitable septic system plan, they won't be buildable without that.

Dunn: I want to remind everyone of the time, because we're not going to get to the by-law discussion, because we need to get out of here by 10:00.

Altholtz: Sometimes we may have to stay late.

Dunn: I don't know about the rest of the Board, but I will not stay late, we didn't get permission and I'm not asking the custodian to stay late.

Altholtz: You don't need permission, he's perfectly happy to stay, as he has said before. We can take the money out of the Planning Board budget to pay the extra hour because we need to take care of town business.

MOTION: ALTHOLTZ MOVED TO STAY LATE AND TAKE THE MONEY FROM PLANNING BOARD BUDGET, JERMAIN SECONDED, IN FAVOR WERE ALTHOLTZ, JERMAIN AND PENNOYER, AGAINST WERE GINN, BURNHAM AND DUNN, THE MOTION DIDN'T CARRY.

Dunn: I didn't ask for a second, and I am the Chair.

Ginn: We can't vote on this, there is a motion on the table.

Pennoyer: According to this, he can have up to 13 lots up there.

Burnham: Let's go with twelve.

Ginn: Where are we going with this?

Pennoyer: My desire to pull the road back is too arbitrary.

Altholtz: Can we move forward on the motion?

A VOTE WAS TAKEN ON THE AMENDED MOTION, IN FAVOR WERE BURNHAM, DUNN, GINN AND PENNOYER, OPPOSED WERE JERMAIN AND ALTHOLTZ, THE MOTION CARRIED.

MOTION: WESTLEY BURNHAM MOVED TO HOLD A PUBLIC HEARING ON WEDNESDAY, FEBRUARY 8, 1995 AT 8:00 PM AT THE ESSEX ELEMENTARY SCHOOL ON SCHOOL STREET, ESSEX, MA FOR BY-LAW REVISIONS AND CERTAIN ASPECTS OF SITE PLAN REVIEW TO BE PRESENTED AT THE 1995 ANNUAL TOWN MEETING. PENNOYER SECONDED, ALL WERE IN FAVOR, WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

THE MEETING ADJOURNED AT 10:10 PM.

PREPARED BY:

J. A. Douglas

ATTESTED TO:

Frances A. Dunn



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

AGENDA

JANUARY 4, 1995

- 7 P.M. Read And Approve Minutes of December 7, 1994
Read Mail
- 7:30 Dick Carter ... Building Inspector
- 8:P.M. John Maestronzi ... A.N.R. Plan of land off Western Ave.
- 8:45 Mike Davis ... A.N.R. Plan of land off Western Ave.
- 9:15 Continuation of Public Hearing for Peter Van Wyck on
LowLand Farm Subdivision.

To All Board Members:

The Selectman have requested a meeting with the Planning Board on January 9, 1995 at the Essex Elementary School at 8:15 P.M. to discuss the Turtle Back Extension Subdivision litigation. This meeting will be in executive session.

NOTICE:

Jan 5, 1995 7 P.M. Essex Elementary School By-Law Workshop Meeting

Jan. 10 - Workshop - 7 PM

*Did a letter go to selectman on Munson
used car lot — under Jamison*

ESSEX PLANNING BOARD

JANUARY 4, 1995

ATTENDEES: P. DUNN/CHAIRPERSON, K. JERMAIN, W. BURNHAM,
J. KNOWLES, H. ALTHOLTZ, J. GINN

MEETING CALLED TO ORDER AT 7:10 PM.

TURTLEBACK ROAD EXTENSION:

The Board of Selectmen have requested a joint meeting with the Planning Board and Town Counsel in executive session to discuss the litigation on the Turtleback Road Extension. The meeting is scheduled for Monday, January 9, 1995 at 8:15 PM.

MINUTES:

MOTION: KIMBERLY JERMAIN MOVED TO APPROVE THE PLANNING BOARD MINUTES OF 12/07/94, JOE KNOWLES SECONDED, IN FAVOR WERE DUNN, KNOWLES, JERMAIN, VOTING PRESENT WERE ALTHOLTZ AND GINN, THE MOTION CARRIED.

JERMAIN:

Jermain: At the prior meeting I brought up the Melanie Burnham property, and Sheldon suggested he would like to revisit his information and he would like to contact Town Counsel. Have you heard anything about it?

Dunn: No, with the Holidays and all, I doubt he accomplished anything on that.

Burnham: It doesn't matter, the 21 day appeal period is up. You have 21 days after they file in order to approve or disapprove. If you don't, they're automatically granted.

Jermain: I disagree with that. We should appeal it. We said we would ask Brian Cassidy for his opinion.

Knowles: Why don't we ask Town Counsel on Monday?

NEW APPLICATION FORM:

Altholtz: I looked it up and in the newspaper it stated on August 12, 1993, this board voted to approve the new form, we should either vote not to use it or start using it.

Dunn: I'll get some copies to Town Hall and Eileen.

BY-LAW/SITE PLAN REVIEW (TOWN MEETING):

By-Law meeting for Tuesday, January 10, 1995 at 7:00 PM. Final draft must be written so public hearing process can begin on By-Law changes to be brought to Town Meeting in 1995.

PHYSICAL RESOURCE INPUT:

Altholtz: Under 2-8.2, page 206 and 207, Section E., it states the Planning Board is supposed to recommend on each item that has to do with the physical resources of the town and it should go in the Town report. We should be prepared for that, it hasn't been happening, but we should try to exercise that responsibility.

Burnham: I beg to differ. When was the last time we did anything with physical resources. The Police Station was to fund an architectural study.

Altholtz: It says anything pertaining to the physical resources.

Burnham: They were looking for money to start a design process, that wasn't to approve a design process and change a physical resource.

Knowles: That definitely pertains to a physical resource.

Altholtz: I went through the warrants for the last three years, and there have been a few, the handicapped accessibility was the latest at the special town meeting where they funded the study, so it's the Planning Board's job to report on those things, either in favor or against. We should be prepared to exercise that, everybody should read the by-laws, and I expect the Selectboard will send us a copy, and require our recommendations.

SABATINI:

Dunn: We have looked for the file on Sabatini in Town Hall and have been unable to find it. But David is here, should we look at what he's got?

Sabatini: I have the building permit signed off by the Conservation Commission, the Board of Health and the Wetlands. I think that's all that's required.

MOTION: WESTLEY BURNHAM MOVED TO APPROVE THE SITING OF A SINGLE FAMILY DWELLING OF 199 JOHN WISE AVENUE FOR DAVID SABATINI, LOCATED ON LOT #2 AS SHOWN ON THE PLAN DATED 10/30/86, FINDING IT MEETS ALL THE REQUIRED SETBACKS, HAVING APPROVAL FROM THE BOARD OF HEALTH AND CONSERVATION COMMISSION, SECONDED BY JOE GINN, IN FAVOR WERE BURNHAM, GINN, ALTHOLTZ, JERMAIN, KNOWLES, DUNN VOTING PRESENT, THE MOTION CARRIED.

MAESTRANZI:

John Sarafini: Our intention is not to develop this site to an intensive use, there are 67 acres of land here. We would be content to have four house lots. On one of those house lot (the rear one) to have two houses. The other lots would each have one house. There would be a total of five dwellings on these four lots, plus if someone wanted an in-law apartment, they would have to come before your board.

One of the issues that developed, is what's the status of the road. That's where the discussion has gone. Should this be a Form "A" plan, or should it come in under a Form "B" for a formal subdivision? Mr. Davis' case is intertwined with this same issue. The simple answer comes right out of your own rules, you have three rules for a Form "A", either it has to go off a way in existence, and we agree this is not a public way, or it must be off an existing subdivision road, and that's not this. The third category, which comes from State Law, states that a Form "A" plan, can also apply if the way was in existence prior to subdivision control and under the state law has suitable width, grade and characteristics that render it suitable for the proposed traffic. Your regulations go a little bit further, on page 3 and 4, you have a category that says a way in existence when the subdivision control laws became effective in town. It says if there is a way in existence when the subdivision control laws became in effect, that can qualify for Form "A" treatment.

Some standards when into effect in 1985. You have many ways that go back to before you adopted subdivision regulations. How are you going to judge whether those roads are fair condidates for Form "A" treatment? You must have a width of at least 16' and the surface must be at least gravel. This road is better than that, not for the whole length, but the paving on this road extends just before you get to Perkins' piece, beyond that it's gravel. The width is probably more than 20'. We had testimony at the last meeting, that this way has been in existence long before subdivision control.

Sarafini: If Mr. Davis gets what he wants, his proposal is to take one big lot and split in three ways. There would be a total of 3 lots maximum in the vicinity, and the frontage would be off of Western Avenue. I think the maximum number of lots you might ever end up with is probably eight or nine lots. Is this road system adequate to handle that traffic? I think in fairness you would have to say, yes. If this plan is approved it's a way to stop further development on this property.

The question of a turnaround came about, and that is a legitimate issue. However, right now trucks are coming and going with no problem. They have agreed to create a turnaround area to be used so trucks and fire trucks, can turnaround.

Jermain: We would be approving this whole length of road with that turnaround.

Sarafini: What you did before was you approved this whole thing, in 1988, you approved this whole thing.

Burnham: The 1988 plan was part of Deer Run, that was approved, we went that route with the understanding that it was going to be fully built in the configuration of Deer Run. The road was going to be built, and the frontage that you're claiming is not built completely. You've got the tailend of at least one of those lots, claiming frontage on a road that you say exists, that doesn't exist.

Knowles: At which point, you don't have frontage.

Sarafini: That's where we get into whether the Board wants to go with the four lots, that's the trade-off, if you like the four lots.

Jermain: I'm really uncomfortable with the idea of approving something that shows specifically that something exists that doesn't exist. I don't see any point in having it on there, if it doesn't exist. It is part of the plan that we're looking at.

Altholtz: How would we be assured there would be no further subdivision of the lots?

Sarafini: We would be willing to put on a covenant or restriction on the plan restricting that.

Burnham: You don't have an existing way that is adequate enough for you to provide frontage for those lots with that configuration. We need to drop this 1988 thing.

Knowles: We're looking at something on the paper that is not there.

Burnham: Either it meets the minimum standards or it does not, if it does not then you're subject to subdivision control. Unless we can satisfy ourselves that that is an existing way and able to provide frontage, Mike Davis isn't going anywhere either. You have to have reasonable access for us to approve siting on those lots. There is no doubt that adequate access is available to all those lots. The question is on Form "A" procedures which you have to prove there is frontage.

Ginn: The one issue I have, it's my personal feelings, is that I would like to see the roadway paved. Especially where the area is in the watershed, there's a tremendous amount of run-off. Some of the roads that have been approved in town that have remained as dirt and gravel are horrible. Some of the town roads themselves that are paved are not very good. It's a personal feeling of mine, and I can point out a number of roads where they say they're going to maintain them and it never happens. That would be a consideration of mine before I can vote on this.

Sarafini: Our concept on the whole plan was to come in here and follow the letter of the law. We had a 67 acre parcel that we wanted to split into four lots with deed restrictions. If this doesn't get approved, if we can't do this, we can't do any more. We can't afford to go through the Form "B" process.

Ginn: Would you folks be willing to modify and adjust that turnaround and roadway at the end?

Sarafini: We might be willing to do that.

MOTION: KIMBERLY JERMAIN MOVED TO DENY THE APPLICATION BY JOHN MAESTRANZI, FOR WESTERN AVENUE REALTY TRUST, FOR A FORM "A" FOUR LOT SUBDIVISION, SUBMITTED 11/4/94. THE WAY, AS PRESENTED IN THE DRAWINGS, DOES NOT EXIST AND DOES NOT PROVIDE ADEQUATE FRONTAGE FOR ALL OF THE PROPOSED LOTS. WESTLEY BURNHAM SECONDED. IN FAVOR WERE JERMAIN, BURNHAM, KNOWLES, GINN AND ALTHOLTZ, DUNN VOTED PRESENT, THE MOTION CARRIED.

MIKE DAVIS:

MOTION: WESTLEY BURNHAM MOVED TO ACCEPT A 30-DAY EXTENSION ON THE FORM "A" APPLICATION FOR MIKE DAVIS, SECONDED BY JOE GINN, ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

The applicant feels this way has been in existence since the 1950's. They will be coming back before the Planning Board on February 15, 1995.

LOW LAND FARMS SUBDIVISION:

CONTINUATION OF PUBLIC HEARING, ORIGINAL HEARING WAS
10/5/94.

Betsey Fawcett: It must be treated as a new plan. There was no filing with the Town Clerk until December 8, 1994. The plans available at the Clerk's office were the earlier drawings. Do you have the drawing here?

B. J. Frye: The only drawing here is the wrong one, without the turnaround requested.

Fred Fawcett: Since the latest plan was not filed until December 8, 1994, any hearings that took place prior to that date are void. In addition to the requirements for a complete submission is the fact that 10 copies of the plan must be filed. I find it nearly illegal to hold meetings without the plan available here.

Burnham: It was not the applicant's fault, he brought ten (10) copies of the plan to the meeting when they submitted the plan, and there was a mix-up where they never got filed.

Fred Fawcett: It is not the responsibility of the Planning Board to file the plans with Town Clerk. It is the responsibility of the applicant. This hearing cannot start until your first regular meeting after 12/8/94 when all plans were filed.

Burnham: That is your opinion, if you are not correct, and we do not act in the prescribed timeframe from the date of submittal, the applicant may have received an approval from our default. Should we be prudent and act within the time constraints, or do we want to test the court system?

Dunn: I would like to continue the public hearing, and in the meantime go through the minutes to review.

Jermain: Have you had any correspondence with Peter, and do you know why he's not here tonight?

Dunn: He said he thought it would be best if he didn't come tonight. He felt we had the information we needed.

Burnham: I don't believe there is any requirement that the applicant be here.

Altholtz: If we have a disapproval from the Board of Health, doesn't that mean we cannot approve it, regardless of when the plan was filed with Town Clerk?

MOTION: BURNHAM MOVED TO CLOSE THE PUBLIC HEARING, GINN SECONDED, ALL WERE IN FAVOR WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

Jermain: I think we've done a terrible job making the information available for the public hearing, and that really impacts our ability to make a decision. I don't feel we are taking the public input in a reasonable manner, and this whole process has been flawed, and I feel very badly about it. If we read our subdivision control laws we cannot approve a plan without Board of Health approval.

Burnham: If the plan submitted in May was definitive (not preliminary) then we have 135 days, if there was a preliminary plan then we would have twenty days from tomorrow.

Jermain: Joe Ginn's belief that the applicant must come in and correct the five reasons for denial, but over and above that we think it cannot be approved without the Board of Health. Without having the plan here, has he corrected the road length?

Burnham: Joe Ginn and Sheldon Pennoyer and I reviewed the list of denials at the prior hearing, yes, the road was shortened to exactly 1,200 feet to the cul-de-sac.

Dunn: There's been a motion made on the public hearing, what are we going to do? I think we should go with the 135 days.

Ginn: If that is the case, I would favor having this continued to another meeting.

Dunn: I agree, I would like to get the right plan here.

Burnham: That's how Turtleback Extension got one approval because we failed to act properly.

Dunn: There was no preliminary plan ever filed. We asked him if he wanted to file a preliminary and he said no.

Knowles: There has never been a preliminary plan.

Altholtz: I'm prepared to deny this due to the Board of Health position.

Jermain: That's the way to go, I agree.

Burnham: Under 81(U), on page U1, it states that in a denial the Planning Board must state in detail wherein the plan does not conform to the rules and regulations, and shall revoke its disapproval on the plan which, as amended, conforms to such rules and regulations or recommendations.

Burnham: We are operating on a denied plan that has been corrected. We were not required to notify other boards, because we were operating from the original plan, with the original input from the Board of Health, the Fire Department, etc. This plan was denied for five specific reasons, the law provides that we shall approve it when those corrections have been made, after a public hearing has been held.

Dunn: We should make a list of things to ask either Peter or Charles Clark. I should have checked, but the wrong plan has been brought tonight.

Ginn: I have continued to say that we need Town Counsel here to answer some questions on these issues.

Altholtz: I think we should always have the courage to be wrong; we always have the appeals process.

Dunn: We have access to our Town Counsel, so why not use him?

Burnham: We need to act on this tonight.

Knowles: The applicant requested an extension because he couldn't be here.

Burnham: If he didn't put that extension in writing, we don't have an extension. We don't assume just because he didn't come to a meeting, we have an automatic extension.

Altholtz: I think we agree that he's complied with the things we've asked him to fix. If the Board of Health approval is not required, he should get an approval. If we disapprove it based on the Board of Health disapproval, we cannot lose.

Burnham: In our approval, we can give him conditions, I've drafted an approval here.

Jermain: I don't feel we can approve this plan with a disapproval from the Board of Health.

Burnham: That's correct on the original submission, this is not an original submission. It was not listed as a reason for denial.

Dunn: Can this board vote on this tonight?

Tattersall/Apple Street: This piece of land is 1/100 of the total land area of Essex. It is right in the center of Essex, it's wonderful marshes. This development will spoil the natural beauty of the place, the whole ecological impact would be terrible. The Planning Board is to be looking to the future.

Altholtz: Yes, the recommendations can also include those from the Board of Health.

Burnham: There was no Board of Health disapproval in the prior denial.

Ginn: Why doesn't Westley withdraw his motion to continue the public hearing, we can take this to Town Counsel and come back at the next meeting, then we'll know exactly what to do.

Burnham: I will withdraw my motion to close the public hearing.

MOTION: WESTLEY BURNHAM MOVED TO CONTINUE THE PUBLIC HEARING TO JANUARY 18, 1995 AT 8:00 PM ON LOW LAND FARMS SUBDIVISION FOR PETER VAN WYCK, GINN SECONDED, ALL WERE IN FAVOR, WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

MOTION: W. BURNHAM MOVED TO ADJOURN, JERMAIN SECONDED, ALL WERE IN FAVOR, WITH DUNN VOTING PRESENT, THE MOTION CARRIED.

PREPARED BY: *J. Douglas, Jr.*

ATTESTED TO: *Francis A. Dunn*

See 4/19/95

(The corrected original - "Clerical only" -) located in minutes.

ESSEX PLANNING BOARD
WEDNESDAY, APRIL 19, 1995

PRESENT: P. DUNN/CHAIRPERSON, W. BURNHAM, H. ALTHOLTZ, K. JERMAIN,
J. KNOWLES, J. GINN

MEETING CALLED TO ORDER AT 7:08PM

MOTION: W. BURNHAM MOVED TO APPROVE THE MINUTES OF THE APRIL 5, 1995 MEETING, H. ALTHOLTZ SECONDED. ALL WERE IN FAVOR, THE MOTION WAS CARRIED.

Correspondence addressed to the Planning Board was first order of business. Finance Committee will be contacted so that moneys can be distributed into the Planning Board budget. Discussion regarding the fees for permits that do not get deposited into the Planning Board account.

Letter from Tim Lane dated April 11, 1995 regarding GayBrook Garage and the back of the property. Complaint was handled by Dick Carter who assured the Planning Board that the situation of disturbances re: noise, physical conditions, etc. Would be corrected by the individuals concerned.

Letter from town counsel approving the by-laws for the town meeting noting only typographical errors. The Board discussed the proposed by-laws and decided to forward the finished document back to the Selectmen for the town meeting. The names of the presenters of the by-laws was discussed and no decision was made. Open meeting forum: Ed Neal received correspondence from Attorney General - Re: Public not allowed to speak unless there is a Public Forum. They can attend but cannot be allowed input due to influences of the public concerning the board. There is a packet from the Attorney General's office explaining the Public Meeting Law. The Board will be given a copy.

W. Burnham opened the Public Hearing at 7:55PM. Copies of the by-law proposals and the explanations were distributed.

ARTICLE 2 - "cleaning up" of language to conform to state statues. Exempts single and two-family residential structures from any extensive review by the Planning Board if the proposed project does not increase the nonconforming nature of the structure.

John Guerin - Can some houses which are existing non-conforming also be pre-existing non-conforming?

H. Altholtz - I would say that anything that is pre-existing is also existing.

Everything that is existing is pre-existing. June 7, 1972 is pre-existing and everything else is existing.

ARTICLE 3 - Changes in language of water protection by-law, removing the 40,000 sq. Footage requirement for residential development to conform



with the rest of the town's by-laws. It changes language relating to the amount of impervious surface which could be created in the district from "15% or 2,500" to simply 15%. Also creates an exemption through a special permit for properties to cover more than 15% if creating an artificial recharge system. Previous language which included "or 2,500 sq.ft." was considered by the board to be vague and was variously interpreted as meaning 15% or 2,500 sq.ft. WHICHEVER IS GREATER by some, and as 15% or 2,500 sq.ft. WHICHEVER IS LESS by others. Board felt that it should be kept at the 15%.

W. Burnham - Bear in mind that this only applies in the Water Resource Protection District. From Alewife Brook and Apple Street area, from the Hamilton line out Wood Drive and Pond Street and there is some on Southern Avenue.

There is a map which draws out the Water Resource Protection District. An overlay map is missing as is a Raytheon map. It is unclear of who has the map(s) and this situation should be looked into.

John Guerin - In the 2,500 sq.ft., is there a potential in any condition or any lot in this town that if you put it down at 15% that you would be limiting the ability of anybody to physically build any lot in town? Basically a buildable lot that would be made unbuildable because of this and if so, wouldn't you consider this a taking, and who's going to pay for it?

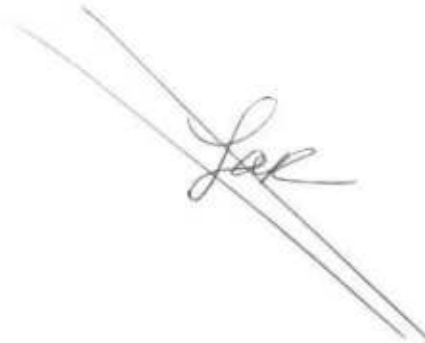
W. Burnham - I don't know. The 15% mark on a one acre lot is not an encumbrance. When you get to smaller lots, older lots, they also have to include the road going through as part of the impervious surface. Basically we're removing what I perceive as a cut off point which would allow the average homeowner a matter of right at least so much that we leave a reasonable amount of discussion in the matter of a driveway.

Discussion went on between J. Guerin, D. Carter and W. Burnham regarding hot top, driveways, and J. Guerin would like a change to read IF GREATER THAN the 15% or 2,500 sq.ft. H. Altholtz remarked that everyone would be grand fathered. Benefits of the water quality issues are of importance. Any existing houses are grand fathered. Special permits can create artificial recharge system that will allow owners to go above the 15%.

ARTICLE 4 - Language clarification to address situations that come across where the accessory building has been attached to the home such as an attached garage.

ARTICLE 5 - Correct typographical errors which had incorrect references to different sections of the by-laws.

ARTICLE 6 - Clarification of sign by-law for business use. Currently business can use signs that measure a maximum of 32 sq.ft. The way measurement is defined now is that "area limitations refer to the total sign area." Owners of existing businesses which have signs that at any time have been rendered non-conforming by any by-law which restricts the size or number are grandfathered.



Discussion relating to new business coming in (and change of ownership) and their requirements to conform, and buildings with lettering on their roofs or siding were discussed as well as D. Carter's opinion of signs.

ARTICLE 7 - This article reduces the maximum allowable size for internally lit signs to 20 sq.ft. This will ensure that those businesses with externally lit signs will not be overshadowed by new and increasingly brighter and more noticeable internally lit signs creating an incentive to produce bigger signs or switch to internally lit signs.

ARTICLE 8 - Lowers allowable lot coverage by impermeable surface from 25% TO 20%: Specifically defines coverage to include "pavement" which previously only referred to "buildings". Excludes wetlands from the calculations involved in computing lot area, previously only tidal marshlands were excluded. Changes provide consistency in the definitions of lot coverage and lot area calculations throughout entire town, while maintaining a higher allowable percentage of lot coverage for the portion of town outside the water protection district. Ensuring better protection of wetland areas, preservation of open space and will prevent large projects from occupying relatively small areas. Consistent in many ways with by-laws in other communities in commonwealth.

John Guerin - What is the definition of pavement? Should this be changed to included impervious surfaces rather than pavement. Discussions of descriptions of pavement, brick, etc. Businesses would fall under this and be non-conforming.

H. Altholtz - Non-conforming would have to come before planning board and if the board found that the proposed activity didn't increase the non-conforming nature of the property there would be no finding

required. If it was a business, the board would have to find that the proposed project was not substantially more detrimental to the neighborhood than the existing use.

W. Burnham - Arguments will have to be amended on the floor at the town meeting.

ARTICLE 9 - Increases the setbacks for nonresidential projects which occupy a land area greater than 10,000 sq.ft. from 25 ft. To 50 ft. For front yard setback and 20 ft. To 30 ft. For side yard setback. Prevents extremely large projects which might be over-imposing to a particular area from having any undue detrimental impact on the neighborhood or abutters. It is designed to allow maximum usage of private property by an owner while preserving important characteristics of the neighborhood and the rights of abutters.

W. Burnham declared the Public Hearing closed.

FILIAS REALTY TRUST - CHAPTER 91 APPLICATION - Looking for authorization of permit relating to permanent structure which is in place at this time. A picture was given to the board by Ms. Filias that was said to be dated pre-1972 proving pre-existence.

A handwritten signature, possibly 'J. Lar', is written over a diagonal line that spans across the page.

K. Jermain - Was the history of this structure said to be permanent at the last meeting?

Ms. Filias - It was. At the time we had to have the approval, and it's been there since pre-1972.

Discovery of the time frame was difficult but a letter of authenticity by the Air Photographics, Inc. A June 11, 1971 photocopy was shown.

K. Jermain - You don't have a copy of the structure when it was put in?

W. Burnham would point out that they should not be treated any differently than any other applicant regarding documents that are of question.

K. Jermain questioned the photocopy of 1971 that was handed to the board. She did not think that the quality of the photo could determine the exact location of the pier or the date that the structure was there. The photo copy came from the U.Mass. at Amherst, the Agricultural Photos. Jermain said that it could be anything out there in the water.

J. Ginn - In your Chapter 91 license that you are applying for now, is it exactly as what's there now?

Ms. Filias - Yes, but it's been moved back.

J. Ginn - So there will be no changes on this license.
So this is just for the permanent structure that is there now.

MOTION: J.GINN: I MAKE A MOTION FOR THE PLANNING BOARD CHAIRMAN TO SIGN THE APPLICATION FOR THE CHAPTER 91 LICENSE FOR FILIAS REALTY TRUST OF 5 LEDGEWOOD CIRCLE MANCHESTER FOR THE EXISTING PILING AND STRUCTURE ON THE UPLAND PORTION OF THE PROPERTY FOR THE USE OF THEIR DOCKS. SECONDED: H. ALTHOLTZ.

AS A RESULT OF NUMEROUS DISCUSSIONS REGARDING ABOVE APPLICATION LICENSE, RE: LICENSE TO EXISTING PIER AND PERMISSION TO DREDGE. CONFUSION AS TO WHAT THE CHAIRMAN'S SIGNATURE WOULD MEAN LEAD J. GINN TO WITHDRAW THE ABOVE MOTION.

GEORGE A. HALL, JR, ATTY. For Filias: We are filing for an application for a license and a permit with the Environmental Land Protection to maintain an existing four foot line, fifty foot long pile supported pier to install floats to accommodate 25 boat slips which is the number that has been in the river apparently the last several seasons and to dredge in order to relocate those floats out of the federal and state channels and twelve feet further beyond that in order to comply with state and federal requirements with respect to docking facilities. The reason that we are here this evening is that in order to file the application and for that application to be complete, the clerk of municipalities has to sign this paper saying the proposed use will not violate or create a situation where there is a violation of the zoning by-laws. The permanent structure has been there since 1972 and what we are saying is

A handwritten signature in blue ink, appearing to be 'G.A.H.', is written over a diagonal line that extends from the top of the signature down towards the text below.

that a portion of this project that includes all of these aspects that is subject to zoning is in compliance with zoning.

Discussions continued concerning the question of dimensions, the application relating to dredging, the photographs and the existence of the pier re: dates, procedure, etc.

J. Ginn - Recommended that the parties bring in an application specifically for the licensing operation of the "head wall" (Chapter 91 license). You need a chapter 91 for the existing pier that's on the uplands. And that's what the board can sign off for. As far as signing

off on the other information on proposed dredging, the changes in floats, and so on, I think the board should look and study that a little closer.

Ms. Filias: ...Why do we have to be subject to scrutiny from half the town? I don't understand that. We're regulated by the harbor master, the DEP, the Army Corps. Of engineering, the conservation commission, coastal zone management, the planning board of ethics, I don't think that it's fair of you to scrutinize things that aren't of your perview. Permanent structure is your perview.

Conversations continued by all board members and applicants. Dredging cannot be done unless the chapter 91 application is signed. It was understood that maybe their were two applications listed on one document.

MOTION: H. ALTHOLTZ MOVE THAT THE BOARD CERTIFY TO THE DEP THAT THE EXISTING STRUCTURE OTHERWISE REFERRED TO AS THE FILIAS PIER, FILIAS REALTY TRUST OF 5 LEDGEWOOD CIRCLE, MANCHESTER IS NOT IN VIOLATION OF ORDINANCE ZONING OR BY-LAWS. THAT WE ARE NOT ADDRESSING THE DREDGING ISSUE AND FURTHER CONTINGENT ON THE FACT THAT ANY ADDITIONAL SLIPS OR INCREASED USE THAT DID NOT EXIST IN 1972 WOULD HAVE TO COME BACK TO THIS BOARD FOR A SPECIAL PERMIT FOR RECREATIONAL USE. SECONDED BY J. KNOWLES. AN AMENDMENT ON THE MOTION BY J. KNOWLES THEREBY DIRECT THE CHAIRMAN OF THE PLANNING BOARD TO SIGN THE LETTER. SECONDED BY H. ALTHOLTZ. IN FAVOR WERE, J. KNOWLES, OPPOSED WERE P. DUNN, J. GINN, W. BURNHAM.

MARK GLOVSKY, ATTY: Comments about patience and extensive research for the ANR regarding Spring Street. He feels that Mr. Tomaiolo has a situation here that does not constitute a subdivision. He's creating two lots that have frontage on a way that was in existence when the subdivision control law went into effect in 1956 in the town of Essex which is adequate according to your standards. We meet or exceed all of your standards, and I hope you have read the five page letter that I gave you and I hope that you do not need additional information. I would consider a reasonable enlargement of time for you to act on this application.

PAT DUNN - James Prentiss would like to have the board aware of some information he has to show.

A handwritten signature in dark ink, appearing to read "James Prentiss", is written over a large, light-colored diagonal scribble or mark on the page.

An extension of time agreed to by Mr. Glovsky was drawn up and a date

for extension was given for April 3, 1995.

JIM PRENTISS: Could not verify that D. Tomaiolo's map of 1956 is an accurate map. He feels that what is depicted in the map as the "old way" is incorrect. He (Dick) may be referring to Strawberry Lane. Mr. Prentiss feels that in 1956, it was a pasture. He contacted David Choate who said that there was never a way that went through there. In 1967, (A Map dated 1967 was presented) an easement was given to the Ringes so that they could pass and repass. The Map showed the easement. The original way was Sogenese Creek Road, out onto John Wise Avenue. He contacted Dana Story - No ancient way. Andy Lane - No ancient way. He went to the town clerk to find a map for a year and date when Spring Street was certified which was in 1883. There was never a certification on the driveway that goes onto Tomaiolo's land. Dick Tomaiolo disagreed. He feels that he can prove otherwise and felt that the board may have been misled.

A written extension was granted by Atty. Glovsky for May 3, 1995.

GATEWAY - Preliminary review, on proposed subdivisions. Marty Halloran told of nine lot subdivisions off Western Avenue, with two cul de sacs, max. 810 ft. No proposals on variances with town. Four lots will include ground water recharge, catch basins, max. Grades 8%. Lot size calculations, percolation tests, an 810 ft. And 435 ft., dimensions of lots are over 4,000, details were shown on last page of plans. Water source protection comes into these properties, changes will be made on lot sizes if necessary to conform.

Meeting ajourned at 10:40pm.

PREPARED BY:

ATTESTED TO:

Lisa Randall
Frances A. Dunn



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, DECEMBER 18, 1996

The meeting will be held at the Essex Elementary School on Story Street.

- | | |
|-----------|---|
| 7:00 p.m. | Review minutes of December 4, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Stan Collinson: Modification of plan regarding boundary line |
| 7:45 p.m. | Marilyn Hyde/Carlson Realty
Informational meeting regarding an opening of the Cape Ann Waldorf School in Essex |
| 8:00 p.m. | John Judd of Gateway Consulting
re: informational only, for property on Wood Drive. |
| 8:30 p.m. | Richard Salzburg: Barn at One Southern Ave.: Change from workshop and storage to Antique Shop |
| 9:00 p.m. | Planning Issues: Discussion of Tower Communications, Flood Plain Insurance Bylaw, Cluster Zoning |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 18, 1996

The meeting was held at the Essex Elementary School on Story St. and began at 7:10p.m.
Attendees: W.Burnham, S.Pennoyer, P.Dunn, G.Stavros and D.Jones

MOTION: G.STAVROS MOVES TO APPROVE THE DEC.4, 1996
MINUTES AS WRITTEN. SECONDED BY P.DUNN. IN FAVOR
OF THE MOTION: W.BURNHAM, P.DUNN, D.JONES, G.STAVROS
AND S.PENNOYER. THE MOTION PASSES.

Dick Carter/Building Inspector: Frederick and Susan Zwart of 29 Harry Homan Drive, for three
bedroom, 2 1/2 bath, two story construction. Order of conditions 21-302. 24x38x30, Lot 39,
Map 31. Lot size 40,000. approved by BOH, Con. Comm., DPW. Mass Code 150.

MOTION: G.STAVROS MOVES TO APPROVE THE BUILDING PERMIT
OF FREDERICK AND SUSAN ZWART OF 29 HARRY HOMAN DRIVE,
MAP 31, LOT 39, LOT SIZE 40,000, FOR CONSTRUCTION OF MODULAR
HOME, SINGLE FAMILY, TWO AND ONE-HALF BATH, THREE BEDROOMS.
SECONDED BY DAVE JONES. IN FAVOR WERE, P.DUNN, G.STAVROS, D.JONES,
W.BURNHAM, S.PENNOYER. THE MOTION PASSES.

Stan Collinson: 89 Choate Street, for lot re-configuration of three acre lot. The new configuration
meets all the Towns' requirements for Form "A".

MOTION: W.BURNHAM MOVED TO APPROVE THE FORM A
APPLICATION OF STANLEY COLLINSON FOR PLAN OF LAND
OFF 89 CHOATE STREET, ESSEX, FOR RECONFIGURATION OF
LOT 6, FINDING FOR NEWLY CREATED LOT 6 TO BE
140,558 S.F. MEETS MINIMUM REQUIREMENTS OF THE TOWN
OF ESSEX. NEWLY CREATED SET BACK IS LESS THAN THE
REQUIRED TWENTY FOOT SET BACK. PLAN HAS BEEN
ANNOTATED. THE GARAGE WILL BE REMOVED IN ORDER
TO CONFORM WITH THIS MOTION. SECONDED BY G.STAVROS.
IN FAVOR WERE: P.DUNN, D.JONES, W.BURNHAM, G.STAVROS
AND S.PENNOYER. THE MOTION PASSES.

Marilyn Hyde of Carlson Realty for the Cape Ann Waldorf School. She presented George
Mathey, Chairperson of the Property Committee to the C.A.Waldorf School. The school is
interested in the 284 Southern Avenue property (David Pitman property). The school has grown
and wanted the Board's feedback about locating a day school on the twenty-two acre property.
Pat Dunn mentioned that the Coolidge Trust would probably preclude any new building, and
the C.A. Waldorf School should research the Trust and its contents at the Registry of Deeds.
W.Burnham noted that this school would require a special permit as the lot has no frontage, a
change of use is being requested, and the school is not exempt from zoning bylaws. The Board
of Health would have septic issues, and the accessibility of fire equipment was of concern. Water
problems were discussed at length. In conclusion, the Board felt that after Mr. Mathey
researched the title to the property and examined the Coolidge Trust restrictions, the school
would then have a clear idea of its options. No action was taken.

GATEWAY CONSULTANTS: John Judd, prof. engineer for the Heaths. The present property
located on the westerly side of Wood Drive has just over four acres. Shown as Lot 2, registered at

the Reg. of Deeds. Has existing dwelling. Discussion: Conceptual Subdivision Plan. Shows t-turnaround, four lots. The Heaths were looking for waivers, four of them: private road status, water supply requirement 3.04, underground utilities, waiver for 100ft. dia. turnaround. They want an 80ft t-turnaround. 150ft. road off of Wood Drive. The Board reminded the Heaths to include the wetland delineations on their plan, an open drain system seemed probable; the plans looked reasonable. No action was taken by the Board.

RICHARD SALZBURG: One Southern Avenue. Discussion: Change from storage and workshop to cabinet shop or antiques. Could this building be used as public space as opposed to private space. Since this would pose a change to retail, the parking became a discussion as an issue, as would several variances that would require approval from the Board of Appeals. The Board read the bylaws concerning Change of Use and Parking, etc. In conclusion, the Board recommended that Mr. Salzburg address each variance requested and refer to the zoning bylaws before addressing his request to the necessary boards of the Town. No action was taken.

MOTION: PAT DUNN MOVES TO ADJOURN THE MEETING.
SECONDED BY DAVE JONES. ALL VOTED IN FAVOR OF
THE MOTION. THE MOTION PASSES.

Prepared by: Lisa A. M. Randall

Attested to: 

NOTE: A SPECIAL MEETING IS SCHEDULED FOR JANUARY 8, 1997.
NEXT SCHEDULED MEETING IS JANUARY 15, 1997.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, DECEMBER 4, 1996

- | | |
|-----------|---|
| 7:00 P.M. | MINUTES OF NOV.20, 1996 |
| 7:15 P.M. | DICK CARTER/BUILDING INSPECTOR |
| 7:30 P.M. | RON OBER/PINE RIDGE ROAD
finalizing details of subdivision
relating to purchase of hydrant and
release of money |
| 8:00 P.M. | WARREN FLINT/DISCUSSION
discuss planning issues related to
cluster zoning using available funds
from grant money |
| 8:45 P.M. | ED NEAL/SELECTMAN
discussion relating to the
communication tower |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 4, 1996

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:10p.m.

Attendees: S.Pennoyer, Chairman, P.Dunn, W.Burnham, G.Stavros, D.Jones, Gil Guerin

MOTION: P.DUNN MOVES TO APPROVE THE NOV.20, 1996 MINUTES AS WRITTEN. SECONDED BY W.BURNHAM. MEMBERS PRESENT VOTED UNANIMOUSLY TO PASS THE MOTION.

Discussion: Sheldon discussed the hearing in Boston of Filias Realty Trust regarding the Marina and the legal issues surrounding the case. Both George Stavros and Sheldon, who were present at the hearing concluded to the board that Filias will probably be filing for a Special Permit. The amount of slips have been scaled down to a total of fourteen. The planning issues for the case were for the amount of parking spaces available and the Wetlands District of the bylaws. Sheldon commented that the Filias" were prepared to come to the Board for the Special Permit.

G.Stavros arrives, 7:27 p.m.

A Memorandum from the Finance Committee regarding the FY '98 Departmental Budgets was discussed. Currently, the planning board budget allows for minimal expenses, including the six months of telephone costs. Extra items that exceed the budget are submitted as a "line item" to the finance committee. Public Notices have deducted most of the portion of the expenses. The budget for 1998 will remain the same as the previous year.

PAT DUNN: The ANR FEES have been registered with the Registry of Deeds in Salem. The September 2, 1992 motion to amend the Essex Subdivision Rules and Regulations added to Section 4.01, "a non-refundable fee of \$100.00 to be required for each submission, with an additional \$100.00 fee for each lot created. Under Section 5.01, Paragraph 2 - a non-refundable fee of \$100.00 is required for each submission. book #13859, Page 515".

PMC REALTY TRUST/GATEWAY SUBDIVISION: A motion to release the Covenant and Certificate of Performance/Compliance follows. During the 11/20/96 meeting the board approved a change from the approved design plans. This change reduced the width of the road entrances. A Letter of Credit for \$10,000 issued by the First National Bank of Ipswich is in place, Credit # JPD-112796 dtd. 11/27/96 expiring on 11/19/97. Atlantic Engineering has presented final as built plans. The sign off sheets for the release of the covenant are present.

MOTION: WESTLEY BURNHAM MOVES TO RELEASE THE COVENANT, AND THE CERTIFICATE OF PERFORMANCE/COMPLIANCE OF THE GATEWAY SUBDIVISION THAT IS ATTACHED TO THE PERFORMANCE GUARANTEE UNDER THE FINAL APPROVAL FOR THE GATEWAY SUBDIVISION, AND IN ITS PLACE ACCEPT THE IRREVOCABLE STAND BY LETTER OF CREDIT ISSUED FROM THE FIRST NATIONAL BANK OF IPSWICH AGAINST THE ACCOUNT OF JOHN T. COUGHLIN, FOR THE SUM OF TEN THOUSAND DOLLARS (\$10,000), AND THE PERFORMANCE GUARANTEE TO BE IN PLACE FOR A ONE YEAR PERIOD, EXPIRING 11/19/97, FOR THE PURPOSE OF COVERING ANY WARRANTEE ITEMS OR UNFINISHED WORK. THE "AS BUILTS" HAVE BEEN SUBMITTED TO THE BOARD. IN ADDITION, THE PLANNING BOARD WILL PERFORM A SITE WALK, A TENTATIVE DATE OF SEPTEMBER 1997, FOR FINAL APPROVAL. ~~SECONDED BY~~

SECONDED BY GEORGE STAVROS. VOTING IN FAVOR OF THE MOTION WERE: S.PENNOYER, P.DUNN, D.JONES, G.STAVROS AND W.BURNHAM. THE MOTION TO APPROVE THE RELEASE PASSES.

Dick Carter/Building Inspector: Kirk Fackre of 17E Gregory Island Road, S.Hamilton, MA, Map 4, Lot 1, lot size of 18,900. To create a shed roof dormer 20x11 on existing salt-box roof and rough frame on bedroom and bathroom. Approved by BOH.

MOTION: DAVE JONES MOVES TO APPROVE THE APPLICATION FOR KIRK FACKRE OF 17E GREGORY ISLAND RD. S.HAMILTON, FOR THE CREATION OF SHED ROOF DORMER ADDITION 20X11 ON EXISTING SALT-BOX ROOF. NUMBER OF BEDROOMS WILL REMAIN AS THREE, FINDING ALSO THAT THE ORIGINAL FOOT PRINT WILL NOT BE ALTERED AND UNDER 6-4.2, THE PROPOSED CHANGES WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION: G.STAVROS, D.JONES, P.DUNN, S.PENNOYER AND W.BURNHAM. THE MOTION PASSES.

Gil Guerin arrives at 7:40 p.m.

RON OBER: Final release of money belonging to Ron Ober regarding Pine Ridge Road. The certified "as built" plan was presented. A letter will be sent to the bank and the town treasurer on this motion.

MOTION: W.BURNHAM MOVES TO AUTHORIZE THE RELEASE OF THE REMAINING BALANCE BEING HELD IN A SAVINGS ACCOUNT ESCROW AT THE BEVERLY NATIONAL BANK JOINTLY BETWEEN RONALD OBER AND THE TOWN OF ESSEX PLANNING BOARD. FINDING THIS TO BE THE FINAL PERFORMANCE GUARANTEE ACTION RELATING TO THE PINE RIDGE ROAD SUBDIVISION. FINDING ALL NECESSARY REQUIREMENTS OF THE SUBDIVISION RULES AND REGULATIONS HAVE BEEN MET WITH THE FOLLOWING ADDITION: THE ACCOUNT IS TO BE RELEASED WITH A CASHIERS CHECK DRAWN TO TI-SALES, INC. FOR PAYMENT FOR FIRE HYDRANT OWED TO THE DPW FOR THE SUM OF \$1,122.69. SECONDED BY: PAT DUNN. IN FAVOR WERE: W.BURNHAM, S.PENNOYER, P.DUNN, G.GUERIN, G.STAVROS AND D.JONES. THE MOTION PASSED.

7:45PM: WARREN FLINT/MATLOCK ASSOCIATES: Mr. Flint presented Site Plan Reviews regarding Cluster Zoning. The intent was to explain the benefits of cluster zoning. In certain circumstances, cluster zoning can be an excellent value for the Town, and he presented information detailing these benefits. This included a Growth Management Workbook which provides an up-to-date compendium of innovative strategies to aid communities. It describes standard subdivision development and cluster zoning. Also provided, three sets of bylaws of cluster zoning: Lincoln, Wenham and Weston, MA. Cluster Zoning: Is a figure of density/formula is established, removing wetlands and soils providing a schematic base. A preliminary soil test on a scattered basis. BOH does schematic conventional plan. The density, once established gives the choice for best sites for houses on that property. A good cluster can permit private septic on an open space. This will provide the Town with a tool, to protect open

(2) 12-4-96

space. The ownership of the open space can be gifted to the Town, or available for a local land trust, or home ownership, or permanent conservation or (restricted) agricultural purposes, etc.

Mr. Flint went on to add that the Town as a whole, involving all boards, will be the necessary avenue to permit a cluster-zoning bylaw to be installed. The benefits for the town and the developer were many. There would be less roads, less cost to developers. More flexibility could be given to the developer who opts for cluster zoning. Using the word "Flexible" zoning is a more agreeable term to present to the town. It was noted that the public must be informed by innovative meetings to include all of the community. This allows for communication bridges, and gives the community better control on what the town feels is in the best interest of the future. An example to present the town would be a fictional big track of land, already under conservation, to use as a sample for considering the benefits of cluster zoning versus subdivisions.

In conclusion, it was imperative that if the board wanted to propose cluster zoning to the town, it was to be done with the realization that all of the boards must work together to present the idea. This must include a wide networking with the public and the boards together. Cluster zoning can add many benefits to the Town of Essex, which can be the first step to looking at the future and which avenue to progress: A continuation of subdivisions, or the choice to add flexible zoning to the bylaws.

The board will read the materials given to them and discuss further the idea of flexible zoning.

ED NEAL/SELECTMAN TO THE TOWN: Mr. Neal distributed an FCC Fact Sheet which explained the new provisions of facilities siting in local communities regarding new national wireless tower siting policies:

1. The new law preserves local zoning authority, but clarifies when the exercise of local zoning authority may be preempted by the FCC.
2. Section 704 prohibits any action that would discriminate between different providers of personal wireless services, such as cellular, wide-area SMR and broadband PCS. It also prohibits any action that would ban altogether the construction, modification or placement of these kinds of facilities in a particular area.
3. The law also specifies procedures which must be followed for acting on a request to place these kinds of facilities, and provides for review in the courts or the FCC of any decision by a zoning authority that is inconsistent with Section 704.
4. Finally, Section 704 requires the federal government to take steps to help licensees in spectrum-based services, such as PCS and cellular, get access to preferred sites for their facilities. Federal agencies and departments will work directly with licensees to make federal property available for this purpose, and the FCC is directed to work with the states to find ways for states to accommodate licensees who wish to erect towers on state property, or use state easements and rights-of-way.

Mr. Neal stated that the town could not ban the tower sitings, but could institute new Rules and Regulations of the Essex Planning Board for Telecommunication and Cellular Towers. He presented a DRAFT of a bylaw for the board to review. Its content was to regulate conditions to minimize the adverse visual impacts of towers, avoid damage to adjacent properties, to lessen impacts on surrounding properties, to lessen traffic impacts, to minimize use of towers, to reduce the number constructed and to limit emissions in order to minimize potential adverse effects on human and animal health.

Mr. Neal's draft was instituted by the Town of Lunenburg. He answered questions from residents present as well as from the board. Ed would like the board to review the material and respond as soon as possible. Town counsel will be given two questions to answer in order to aid the board. Ed will have an answer from town counsel before the December 18 planning board meeting.

DISCUSSION: The board will work on the flood plain insurance issue, cluster zoning, and the tower issue at the December 18 meeting starting at 9:00 p.m.

MOTION: DAVE JONES MOVES TO WAIVE THE JANUARY 1, 1997 MEETING. SECONDED BY PAT DUNN. ALL MEMBERS AGREED TO APPROVE THE MOTION.

MOTION: PAT DUNN MOVES TO CLOSE THE MEETING AT 9:45. SECONDED BY D.JONES. THE MOTION IS APPROVED BY UNANIMOUS VOTE.

Note: next meeting is scheduled for December 18, 1996.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in dark ink, appearing to be initials or a stylized name, written over the printed text "Attested to:".

④ 12.4.96



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, NOVEMBER 20, 1996

- 7:00 P.M. Minutes of November 6, 1996
- 7:15 p.m. Dick Carter/Building Inspector
- 7:30 p.m. Warren Flint re: Cluster Zoning - Informational - *rescheduled.*
- 8:15 p.m. Planning Business: Mail
- 8:30 p.m. PMC Realty Trust
- 8:45pm. *Other Business: continuation of Mail or Discussion*

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, NOVEMBER 20, 1996

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:11 p.m.

Attendees: S.Pennoyer, P.Dunn, D.Jones, W.Burnham, G.Stavros, J.Ginn, and G.Guerin

MOTION: G.STAVROS MOVES TO APPROVE THE NOVEMBER 6, 1996 MINUTES WITH AN ADDITIONAL NOTE REQUESTED BY J.GINN. SECONDED BY PAT DUNN. VOTE WAS UNANIMOUS TO APPROVE. MOTION PASSES.

The Nov. 6, 1996 Minutes will have the additional comments requested by Joe Ginn: Joe Ginn would like the Minutes to reflect that his decision to deny the application of Peter VanWyck included also his concern that the approval would be based upon verbal discussion by Town Counsel, rather than written documentation for an approval for the building permit application. He would rather have the legal advice in the form of written documentation in front of the Board, rather than moving to approve a motion based on hearsay.

Dick Carter/Building Inspector: Jerome Crepeau and Louis Lima, 51 Lufkin Point Road, Map 0020, Lot 0014, Lot Size 20,790, DEP#21-301, BOH approval, 37x27x34.5ht. To take down building and construct a single family wood frame dwelling on same footprint as existing dwelling with rear porch on two piers. Building started out as one dwelling and has been added on through the years. Demolishing and rebuilding will remove rotted and aging structure.

MOTION: JOE GINN MOVES TO ALLOW THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT FOR JEROME CREPEAU AND LOUIS LIMA OF 51 LUFKIN POINT ROAD, MAP 0020, LOT 0014, LOT SIZE 20,790, FOR THE DEMOLITION OF EXISTING TWO-STORY WOOD DWELLING AND THE RECONSTRUCTION OF A NEW SINGLE FAMILY WOOD FRAME PER PLAN OF 10/96, ONTO THE EXISTING FOOTPRINT. FINDING UNDER 6.4-2 EXISTING NONCONFORMING USE, RELATIVE TO PROPER LINE SETBACKS AT WEST SIDE. SEEING THAT THIS WILL BE NO MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS PRESENT USE. ALSO NOTING THAT THE BOARD WILL REQUIRE A CERTIFIED "AS-BUILT" UPON COMPLETION. ALL OTHER REQUIRED SIGNATURES ARE PRESENT ON THE APPLICATION. SECONDED BY W.BURNHAM. IN FAVOR WERE, S.PENNOYER, P.DUNN, G.STAVROS, D.JONES, J.GINN, W.BURNHAM. THE MOTION PASSES.

Note: Gil Guerin, Jr. arrives.

Paul and Patricia Rullo - 15 Lowe Hill Drive., Foundation for new dwelling, certified by the BOH, DEP#2134. The Board questioned the setback of the foundation of house in relation to location of the septic system. The application has BOH approval.

MOTION: G.STAVROS MOVES TO APPROVE THE BUILDING PERMIT FOR PAUL AND PATRICIA RULLO OF 15 LOWE HILL DRIVE, MAP 35, LOT 42, LOT SIZE 1.3 ACRES FOR THE 49X50 FOUNDATION FOR NEW DWELLING. SITING THAT IT MEETS ALL THE REQUIRED SETBACKS. SEPTIC SYSTEM IS INSTALLED AND APPROVED BY THE BOARD OF HEALTH.

SECONDED BY JOE GINN. IN FAVOR WERE: P.DUNN, S.PENNOYER,
D.JONES, G.STAVROS, G.GUERIN, W.BURNHAM AND J.GINN.
THE MOTION PASSES.

Peter VanWyck: Turtle Back Road Subdivision, re-submitting a building permit for foundation of single family dwelling of Lot 22, Map 9, Lot size 79,397 s.f., in accordance with included plans. 70x30x20, four bedrooms, approved by BOH, Conserv. Comm. The plan was denied during a 11/6/96 meeting. Town Counsel has responded to the denial and forwarded a written statement to the Board to approve the permit. The letter stated that the Board cannot deny the permit, as there is an Agreement for Judgment and the proper signatures are now on the application. However, counsel recommended that a Clerk of the Works be instituted for the Subdivision. (Reference the letter in the Peter VanWyck file, found at the Town Hall.) P.Dunn asked the Board whether or not there was any control by the Board over this dwelling that is being built. The control will lie with the release of the lot, not the building of the dwelling.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR A SINGLE FAMILY RESIDENCE FOR PETER VANWYCK OF TURTLE BACK ROAD. DWELLING ON LOT 22, MAP 9 OF TURTLE BACK ROAD SUBDIVISION, FINDING THAT THE APPROPRIATE SET BACKS AND MINIMUM REQUIREMENTS OF THE BYLAWS OF THE TOWN OF ESSEX HAVE BEEN MET. THE APPLICATION HAS BEEN APPROVED BY THE BOARD OF HEALTH, AND CONSERVATION COMMISSION. FURTHER ADDING THAT THE APPROVAL IS ALSO BASED UPON THE ADVICE OF TOWN COUNSELS LETTER DATED 11/19/96. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE, P.DUNN, S.PENNOYER, D.JONES, G.STAVROS, J.GINN, G.GUERIN, W.BURNHAM. THE MOTION PASSES.

Dick Carter gave updates on several residents concerning various issues: Howie Lane's vehicles stored on his property will go through litigation with the Town, cars being parked at Julian's property on Forest St. will be gone by the end of the year, Bill Allen's properties are being addressed by a Judge (Nov.25 hearing), and the trailer issue on Cogswell Ct. was found to be registered, Kevin Harding's property was a concern to P.Dunn. There are more than two cars parked behind his fence on Western Ave.

Charles Clark, Attorney for Peter VanWyck: Discussion concerning keeping the lines of communication open between the parties was the topic. J.Ginn had a question about the recording of documents at the Registry of Deeds. P.Vanwyck has recorded his Plans years ago, and what is recently recorded is the Agreement for Judgment. The Board wants to have a certified copy of what is recorded with Land Court and the Registry of Deeds. The recorded Plan of 1994 is what Peter Vanwyck will be using. The Road was discussed, plans are in the works. A Clerk of the Works must be appointed and approved by the Board. S.Pennoyer was clear that the Clerk is the Town's mediator and will be accountable, along with his license and stamp. The Board gave Attorney Clark the information about the by-law change concerning payment by the applicant to the Clerk of the Works. The names of a Clerk were discussed, as was the performance guarantee. The Board also wanted Peter VanWyck to provide certified documents for records of the Title of Judgment once the Agreement has been met. The Board will meet again with Peter VanWyck and Attorney Clark with the decision of the Clerk of the Works and necessary updates.

A letter from Scottie Robinson of Four Turtleback Road was read. She was of the understanding that a public hearing is due in such cases and requests that the board notify her directly of the

date and time. Since an Agreement had been reached concerning the application for the Subdivision of Turtleback Road Extension, and Peter VanWyck is using the registered plans from 1994, it was clear that a public hearing was not necessary. The Board dictated a letter to go to Scottie Robinson stating this information. Letter to be cctown counsel.

Ron Ober: Pat Dunn discussed the Pine Ridge Road situation regarding the rest of the funds held by the Town, and the fire hydrant owed by Ron. He is scheduled to come into the board at 7:30 on Dec. 4th to finalize the details. Pat has spoken to Damon Boutchie of the DPW. Ober is asking the DPW to order the hydrant; he wants to pay for it with the money the Town is holding. Damon Boutchie will give the Board the exact amount for the hydrant and we will release the money for this, the balance, and the "as built" will be issued.

ANR Fees: The approval to charge the fees has never been recorded at the Registry of Deeds. P.Dunn spent time locating the documents to resolve this issue, called the Registry, and will complete the necessary tasks to resolve the matter so the Board will have the right to charge applicants for the Form A approvals.

P.Dunn will also correspond directly with the Times Reporter, Terrance Synott, in order to gain more coverage in the papers about planning issues.

G.Stavros updated the Board regarding Ruth Montgomery's Appeal of the Tyack residence located off Wood Drive. The DEP will be inspecting the site on Nov.21.

He also voiced concerns about signing permits before all approvals have been given. The Board agreed that permits will be scrutinized thoroughly and acknowledged the concern.

Note: Joe Ginn removes himself from the table for the next discussion.

PMC Realty Trust: John Coughlin for Gateway Subdivision. He came to the Board with an update on the Roads "A" and "B". Most Board members acknowledged that they have been to the site and were pleased with the results. A letter from Larry Graham, Clerk of the Works, was read, elaborating on the observations of the roads. (reference the letter dated 11/13/96 in the Gateway file) The radius was discussed for both roads. Road "A" was not constructed as per the plan, but the Board heard from the contractor Joe Ginn and John Coughlin and concluded that the radii was acceptable, given the preservation of the trees, the neighbors' concerns and the original intent. The bituminous concrete curb was discussed and the opinion of the Clerk was that the curb be constructed on top of the binder course prior to finished surface course pavement application. In a letter, the BitCon Corp., paving contractors wrote that "the proponents of 'on top' installation point out that curb installation on binder is installed on a not yet truly even surface, is extremely difficult to repair or replace if the need arises...." The paving contractors did the job as the plan stated. Several cracks found were repaired. The proper thickness of the pavement will be tested by the UTS by doing random cores on 11/21/96. BitCon Corp. will give a three year warranty on the pavement. Road "B" was servicing only two driveways; the Board was satisfied with the Road; finding no issues. The rough finished pavement surface will be re-inspected by Graham under dry conditions and report to the Board their findings.

John Coughlin concluded that he was looking for completion of the "as built" on the road. The cores will be done, Conserv. Comm. and Graham's approval to come. A Line of Credit for \$10,000 will be established in effect for one year starting Jan.97 to Dec. 31, 1997. If there is a problem, the Board is to notify PMC in writing giving 30 days to fix infractions. Atlantic

Engineering will produce the "as-built". A projection for completion may occur at the end of next year.

Note: Joe Ginn returns to the table.

Scot's Way: The Board discussed the situation of the unfinished road, and the responsibility of Ronald Strong in this matter. The consensus was that the Town did not have control over the situation now, but a letter will be drafted by W.Burnham and S.Pennoyer addressing the concerns of the Board. Ronald Strong will receive this correspondence in the coming weeks. The feeling was that perhaps this issue could be resolved.

Filias Realty: Sheldon has received questions from the DEP referring to a public hearing and the issuance of a special permit for the Filias Marina. W.Burnham feels that they were grandfathered, the slips are now at 22 not 28, and parking is not addressed by other marina owners, etc. Sheldon feels that parking is an issue there. W.Burnham asked if any other marinas have special permits, and J.Ginn added that Filias' is a mixed use. W.Burnham repeated that there is no new construction, they cannot change their configuration, the DEP and Army Corp. Eng. are involved and they are forced to adhere to the regulations. The Ch.91 was for the permanent structure only. G.Stavros wanted to know if there are 28 parking spaces for the 28 slips that were there. S.Pennoyer stated that the plan requires 52 parking spaces, for apts. and slips. He did not feel that there was enough parking; the spaces were filled upon inspecting, even the "no pkg. zones" and "fire lanes". W.Burnham noted that this parking situation goes on everywhere in town, not just Filias'. Sheldon felt that parking is the issue of the planning board. The correct procedures should be adhered to. He and George will go to the Hearing and will report to the Board.

MOTION: PAT DUNN MOVES TO CLOSE THE MEETING AT 9:50P.M.
SECONDED BY GIL GUERIN. THE MOTION PASSES.

Note: The Flood Plain by-law changes should be read for discussion, as this issue must be brought up at the Town Meeting this Spring.

Next meeting is scheduled for Wednesday, December 4 at 7:00p.m.

Prepared by: Lisa A. M. Randall

Attested to: 

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, NOVEMBER 20, 1996

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:11 p.m.

Attendees: S.Pennoyer, P.Dunn, D.Jones, W.Burnham, G.Stavros, J.Ginn, and G.Guerin

MOTION: G.STAVROS MOVES TO APPROVE THE NOVEMBER 6, 1996 MINUTES WITH AN ADDITIONAL NOTE REQUESTED BY J.GINN. SECONDED BY PAT DUNN. VOTE WAS UNANIMOUS TO APPROVE. MOTION PASSES.

*11/24/96
for
G.S. ↓*

The Nov. 6, 1996 Minutes will have the additional comments requested by Joe Ginn: Joe Ginn would like the Minutes to reflect that his decision to deny the application of Peter VanWyck included also his concern that the approval would be based upon verbal discussion by Town Counsel, rather than written documentation for an approval for the building permit application. He would rather have the legal advice in the form of written documentation in front of the Board, rather than moving to approve a motion based on hearsay.

Dick Carter/Building Inspector: Jerome Crepeau and Louis Lima, 51 Lufkin Point Road, Map 0020, Lot 0014, Lot Size 20,790, DEP#21-301, BOH approval, 37x27x34.5ht. To take down building and construct a single family wood frame dwelling on same footprint as existing dwelling with rear porch on two piers. Building started out as one dwelling and has been added on through the years. Demolishing and rebuilding will remove rotted and aging structure.

MOTION: JOE GINN MOVES TO ALLOW THE BUILDING INSPECTOR TO ISSUE A BUILDING PERMIT FOR JEROME CREPEAU AND LOUIS LIMA OF 51 LUFKIN POINT ROAD, MAP 0020, LOT 0014, LOT SIZE 20,790, FOR THE DEMOLITION OF EXISTING TWO-STORY WOOD DWELLING AND THE RECONSTRUCTION OF A NEW SINGLE FAMILY WOOD FRAME PER PLAN OF 10/96, ONTO THE EXISTING FOOTPRINT. FINDING UNDER 6.4-2 EXISTING NONCONFORMING USE, RELATIVE TO PROPER LINE SETBACKS AT WEST SIDE. SEEING THAT THIS WILL BE NO MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS PRESENT USE. ALSO NOTING THAT THE BOARD WILL REQUIRE A CERTIFIED "AS-BUILT" UPON COMPLETION. ALL OTHER REQUIRED SIGNATURES ARE PRESENT ON THE APPLICATION. SECONDED BY W.BURNHAM. IN FAVOR WERE, S.PENNOYER, P.DUNN, G.STAVROS, D.JONES, J.GINN, W.BURNHAM. THE MOTION PASSES.

Note: Gil Guerin, Jr. arrives.

Paul and Patricia Rullo - 15 Lowe Hill Drive., Foundation for new dwelling, certified by the BOH, DEP#2134. The Board questioned the setback of the foundation of house in relation to location of the septic system. The application has BOH approval.

MOTION: G.STAVROS MOVES TO APPROVE THE BUILDING PERMIT FOR PAUL AND PATRICIA RULLO OF 15 LOWE HILL DRIVE, MAP 35, LOT 42, LOT SIZE 1.3 ACRES FOR THE 49X50 FOUNDATION FOR NEW DWELLING. SITING THAT IT MEETS ALL THE REQUIRED SETBACKS. SEPTIC SYSTEM IS INSTALLED AND APPROVED BY THE BOARD OF HEALTH.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, NOVEMBER 6, 1996

- 7:00 P.M. Minutes of October 16, 1996
- 7:15 P.M. Dick Carter/Building Inspector
- 7:30 P.M. Nancy Attaya, Atty.: Requests information
of road regarding subdivision of property
- 7:45 P.M. Mr. and Mrs. Cameron: Form A
- Planning Board Business
- 9:00 P.M. Patrowitz Land Eng.: Form A

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 6, 1996

The Planning Board meeting was held at the Essex Elementary School on Story Street and began at approximately 7:10p.m.

Attendees: P.Dunn, S.Pennoyer, W.Burnham, J.Ginn, G.Guerin and G.Stavros

MOTION: G.STAVROS MOVED TO APPROVE THE OCTOBER 16,1996 MINUTES AS WRITTEN. SECONDED BY G.GUERIN. IN FAVOR WERE S.PENNOYER, G.STAVROS, J.GINN. P.DUNN AND W.BURNHAM VOTED PRESENT. THE MOTION CARRIED.

DICK CARTER/BUILDING INSPECTOR: Turner and Walima Mfg.-191 Western Avenue, for construction of a shop on a demolished building (removing the two-family house, use foundation to expand shop on the footprint). Has 34,800 s.f. for Business Land Use (30,00 s.f. required)

Note: Joe Ginn wanted the Minutes to reflect that the septic system may not have the proper approval, and the system may have been installed incorrectly. He did not believe that the Engineer had signed off on the previous plan. Turner & Walima is increasing the size of the shop, and the Board questioned whether or not this was to be considered a Class A or Class B. The plan has BOH approval on the septic plans. The number of employees to be working there was not clear, as was the number of parking spaces for the expansion of the shop. It was discussed that this property had a mixed use, which they were eliminating and not adding to the footprint, but there was an expansion to the business. There was a change of use proposed, and the Board advised the Building Inspector to bring the Applicants to the Board to answer their specific questions. No action was taken on the Building Permit.

The Plan for Farnham's Restaurant was brought in to the Board as promised by the Building Inspector.

North Star Realty & Trust - 5 Scot's Way. Map 8, Lot 5, 114,000 s.f., to construct a steel building to garage trucks. 60x40x18ht. No plumbing. Approval by BOH, Conserv. Comm. Bldg. to be used to garage gunite trucks. The trucks are parked on proposed site at present time. The building meets the min. stds. for Class B, Zoning Bylaws, Business Land Use.

MOTION: W.BURNHAM MOVED TO APPROVE THE BUILDING SITE FOR NORTH STAR REALTY AND TRUST OF FIVE SCOT'S WAY IN ESSEX, BUILDING TO BE USED AS A GARAGE TO STORE TRUCKS FOR A GUNITE BUSINESS. BUILDING TO BE STEEL, 40X60X18 WITH NO INTERNAL PLUMBING. BOH, CONSERV. COMM. AND WETLANDS

APPROVAL OBTAINED. SEEING THAT IT MEETS THE MINIMUM STANDARDS OF THE ESSEX ZONING BYLAW UNDER BUSINESS LAND USE, INDUSTRIAL CLASS B. PLAN SUBMITTED WITH THE PERMIT APPLICATION. SECONDED BY JOE GINN. IN FAVOR WERE, P.DUNN, W.BURNHAM. J.GINN, G.GUERIN, G.STAVROS AND S.PENNOYER. THE MOTION PASSED.

Issues regarding Scot's Way: The Road has not been finished to the standards that was required by the Board. Attempts by the Board to rectify the situation with Ronald Strong have not been successful; financial holds on Mr. Strong by the Town are no longer available. The Board felt that penalizing the Applicant would not correct the Road. The Scot's Way Road would not be improved unless the users of the Road were to take action; an unfortunate result, yet no resolution seemed likely any time soon.

Peter VanWyck: Turtle Back Road Subdivision, submitting a building permit for foundation siting of Lot 22, Map 9, Lot Size 79,397 s.f., new residence in accordance with included plans. 70x30x20, four bedrooms, not approved by Conserv. Comm., but approved by BOH.

S.Pennoyer noted that Town Counsel has verbally suggested that the Board review the siting, and issue a permit if appropriate. The Road is not in place, and P.Dunn, G.Stavros, J.Ginn were adamant about approving the application since there was no advice in writing by Town Counsel, and allowing the building to be built without adequate access was unacceptable. Also noted was the fact that the Conservation Commission has not signed off on the permit. The date of the building application was 10/16/96, the Board was aware of the time frame for a decision. J.Ginn also added that signing off on this application would "muddy the waters". No documents have been given on the proof of filing at the Registry of Deeds, and "should a partial approval be given before the Agreement of Judgment has been finalized?" **Note: See additional comments of discussion of 11-20-96 mtg. attached.*

MOTION: W.BURNHAM MOVED TO APPROVE THE BUILDING PERMIT FOR A FOUNDATION INSTALLATION ONLY, FOR PETER VANWYCK OF TURTLE BACK ROAD, FOR SINGLE FAMILY DWELLING ON LOT 22, MAP 9 OF TURTLE BACK ROAD SUBDIVISION, FINDING THE APPROPRIATE SET BACKS AND MINIMUM REQUIREMENTS WILL BE MET WHEN THE SUBDIVISION PLAN IS FILED WITH THE REGISTRY OF DEEDS. SUBJECT TO CONSERVATION COMMISSION APPROVAL OF SITING OF FOUNDATION. SECONDED BY G.GUERIN. OPPOSED WERE P.DUNN, J.GINN, GEORGE STAVROS. IN FAVOR WERE W.BURNHAM, G.GUERIN. VOTING PRESENT: S.PENNOYER. THE MOTION IS DENIED.

MOTION: G.STAVROS MOVES TO DENY THE BUILDING

PERMIT FOR A FOUNDATION INSTALLATION, FOR PETER VANWYCK OF TURTLE BACK ROAD, FOR SINGLE FAMILY DWELLING ON LOT 22, MAP 9 OF TURTLE BACK ROAD SUBDIVISION, SITING THAT THERE IS NO CONSERVATION COMMISSION OR WETLANDS APPROVAL NOTED ON THE BUILDING APPLICATION, ALSO FINDING THAT THERE IS NO LEGAL WRITTEN DOCUMENTATION REGARDING THE DECISION OF THE AGREEMENT OF JUDGMENT DATED OCTOBER 2, 1996, DOCUMENT 201167: THE PROPER DOCUMENTS FOR SUBDIVISION APPROVAL HAVE NOT BEEN MET. ALSO SITING THAT NO FRONTAGE WAS GIVEN. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WAS: PAT DUNN, G.STAVROS, JOE GINN. VOTING AGAINST WAS: W.BURNHAM, G.GUERIN. VOTING PRESENT WAS S.PENNOYER. THE MOTION PASSED.

Nancy Attaya, Attorney for the owners of Glass Dimensions off Western Avenue. Twenty-five acres is available, the Perkins' would like to acquire the land and expand their business. Ms. Attaya wanted to know what if the road leading to the property was adequate as it is in its present site. If the Perkins' bought the land, they would have more flexibility, and would be able to change the right of way. The road would also have to be upgraded. The meeting was informational only, no action was taken.

Bob and Cindy Cameron of 148 Main Street, Essex,(Executor of Estate of Blanche E. Nelson)property at 73 Martin Street, for Form A, frontage to be on existing way, Brook Pasture Lane. 82,765s.f., book 63, page 75.

Note: The Board will notify the abutters along Brook Pasture Lane of the above ANR.

MOTION: JOE GINN MOVES TO APPROVE THE FORM A OF LAND FOR BOB AND CINDY CAMERON (EXECUTOR OF ESTATE OF BLANCHE E. NELSON) OF 73 MARTIN STREET, ESSEX, PLAN DATED 10/9/96 BY BRUCE EATON & ASSOC., 4 OAKLAND ROAD, DANVERS, MA, LOT B SHOWING FRONTAGE OF 249.79 FEET ON BROOK PASTURE LANE. LOT HAS 1.9 ACRES AND MEETS THE MINIMUM REQUIREMENTS FOR BUILDING ON A LOT IN THE TOWN OF ESSEX. SECONDED BY PAT DUNN. IN FAVOR WERE: P.DUNN, G.STAVROS, W.BURNHAM, G.GUERIN, J.GINN. S.PENNOYER VOTING PRESENT. THE MOTION PASSED.

PLANNING BUSINESS: The available funds from Grant money will be used for Cluster Zoning information. S.Pennoyer will continue to provide the Board with the status of the Grant, and will invite Mr. Warren Flint of Matlock Assoc. to talk to the Board about Cluster Zoning.

George Stavros gave the Board an update of Conservation Commission business. A "blanket policy" concerning

filings of repair and upgrades of septic systems will be proposed.

Pat Dunn will be corresponding with the Gloucester Daily Times to get better coverage of Planning Board Issues. It seems that the Times has not been publishing meeting minutes making the public aware of planning issues. Pat will apprise the Board of her meeting.

Flood Plain changes in the Bylaws will be looked at by the Board. Changes will require the Public Hearing process, etc.

Scott Patrowicz for Benjamin Winskowicz, 10 Centennial Grove Road. Parcel off Harry Homan's Drive. Fronts on both Harry Homan and Centennial Grove Rd. Proposing to carve 40,000 s.f. of land. The Board went through detailed scenarios of the lot, the proposed septic easements, the lot has thin strip, a requirement for the 40,000 needed s.f. for residential use, having 10ft. side lot setback. The septic easement was shown on Lot 1, septic currently failing, creating a new system on a new lot. Mr. Patrowicz was looking for approval on 40,000 s.f. lot.

G.Stavros: does not like the lot configuration

J.Ginn: agreed with G.Stavros

P.Dunn: concerned that the septic easement(having septic on someone else's lot) was a potential problem; didn't like the idea.

G.Guerin: felt that plan was o.k., original house being where it is, and lot creation would not be detrimental to the neighborhood.

W.Burnham: meets min. requirements in the Bylaws.

S.Pennoyer: meets definition of lot. Lot definition was read as well as lot line definition.

MOTION: W.BURNHAM MOVES TO APPROVE THE FORM A APPLICATION FOR THE CREATION OF LOT 1 AND LOT 2 FOR PROPERTY OWNED BY BENJAMIN WINSKOWICZ, PROPERTY LOCATED AT 10 CENTENNIAL GROVE ROAD AND OFF HARRY HOMAN'S DRIVE. LOT 1 IS BEING CREATED AS 40,000 S.F., LOT FRONTAGE OF 152.0' LOCATED ON HARRY HOMAN'S DRIVE, REMAINING LOT 2 IS BEING CREATED AS 104,616 S.F., LOT FRONTAGE OF 194' ON CENTENNIAL GROVE ROAD. REGISTERED AS BOOK 13163, PAGE 52,53, FINDING THAT BOTH LOTS MEET THE MINIMUM REQUIREMENTS OF 6-6 LAND USE REGULATIONS IN THE TOWN OF ESSEX BYLAWS. ALSO NOTING THE OVERLAY REQUIREMENTS OF THE WATER RESOURCE PROTECTION DISTRICT. SECONDED BY GIL GUERIN. IN FAVOR WERE: W.BURNHAM, J.GINN, G.GUERIN. AGAINST: P.DUNN, G.STAVROS. S.PENNOYER VOTED PRESENT. THE MOTION PASSES.

Meeting adjourned at 10:00p.m. prep.by:lisa M.Randall
Attested to: *[Signature]*

Note: P.Vanuxem to receive notification of Motion enclosed, re: Turtleback Road Sub.
NEXT MTG: Nov. 20th



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, OCTOBER 16, 1996

- | | |
|--------------------|--|
| 7:00 p.m. | Minutes of October 2, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 8:00 p.m. | Public Hearing - Scenic Ways
Lot 1, Choate Str., Scaildone |
| 8:30 p.m. | Nancy Davis: Possible Day Care
Center in Essex - <i>Cancelled</i> |
| Planning Business: | Telephone Answering Serv. at Town Hall
Selectmen Quarterly Mtg. |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, OCTOBER 16, 1996

Attendees: S.Pennoyer, Chairman, D.Jones, G.Stavros, J.Ginn, and G.Guerin
The Planning Board meeting began at approximately 7:10p.m., and was held at the Essex Elementary School on Story Street.

Dick Carter: Michael and Mary Phelan, 21 Gregory Island Road, Map 4, Lot 73, Lot size: 8,000 s.f.. Approved by BOH, Conserv. Comm. Adding a second story room above the existing kitchen. 19x11x18ht.

MOTION: J.GINN MOVES TO APPROVE THE BUILDING APPLICATION OF MARY PHELAN OF 21 GREGORY ISLAND ROAD, ESSEX, FOR A SECOND STORY ADDITION FOR THE CREATION OF A ROOM ABOVE THE EXISTING KITCHEN. B.O.H., CONSERV. COMM, WETLANDS APPROVED. NOTING THAT THIS APPROVAL IS BASED ON THE FINDING UNDER 6.4-2 OF THE TOWN OF ESSEX BY-LAWS, AND THAT CHANGES WILL NOT BE MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION: S.PENNOYER, G.STAVROS, D.JONES, J.GINN. GIL GUERIN VOTES PRESENT. THE MOTION PASSED.

Jerry Celluci of 88 Eastern Ave, Essex, Map 38, Lot 44, 31,307 s.f., BOH, Conserv. Comm. and Wetlands have been approved. Wood framed addition which will square off back of building, upgrade lavs., kitchen and dining room (no additional seats), provide two exits for upstairs apartment. 67x27x23ht.

The Board discussed the flood plain issue with the applicant, the plan was approved by the Conservation Comm. in 1994, building was pre-existing.

MOTION: JOE GINN MOVES TO APPROVE THE BUILDING PERMIT FOR JERRY CELLUCI OF 88 EASTERN AVENUE, FOR THE ADDITION TO THE REAR OF THE BUILDING, TO SQUARE OFF AND MAKE THE BUILDING RECTANGULAR. NEW ADDITION WOULD BE 11X55, THE PROPOSED USE OF THE ADDITION WOULD BE TO UPGRADE THE LAVATORIES, KITCHEN AND DINING ROOM, WITH NO ADDITIONAL SEATING, AND TWO NEW EXITS FOR EXISTING UPSTAIRS APARTMENT. THIS WORK ALLOWED UNDER THE PROVISIONS OF 6-4.2 OF THE ESSEX TOWN BY-LAWS. IT WILL BE NO MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING PROPERTY. SECONDED BY GIL GUERIN. IN FAVOR WERE: J.GINN, G.STAVROS, G.GUERIN, D.JONES. S. PENNOYER VOTES PRESENT. THE MOTION PASSED.

Peter VanWyck, Turtleback Road, Map 9, Lot 22, 79,397s.f., New residence in accordance with included plans. 70x30x20ht.

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The Board discussed whether or not this application should be approved, as the final decision on the Agreement for Judgment had not been granted by Land Court at this time. Therefore, a Motion to Deny is as follows:

MOTION: G.STAVROS MOVES TO DENY THE BUILDING PERMIT OF PETER VANWYCK OF TURTLEBACK ROAD, ON MAP 9, LOT 22, LOT AREA OF 79,397 S.F., FOR CONSTRUCTION OF NEW RESIDENCE. BASIS OF DENIAL TO BE THAT THE PLANNING BOARD HAS NOT RECEIVED CONFIRMATION FROM LAND COURT OR TOWN COUNSEL OF THE AGREEMENT SIGNED BY THE PLANNING BOARD ON 10/2/96, AND PREPARED BY TOWN COUNSEL FOR LAND COURT. THE CONDITIONS OF THE AGREEMENT HAVE NOT BEEN GIVEN TO THE PLANNING BOARD REGARDING THIS CASE. SECONDED BY JOE GINN. IN FAVOR WERE, G.STAVROS, S.PENNOYER, J.GINN, D.JONES AND G.GUERIN. THE MOTION TO DENY PASSES.

PUBLIC HEARING OPENED AT 8:00 P.M. Lot 1, Choate Street, Nancy and Stephen Scaldone for access through a wall for a driveway on a scenic way.

The notice was read, the abutters were notified by mail, the fee for the permit has been paid. The Board was given a site plan, photographs. The photos show two painted 2x4s with ribbons. The stakes were twelve feet apart. The Board was concerned about the twelve foot access. Was this enough radius, and why did the DPW give them the twelve foot wide measurement for the driveway opening, and the driveway is proposed to be sixteen feet wide. The Motion would have to be made for the measurement that was there. Mr. Scaldone was concerned about the width, and noted that he would like to have the driveway opening wider.

Virginia Clark, Choate Street, an abutter, wanted to know what was going to be on the Lot. Mr. Scaldone replied that it was for a 3,000 s.f. cape-style home.

The driveway will be in common ownership, with a total of two lots using the driveway. Arthur Clark, Choate Street, an abutter, asked if it was for a private residence. Mr. Scaldone answered, "yes".

MOTION: JOE GINN MOVES TO CLOSE THE PUBLIC HEARING. SECONDED BY G.STAVROS. ALL MEMBERS VOTED TO CLOSE THE PUBLIC HEARING. THE MOTION PASSED.

MOTION: J.GINN MOVES TO ALLOW THE STONE WALL TO BE OPENED IN THE AREA AS STAKED AND SHOWN ON THE PLAN AS TWELVE FEET WIDE, FOR A CREATION OF A COMMON DRIVEWAY TO ACCESS THE TWO EXISTING LOTS AS SHOWN ON THE PLAN DATED JUNE 23, 1992, AND REVISED ON OCTOBER 3, 1996 BY ABBA CONSULTING GROUP. SECONDED BY D.JONES. IN FAVOR OF THE MOTION:

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S.PENNOYER, G.GUERIN, J.GINN, G.STAVROS, AND D.JONES.
THE VOTE WAS UNANIMOUS, THE MOTION PASSED.

Before the Motion was approved, discussion continued about the access, but the DPW stated that twelve feet was the width. Joe Ginn then amended his Motion to add the twelve feet in width for the opening for the driveway. The amendment was seconded by Dave Jones. The amendment of the Motion was then discussed: Even though the applicant was in favor of widening the opening, the Public Hearing was closed and would have to be re-opened. Would the Scaildones want to repeat the process for the opening? The public was hearing the Scenic Ways Act for the driveway, and the issue was not for the additional widening of the opening. The Board decided to continue with the Motion as it is, amended, and let the applicants decide whether or not they would come back for changes. The Board then finalized the above Motion by voting to accept the driveway opening as twelve feet. (see above Motion.)

MOTION: JOE GINN MOVES TO APPROVE THE OCTOBER 2, 1996 MINUTES AS WRITTEN. SECONDED BY G.STAVROS. ALL MEMBERS PRESENT VOTED UNANIMOUSLY TO APPROVE THE MOTION. THE MOTION PASSED.

Nancy Kane Davis wrote the Board a letter explaining her decision to cancel her appointment for this evening. Apparently, the Nursery School/Day Care Center proposed for 11 Forest Avenue has been curtailed due to septic situations regarding the property.

ANR Fees: The Board discussed the fees, and it was asked that a copy of the specific fee schedule be given to the Board by Sally Soucy.

The Chairman signed a letter to request authorization for the destruction of records of the Planning Board. The Supervisor of Public Records will respond to our request to clean up the files.

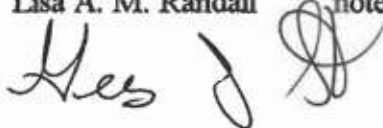
The Board was made privy to the fact that the expense account for the Planning Board will probably go over budget, due to the quantity of Public Hearings that the Town was responsible for funding.

Discussion of Grant money to be used for Cluster Zoning was discussed. S.Pennoyer will look into the matter and notify the Board.

MOTION: GIL GUERIN MOVES TO CLOSE THE OCT.16, 1996 MEETING. SECONDED BY D.JONES. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE. THE MOTION PASSED.

Prepared by: Lisa A. M. Randall note: next scheduled meeting is Nov.6, 1996

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, OCTOBER 2, 1996

- | | |
|-----------|---|
| 7:00 p.m. | Minutes of September 18, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Mr. and Mrs. Cameron re: Property formerly owned by Blanche Nelson, Martin Street. |
| 8:00 p.m. | Margaret T. Davies, Maria Burnham: for Waterways License, Chapter 91 signature by board |
| 8:45 p.m. | Malcolm Low: Chapter 91 Licenses for signatures from board |
| 9:00 p.m. | Business: Peter Van Wyck/Turtleback Road
Subdivision: Discussion, possible vote of resolution of Agreement |

Note: Regular sessions of Planning Board began Sept. 18. Meetings scheduled for the first and third Wednesday of each month, unless noted.

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, OCTOBER 2, 1996

The meeting was held at the Essex Elementary School on Story Street, and began at approximately 7:10 p.m.

Attendees: S.Pennoyer, Chairman, W.Burnham, P.Dunn, Gil Guerin, G.Stavros, Joe Ginn

MOTION: G.GUERIN MOVES TO ACCEPT THE SEPTEMBER 16,1996 MINUTES AS WRITTEN. SECONDED BY P.DUNN. IN FAVOR OF THE MOTION WERE: S.PENNOYER, P. DUNN AND G.GUERIN VOTING PRESENT WERE: W.BURNHAM AND G.STAVROS. THE MOTION PASSED.

MOTION: G.GUERIN MOVES TO ACCEPT THE SEPTEMBER 16, 1996 EXECUTIVE SESSION MINUTES AS WRITTEN. SECONDED BY P.DUNN. IN FAVOR: S.PENNOYER, P.DUNN AND G.GUERIN.VOTING PRESENT: W.BURNHAM AND G.STAVROS. THE MOTION PASSED.

Dick Carter/Building Inspector: Bob and Cindy Cameron, 148 Main Street, of the George Fuller House Inn. Change existing three car garage in back of Inn, converting to contain one bedroom, one bath for handicap accessibility, and a shop area. Three entries, 26x18x20ht., approved by BOH, Conserv. Comm, Map 37,38, Lot 34,8A, Lot size 2 1/2 acres. The Board discussed whether or not the change of use would make it a more nonconforming use. There is no changes to the footprint but there was no site plan, and the request turns the accessory building into a dwelling. The Board decided that the Camerons would have to be denied because of the sideline setback. The Board also noted that the Cameron's application was in process at the September 18, 1996 meeting, as the Rivers Act goes into effect as of October 1, 1996. The Board further added that they would require a variance on the setback and land area, because of the marshland included in their acreage. W.Burnham noted that before denying the application, it would make sense to state the section of the Essex Zoning By-law being referenced. A question to whether or not the description of the property was for commercial, business, hotel/motel use. Clearly, it was an Inn, and the business use or residential use still held the same setback distance on both.

MOTION: G.STAVROS MOVES TO DENY THE APPLICATION OF BOB AND CINDY CAMERON OF 148 MAIN STREET, OWNERS OF THE GEORGE FULLER HOUSE INN, MAP 37,38, LOT 34,8A, LOT SIZE 2-1/2 ACRES. THERE IS INADEQUATE SIDE LOT SETBACK AND INADEQUATE UPLAND AREA, AS REQUIRED IN THE ESSEX TOWN BY-LAWS, 6-5.5. SECONDED BY GIL GUERIN.

(Joe Ginn enters at 7:29 p.m.) Joe noted that he felt the property was not for two different residences, but as an addition to the Inn, enhancing the area. Sheldon remarked that they were changing the use, but did not need a 30,00 lot line. At that point, George withdraws the Motion on the table.

MOTION: W.BURNHAM MOVES TO DENY THE BUILDING APPLICATION FOR BOB AND CINDY CAMERON OF THE GEORGE FULLER HOUSE INN ON 148 MAIN STREET, ESSEX, FOR CONVERSION OF A THREE CAR GARAGE TO A SINGLE BEDROOM, SINGLE BATHROOM, AND SHOP. GUEST ROOM BEING HANDICAP ACCESSIBLE FOR THE EXISTING BED AND BREAKFAST INN LOCATED IN FRONT OF GARAGE. SITING THAT THE CHANGE IS CREATING A MORE NONCONFORMING USE WITHIN BUSINESS LAND USE, FOUND IN THE TOWN OF ESSEX BY-LAWS, SECTION 6-6.5, SENTENCE FIVE, SIDELINE REQUIREMENT OF MINIMUM OF 20 FEET. SECONDED BY GEORGE STAVROS. IN FAVOR WERE, S.PENNOYER, W.BURNHAM, P.DUNN, G.GUERIN, G.STAVROS. VOTING PRESENT: J.GINN. THE MOTION TO DENY THE APPLICATION PASSES.

A letter will go to the Board of Appeals and copied to the Camerons.

Village Restaurant, Kathleen Ricci, Revocable Trust, 55-57 Main Street, Map 37, Lot 63, 56,991 s.f., for new front entrance with handicap access 27x12, new handicap rest room, expand front dining room and bar to relocate lost seating. No increase in seating. approved by BOH, Conserv. Comm, 43,800s.f.

MOTION: JOE GINN MOVES TO APPROVE THE APPLICATION FOR KATHLEEN RICCI, REVOCABLE TRUST, 55-57 MAIN STR., FOR EXPANSION ON THE MAIN STREET SIDE OF THE BUILDING OF THE ENTRANCE WHICH WILL BE HANDICAP ACCESSIBLE, AND REAR OF BUILDING FOR NEW HANDICAP ACCESSIBLE REST ROOM. APPROVAL UNDER 6-4.2 PROVISION; CHANGES WILL NOT BE MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD, OR SUBSTANTIALLY ALTER THE PROPERTY. NOTE: NO EXPANSION OR LOSS OF SEATING WILL TAKE PLACE AND PARKING WILL REMAIN THE SAME. SECONDED BY G.STAVROS. VOTING IN FAVOR: P.DUNN, S.PENNOYER, W.BURNHAM, G.STAVROS, J.GINN. GIL GUERIN VOTES PRESENT. THE MOTION PASSES.

An informational meeting took place with Bob and Cindy Cameron regarding the property formerly owned by Blanch E. Nelson, 70 Martin Street. The existing lot shows a house, but the Camerons want to divide the property and have access to the Brook Pasture Road. The question was to whether or not the Camerons could use the road as frontage. The Board felt that it was a ^{PUBLIC} town-owned road, privately maintained. The subdivision plan did not show evidence about the road that there was a buffer zone, precluding access for frontage or use, therefore there seemed to be access. No action was taken, the applicants are working with Mr. Corkery, the contact person for the road.

Margaret T. Davies - Application for 99-year Amnesty License for pre-1984 pier/ramp/float. Lot 1, Ralston Drive, Essex River. The proposed existing structure for swimming, tying a small boat and for general use. The plans shows the 36" wooden walk way, signed by a civil engineer. The Chairman signed the plans as having been received by the board, acknowledging that the plans are not in violation of local zoning ordinance and bylaws. No dredging noted.

Maria Burnham for the Essex Ship Building Museum, Chapter 91 Application for the same 99-year Amnesty License for pre-1984 structure. The Chairman reviewed the Application, the plans, and signed the Application as above, with the same acknowledgments.

Margot R. Anderson, off Dodge Street - Chapter 91 Application for the same 99-year Amnesty License for pre-1984 structure, to maintain existing cat walk ramp and floats. The Chairman reviewed the Application, the plans, and signed the application as above, with the same acknowledgments.

Essex River and Essex Landing, Inc., Two applications with common ownership. These two applications will be discussed after the presentation by the engineer.

Peter Van Wyck: Turtle Back Road Subdivision: The Board read the letter dated October 2, 1996 from Town Counsel, which included the Agreement for Judgment. It is consistent with the direction provided by the Planning Board at the Sept. 18, 1996 meeting, and the Agreement the Planning Board reviewed and approved in 1995. Technical changes involved lot numbers and plan references that needed to be confirmed with the Land Court. Town Counsel recommended approving the Agreement for Judgment. The binder coat on the road before subdividing the property was discussed. Would this be consistent with other property owners. W. Burnham felt that the binder coat and the utilities of the whole road should be finished before he could sell off any other lots, excluding the two lots to be released in the Agreement. The Board agreed that he would have to go through the Subdivision Process, which included the completion of the road, or the posting of a bond. The Clerk of the Works would be standard, and the language will be included for the process of the Subdivision, which is stated in our Subdivision Rules and Regulations. G. Stavros questioned whether or not P. Van Wyck could use the subdivision road to subdivide lots every 150ft. The Rules and Regulations state that if the lots divided are two or more, the Subdivision Control Law must be constituted because of the way in existence when the subdivision control law became effective. (reference the Rules and Regulations relative to Subdivision Control of Essex, MA) The process of agreeing to the

Judgment was discussed: The Suit would be dropped, copy of Motion to Agree would go to Brian, and the Court proceedings would be finalized for this case.

MOTION: W.BURNHAM MOVES THAT THE PLANNING BOARD AGREES TO INSTRUCT BRIAN CASSIDY TO ENTER INTO AN AGREEMENT FOR JUDGMENT IN THE CASE OF PETER VAN WYCK, PLAINTIFF, VERSUS THE MEMBERS OF THE PLANNING BOARD OF THE TOWN OF ESSEX, DEFENDANTS, REGARDING THE TURTLEBACK ROAD SUBDIVISION, REFERENCING THE DOCUMENT FROM TOWN COUNSEL DATED OCTOBER 2, 1996, AND THE APPROVAL OF AGREEMENT OF JUDGMENT OF 1995. SECONDED BY JOE GINN. IN FAVOR: W.BURNHAM, JOE GINN, SHELDON PENNOYER, GIL GUERIN, PAT DUNN AND GEORGE STAVROS. THE MOTION PASSES.

Malcolm Low, Engineer for The Maritime Group in Gloucester, came to the Board for the Essex River and Essex Landing, Inc. He prepared the Ch. 91 Applications of the common ownership. Both facilities have existing Army Corps. of Eng. Licenses, and float sizes have been cut. They were authorized to have eight floats, but now have six. The floats at the restaurant (Tom Shea's) have been in existence prior to 1971. Floats at the Motel have been surveyed and licensed since 1981. The 1975 plan shows less floats on the Application than done on the original survey, due to the terms of the Army Corps., which changed the configuration due to dredging. The Applications were filing under the Ch.91 Amnesty License. Planning issues do not consist of configurations of the floats, the Board is dealing with the land issues/parking issues. Upon the satisfaction of the Board, the Chairman signed Copy E of the Application, and Copy D, Municipal Zoning Certificate, stating that the 1975 drawing was cert'd. by a Civil Engineer. Malcolm Low was given the applications for final process.

There is an October 7, 1996 meeting with the Board of Selectmen and other Town Boards. Sheldon and George will attend this.

MOTION: W.BURNHAM MOVES TO CLOSE THE MEETING AT APPROXIMATELY 9:30 P.M. SECONDED BY PAT DUNN. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE THE MOTION. THE MOTION PASSES.

Prepared by: Lisa A. M. Randall

Attested to: 

Note: The Planning Board is scheduled to hold a public hearing during our next meeting, October 16.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, SEPTEMBER 18, 1996

- | | |
|-----------|--|
| 7:00 P.M. | Minutes of August 21, 1996 |
| 7:15 P.M. | Dick Carter/Building Inspector |
| 7:30 P.M. | Barry Richards: addition to property
across from Town Hall, Martin St. |
| 7:45 P.M. | Rolf Madsen: Peter VanWyck Case |
| 8:15 P.M. | Roger and Eileen Hardy: Island Road, Bldg. Permit
Hardy: CANCELLED
Steve and Nancy Scaldone for Coate Street, re:
needs public hearing date for Scenic Ways |
| 8:30 P.M. | Bob Cameron: Estate of Blanch Nelson on
Martin Street |
| 8:45 P.M. | Kim Persutti, Building Permit |
| 9:00 P.M. | Discussion: Brian Dagle, Acct. for Town, re:
Grant Money

Flood Plain By-Law |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 18, 1996

The Planning Board met in the Media Center of the Essex Elementary School and began at approximately 7:10p.m.

Attendees: Sheldon Pennoyer, Chairman, Pat Dunn, Dave Jones, Gil Guerin, Joe Ginn

MOTION: GIL GUERIN MOVES TO APPROVE THE AUGUST 21, 1996 MINUTES AS WRITTEN. PAT DUNN SECONDED THE MOTION. IN FAVOR WERE P.DUNN, D.JONES, G.GUERIN. S.PENNOYER VOTES PRESENT. THE MOTION PASSES.

Dick Carter/Building Inspector: Dean and Kim Persutti, Lot 1, Choate Street, 6.79 acres, Map 17, Lot 7, 44x27.5 modular single residence. Septic approved, no Conservation Comm. approval, BOH has not been approved. Meets setbacks. Gil Guerin notes that a question from an abutter re: grade of driveway. The DPW was notified and satisfied, a signature from DPW listed on application for approval. This application will be subject to approval of Conservation Comm., and BOH.

MOTION: DAVE JONES MOVES TO APPROVE THE SITING OF A SINGLE FAMILY DWELLING FOR DEAN AND KIM PERSUTTI FOR LOT 1, CHOATE STREET, ESSEX, MAP 17, LOT 7, AS SHOWN ON SITE PLAN DATED SEPT. 5, 1995. APPROVAL IS CONTINGENT UPON BOARD OF HEALTH AND CONSERVATION COMMISSION APPROVAL. SECONDED BY GIL GUERIN. IN FAVOR WERE, D.JONES, S.PENNOYER, P.DUNN, AND G.GUERIN. THE MOTION PASSED.

Dean and Kim Persutti, Lot 1, Choate Street, to build a 30x30x22ht. barn, two permits are required for both plans (above dwelling and barn). No plumbing in barn, subject also to Conservation Commission and BOH approval.

MOTION: DAVE JONES MOVES TO APPROVE THE SITING OF A BARN 30X30X22HT. FOR DEAN AND KIM PERSUTTI FOR LOT 1, CHOATE STR., MAP 17, LOT 7, AS SHOWN ON SITE PLAN DATED SEPT. 5, 1995, TO BE CONTINGENT UPON APPROVAL OF THE BOARD OF HEALTH AND THE CONSERVATION COMMISSION. SECONDED BY PAT DUNN. IN FAVOR OF MOTION WAS: D.JONES, P.DUNN, GIL GUERIN AND S.PENNOYER. THE MOTION PASSED.

Note: Joe Ginn enters. (Will not be voting on next application.)
Roger and Eileen Hardy, P.O.Box 548, Essex, for a new two-family dwelling located at Island Road. Lot 16, Map 22, 8.076 acres. 62x28x26ht., application signed by appropriate departmental boards, but approved BOH contingent upon Conservation

Commission as Conserv. Comm. reviewed and approved for dwelling only, not driveway, a request for a Determination of Applicability must be filed. Property has 50ft. setback.

Gil Guerin raises questions of approving application for siting for new bldg., as a proposed bed and breakfast is suggested on the building application for this property. The setbacks have been met in the requirement for a business use, and the board is approving only the siting of a new two-family dwelling.

MOTION: GIL GUERIN MOVES TO APPROVE THE APPLICATION FOR A SITING FOR ROGER AND EILEEN HARDY, ISLAND ROAD, ESSEX, FOR NEW BUILDING OF A TWO-FAMILY DWELLING AND PROPOSED BREAD AND BREAKFAST, AS SUGGESTED IN THE APPLICATION OF MAP 22, LOT 16, SIZE IS 8.07 ACRES. SEEING THAT THIS PROPERTY MEETS ALL THE SETBACKS REQUIRED IN THE ESSEX ZONING BY-LAWS FOR BUSINESS USE. APPROVAL IS CONTINGENT UPON CONSERVATION COMMISSION APPROVAL PENDING INVESTIGATION OF A REQUEST FOR DETERMINATION OF APPLICABILITY. BOH HAS SPECIFIED THAT THEIR APPROVAL IS ALSO CONTINGENT UPON THE ABOVE FILING. DPW APPROVED. SECONDED BY D.JONES. IN FAVOR OF THE MOTION WERE, D.JONES, G.GUERIN, PAT DUNN, AND S.PENNOYER. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

Barry Richards, 31 Martin Street, Map 36, Lot 37, 8,000s.f.. Convert to single family dwelling, remove and replace porch on right side of building (new foundation with two-story addition). Eliminating three bedroom on first floor; adding one bedroom to the second floor.

MOTION: JOE GINN MOVES TO APPROVE THE APPLICATION OF BARRY RICHARDS, 31 MARTIN STREET, MAP 36, LOT 37, 8,000 S.F., TO ALLOW THE CONVERSION FROM A TWO-FAMILY TO SINGLE FAMILY DWELLING, ELIMINATING FIVE BEDROOMS TO THREE BEDROOMS, TO REMOVE AND REPLACE PORCH ON RIGHT SIDE OF BLDG, ALL WORK TO BE ON SAME FOOTPRINT. FINDING THAT THIS APPROVAL IS ALLOWED UNDER 6-4.2 OF THE ESSEX ZONING BY-LAWS, AND THAT IT IS NO MORE NONCONFORMING AND IS NOT SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE. SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION WERE, P.DUNN, S.PENNOYER, D.JONES, G.GUERIN, AND JOE GINN. THE MOTION PASSED.

PETER VANWYCK - TURTLEBACK ROAD SUBDIVISION: Rolf Madsen, Chairman to the Board of Selectmen, Brian Cassidy, Town Attorney. At approximately

7:45 p.m. the Board moved by unanimous roll call vote to enter into Executive Session to discuss the Turtleback Road Process.

At approximately 8:50 p.m., unanimous roll call vote was taken by the Planning Board to end Executive Session and continue with the issues on the Agenda.

An October 2, 1996 meeting of the Planning Board will be scheduled for 7:45p.m. to further discuss the necessary action relating to the Peter VanWyck TurtleBack Road case.

ANR FEES: It was discussed that a \$100.00 fee is within the purview of the Planning Board to charge applicants for each Form A submitted. Future applicants will be required to adhere to this requirement; payments to be remitted to the Town of Essex.

Steve and Nancy Scaldone of 24 Beckford Str, Beverly came to the Board with Stan Collinson, and Realtor Kevin Street. There are two lots under agreement on Choate Street. The Scaldones need a driveway cut, breaking through a stone wall. Choate Street, being a Scenic Way, will require the Scaldones to hold a Public Hearing on the matter. They were questioned whether or not there were any trees to be cut, to take several photographs of the proposed driveway, and clearly mark the opening with orange markers so that the Board members could inspect the driveway in question. A schedule for the Public Hearing is to be planned for October 16, 1996 at 8:00p.m. The applicants were not clear whether or not any trees were to be cut, so the Public Hearing will also be enclosing the Shade Tree Act, unless the Scaldones call to dismiss the latter upon their investigation of the matter.

Mr. and Mrs. Cameron of the George Fuller Hose of 148 Main Street were inquiring about a handicap bedroom in their garage. They were concerned about the Rivers Act, in effect as of October 1, of this year. They are 200 feet from the river and were concerned of a setback issue. the Board wanted the Minutes to reflect that the Cameron's came to the Board this evening, but no building application was presented to the Board by the Inspector. The Camerons were told to come back on the October 2 meeting to discuss the setback issue.

Bob Cameron for discussion: He showed a proposed division of land formerly of Robert E. and Blanch B. Nelson. The Lot "B" in question has an area of 82,770s.f. with frontage on a 44' private way (BrookPasture Road, off Martin Street). They were asking whether or not they could have access to the private way, as there is no frontage on Martin Street. Some members of the Board recalled a clause pertaining to the BrookPasture Road where there was a two foot strip alongside the road, making access to the proposed lot nullified. The Camerons also wanted to know if an easement could be created between two present lots on Martin Street, next to the Guerins, for access and utilities. The Board did not recommend decreasing the value of the properties for access to the lot behind the two. Mr. Cameron will be given all information regarding the BrookPasture Road, for his files.

Flood Plain Changes: The secretary will give the Board a draft of the necessary language required for the Essex Zoning By-Laws in relation to the changes adopted for Flood Insurance for Mortgagees in the Flood Plain Zone.

Grant Money: Brian Dagle will be notified that the existing Grant Dollars for Essex regarding Planning Issues will be needed in order to study Cluster Zoning in a No Zoning District, such as Essex.

The secretary asked for support from the Board as a request to the State will be submitted asking for permission to destroy the appropriate files that the State Deems proper. The additional work to destroy files may exceed the existing budget. The Board was apprised of this information and agreed to the request for support.

Margaret T. Davies mailed to the Board a WaterWay License, where she was applying for 99-year amnesty license for pre-1984 pier/ramp/float. The Board agreed to table this item until the next meeting scheduled for October 2.

Manchester-By-The-Sea held a Public Hearing on Sept. 3, 1996 for consideration of proposed amendments to their Zoning By-Laws. Sheldon requested a copy for his file.

MOTION: PAT DUNN MOVED TO CLOSE THE MEETING
AT 10:00P.M. SECONDED BY DAVE JONES. ALL MEMBERS
VOTED UNANIMOUSLY TO ACCEPT THE MOTION. THE
MOTION PASSED.

Presented by: Lisa Randall

Attested to: 

note: next meeting to be during regular session, October 2, 1996. Public hearing will be scheduled for October 16, 1996 at 8:00 p.m.

NOTICE: QUARTERLY MEETING WITH THE BOARD OF SELECTMEN AND ESSEX BOARDS IS SCHEDULED TO MEET OCTOBER 7TH AT 8:00 P.M. A BOARD MEMBER FROM THE PLANNING BOARD HAS YET TO BE ANNOUNCED.

Note: As of September 19, 1996, the Public Hearing scheduled for October 16, 1996 will be for the Scenic Ways Act only. The applicant does not require the Shade Tree Act (per telephone conversation on 9/19/96 by the Scaildones.)



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, AUGUST 21, 1996

The meeting will be held at the Scout House on Pickering Street, Essex at 7:00 p.m.

- | | |
|-----------|--|
| 7:00 p.m. | Review past Minutes |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Tom Hollander/addition of deck |
| 7:45 p.m. | Curt James, Attorney/discussion of S.Jones
Apple Street Subdivision |
| 8:00 p.m. | Public Hearing re: procedure for outside consultants
utilized during review process of subdivisions |
| 8:30 p.m. | Discussion: P.VanWyck
Other |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 21, 1996

ATTENDEES: W. Burnham, G. Stavros, D. Jones, J. Ginn, G. Guerin and P. Dunn

The meeting was held at the Scout House on Pickering Street, Essex. Meeting began at approximately 7:13 p.m.

Dick Carter/Building Carter: Sebastian and Barbara Aparo, 11 Red Gate Road, Map 8, Lot 27, 11,400 square feet, approved by BOH, to enclose an irregularly-shaped northwest corner of the house, allowing entry area to house, with washer and dryer, add a 14x14 enclosure to deck, same size as deck, which is 14x14 also. The BOH has a contingency of Title V inspection.

MOTION: GIL GUERIN MOVES TO APPROVE THE BUILDING PERMIT FOR SEBASTIAN AND BARBARA APARO OF 11 RED GATE ROAD ESSEX, MA, LOCATION OF THE BUILDING IS MAP 8, LOT 27, SIZE IS 11,400 SQ. FT. ADDITION TO ENCLOSE IRREGULAR-SHAPE NORTHWEST CORNER OF HOUSE, PROVIDE A SIDE ENTRY OVER AN EXISTING BULK-HEAD. ENCLOSED THE DECK OF 14 X 14. APPROVED UNDER 6-4.2, FINDING THAT THE PROPOSED USE IS NOT SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING USE. ALSO FINDING THAT THERE ARE NO INCREASES IN THE NON-CONFORMING SETBACKS AS PRESENTED WITH PLANS IN THIS APPLICATION. SECONDED BY P. DUNN. IN FAVOR WERE G. GUERIN, W. BURNHAM, P. DUNN AND G. STAVROS. VOTING PRESENT WAS DAVE JONES AND JOE GINN. THE MOTION PASSED.

(Dave Jones and J. Ginn enter at 7:22 p.m.)

William Hurley of 19 Milk Street, Essex, Map 34, Lot 78, 16,000 sq. ft. To build a garage 24 x 36 x 22 in hgt. to enclose two parking spaces inside. Abutters have no objections, letters were presented on applicants' behalf. Ten feet off lot line, with 30 x 48 house on lot. Subject to BOH approval.

MOTION: J. GINN MOVES THAT UNDER 6-4.2, THE BOARD ISSUE A BUILDING PERMIT FOR THE CONSTRUCTION OF A SEPARATE GARAGE OF DIMENSIONS 24 X 36, THAT IT MEETS EXISTING SETBACKS, WILL NOT BE CONNECTED TO THE HOUSE, WILL NOT HAVE PLUMBING, LETTERS FROM ABUTTERS THAT THEY HAVE NO OBJECTION, IT WILL NOT BE MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD, SUBJECT TO BOH APPROVAL, (DUE TO VACATION OF BOH). SECONDED BY D. JONES. ALL WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

Joe Ginn brought up a complaint received by a resident concerning the Canvas Company on Dodge Street. The Building Inspector will investigate the issue. Mr. Ginn noted that this parking situation has been a concern for three years, and should be dealt with, as the residents are frustrated with this ongoing situation.

Tim Hollander representing Joe Walker One Riverview ~~High~~, He wants to extend a deck within twenty feet sideline, setback, told to go see Dick and get an additional building permit for an extension. Westley Burnham will dictate a letter to go to the Appeals Board. The plans would create a non-conformity. The Board cannot approve the building permit, it requires a variance.

Charles Hay, Jones Apple Street Subdivision. Property was purchased from Sherman Jones. The single lot subdivision. After this event, the Rivers Act went through. A suggestion by Hay requested that a

modification be added to the Definitive Subdivision of Land off Apple Street, Essex, MA, dated July 26, 1996. The insertion would be stated "under M.G.L. c.41 sec. 81U". This insertion would place the subdivision in a position of "grandfathered state" of the Rivers Act. W.Burnham stated that the Subdivision was approved under M.G.L. c. 41. An addition to the Approval would require another Public Hearing to insert the "sec. 81u". W. Burnham would follow up with a letter of clarification to this discussion.

Peter Perrigo of 71 Wood Drive, Lot #116, Map 4, Lot X from Frank Anzaldi to Peter. Peter is in between Mr. Anzaldi's septic system. An easement was given by Peter, and a transfer of property between the two has occurred. Kevin Street a Realtor is representing Mr. Anzaldi. Lot Y is not a buildable lot in its present state and will be noted on the plan. This will be signed as Approval Not Required and the applicants have not received the language on the lots for the easement. the Board wanted to be sure that the applicants were aware of the positions of each involved. W. Burnham recited the M.G.Laws and the minimum standards of a buildable lot.

MOTION: JOE GINN MOVES TO AUTHORIZE A PLAN UNDER THE APPROVAL NOT REQUIRED OF A PLAN OF LAND IN ESSEX, MA FOR PETER PERRIGO PREPARED FOR FRANK ANZALDI ON WOOD DRIVE, THE CREATION OF LOT X, WHICH IS 3,024 SQ. FT. TO BE MADE A PART OF LOT 116 OWNED BY PERRIGO. FROM LOT Y WHICH END UP BEING 9,978 S.F. AS DESIGNATED BY A WRITTEN NOTE ON THE PLAN NOT TO BE A BUILDABLE LOT. THE UTILITY AND GRADING EASEMENT AS SHOWN IS PRESENTED TO THIS BOARD WITHOUT THE PROPER PAPERWORK AND IS SO NOTED. SECONDED BY PAT DUNN. ALL IN FAVOR WERE, G.GUERIN, W.BURNHAM, J.GINN, G.STAVROS, PAT DUNN, D.JONES. THE MOTION PASSED.

PUBLIC HEARING:

W.BURNHAM OPENED THE PUBLIC HEARING AT 8:15 PM

THE NOTICE WAS READ. No members of the public were in attendance. The Board had no discussion for the matter.

MOTION: *Gil Guerin moves* TO CLOSE THE PUBLIC HEARING. SECONDED BY J. GINN. ALL IN FAVOR, THE MOTION PASSED.

MOTION: I, GIL GUERIN, MOVE TO ADD THE FOLLOWING AT 6.05-4 AND REPLACE THE EXISTING PARAGRAPH 6.01-1-I WITH THE FOLLOWING: IF NECESSARY, IN ORDER TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OR INTENT OF THESE RULES AND REGULATIONS, THE BOARD MAY REQUIRE SPECIALIZED ENGINEERING OR ENVIRONMENTAL ANALYSES TO BE PERFORMED AT THE EXPENSE OF THE APPLICANT. ANY OUTSIDE CONSULTANTS SHALL BE EMPLOYED IN ACCORDANCE WITH THE GUIDELINES SET FORTH IN MGL CHP 44 SECTION 53G, EMPLOYMENT OF OUTSIDE CONSULTANTS. SECONDED BY JOE GINN. ALL MEMBERS PRESENT VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED.

MOTION: JOE GINN MOVED TO APPROVE THE JUNE 19, 1996 MINUTES AS WRITTEN. SECONDED BY DAVE JONES. ALL MEMBERS PRESENT WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

MOTION: JOE GINN MOVED TO APPROVE THE JULY 17, 1996 MINUTES WITH THE CORRECTIONS AS NOTED, BY ADDING TO THE MOTION FOR JOHN T. SARKIS, THE WORDS "DRIVEWAY CONSTRUCTION THROUGH" AND CROSSING OUT

"TO DIVERSE", IN THE FIRST SENTENCE. ALSO IN THE SECOND SENTENCE STARTING WITH REMOVED, IT WILL READ, "FURTHER, ANY ROCKS WHICH MAY BE REMOVED SHALL BE REPLACED BY EITHER SIDE OF DRIVEWAY." THE NEXT PARAGRAPH WILL ALSO BE CORRECTED BY CROSSING OUT THE WORD "ENTITLEMENTS" AND ADDING, "A PERFORMANCE GUARANTEE".
SECONDED: DAVE JONES. VOTING TO APPROVE WERE, J.GINN, W.BURNHAM, D.JONES, P.DUNN, G.STAVROS. GIL GUERIN VOTED PRESENT. THE MOTION PASSED.

PETER VANWYCK DISCUSSION: The Board discussed past history with the Turtle Back Road extension, the time frame (years) in which this case has progressed, and the existing by-laws relating to roads and frontage. The Board was discussing also whether they should accept the 1995 drawing, the present drawing, or accept his offer during the latest of negotiations. The file was examined with the particulars of the Subdivision.

The Board felt that because the negotiations were coming to a close, and Sheldon Pennoyer was not present, that it was probable that a joint meeting should take place between the Selectmen and the Planning Board, with Town Counsel present. Both Rolf and Sheldon have been part of the negotiations, and the Board was not comfortable with being placed in a position of having to make the final decisions of this case.

J.Ginn discussed in detail the Gateway Subdivision, the drainage situation specifically. Larry Graham, Clerk of the Works, the BOH, and Gateway are communicating and rectifying any situations that arise, that also includes a letter from the Clerk of the Works regarding the Subdivision Road, which is being resolved.

Reference correspondence in Gateway File relative to the above.

MOTION: PAT DUNN MOVED TO CLOSE THE MEETING AT 9:23 P.M.
SECONDED BY DAVE JONES. ALL MEMBERS VOTED TO ADJOURN.
THE MOTION PASSED.

Presented by: Lisa Randall

Attested to: *Frances A. Dunn*

Meeting Held at Scout House
on Pickering STREET - Essex



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JULY 17, 1996

7:00 P.M.	Minutes of June 19, 1996
7:15 P.M.	Dick Carter/Building Inspector
7:30 P.M.	Discussion: see below
8:00 P.M.	Public Hearing/Scenic Way: O'Neil
8:15 P.M.	Public Hearing/Scenic Way: Sarkis
8:30 P.M.	Discussion: see below
Discussion:	Filias Realty Trust/Ch.91 Application Peter VanWyck: Turtle Back Road Other

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JULY 17, 1996

Meeting was held at the Scout House on Pickering Street, and began at approximately 7:14 p.m.
Attendees: S.Pennoyer, W.Burnham, G.Stavros, J.Ginn and D.Jones

Dick Carter/Building Inspector for Jonathan Janes - 221 Western Avenue Realty Trust. Last phase of Storage Units located at 227 Western Avenue to erect one steel building, 120'x50'x10'. Map 80, Lot 10,11,12.

Approved by BOH, Cons.Comm. Industrial, commercial business, commercial storage.

MOTION: W.BURNHAM MOVES TO APPROVE THE SITING FOR A PROPOSED STORAGE BUILDING FOR 221 WESTERN AVENUE REALTY TRUST AT 227 WESTERN AVENUE, JONATHAN JANES, TRUSTEE, TO ERECT A STEEL BUILDING, SINGLE-STORY CONSTRUCTION, 120X50X10', FINDING THAT IT MEETS ALL OF THE REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS, WITH THE UNDERSTANDING THAT THIS PROJECT IS GRANDFATHERED TO DECEMBER 1996, BASED UPON SUBDIVISION SUBMITTED IN SCOT'S WAY. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE, W.BURNHAM, D.JONES, J.GINN, G.STAVROS AND S.PENNOYER. THE MOTION CARRIED.

Richard Means, Seven County Road, Essex: Sagamore Circle, 7.9 acres. To erect pole barn on lot for equipment storage. Size to be 42'x60'.

MOTION: G.STAVROS MOVES TO APPROVE THE BUILDING PERMIT FOR RICHARD L. MEANS OF SEVEN COUNTY ROAD FOR CONSTRUCTION OF EQUIPMENT STORAGE BUILDING, 60X42, FINDING THAT ALL THE SETBACKS HAVE BEEN MET. MAP 8, LOT 58A00005, LOT SIZE 7.9 ACRES. SECONDED BY JOE GINN. IN FAVOR WERE, G.STAVROS, D.JONES, S.PENNOYER, J.GINN. VOTING PRESENT WAS W.BURNHAM. THE MOTION PASSED.

Peter and Marguerite Clark, Three Riverview Hill Road: Pour 12.5'x23' footings and foundation and one sona tube pole to extend NE end of existing dwelling plus 4'x8' foundation for stair well on SW end. New septic system for four bedrooms. Construction of kitchen, dining and 2nd entrance on 1st floor or addition; 12'x28' loft bedroom above. Construct firewall; finish existing basement with three bedrooms, two baths. New laundry plus storage over ledge. Replace weak decking and joists; add two sliders in place of windows; new plaster wall finish and ceilings, smoke detectors, relocate electrical and water plumbing for two units (separate meters); roofing of addition. Addition will have 1 front and 2 deck entries, 12.5'x30'24.5' front. Existing will have 2 front and 2 deck entries, 2 basement entries, and will be 51'x30'x18' front. Approved by BOH, Conserv. Comm. Land Court Cert. of title No.51747, Map 41, Lot 14B, Lot size 59,000 sq.ft.

W.BURNHAM MOVED TO APPROVE THE BUILDING PERMIT FOR PETER AND MARGUERITE CLARK OF THREE RIVERVIEW HILL ROAD, FOR THE ADDITION AS REQUESTED, ALSO THE CHANGE IN USE FROM SINGLE TO TWO FAMILY DWELLING, FINDING THAT THE PROPOSED USE WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE, UNDER 6-4.2. SECONDED BY D.JONES. IN FAVOR OF THE MOTION WERE, W.BURNHAM, G.STAVROS, J.GINN, D.JONES. S.PENNOYER VOTED PRESENT. THE MOTION CARRIED.

TURTLEBACK ROAD EXTENSION/PETER VANWYCK. S.Pennoyer brought the Board up to date, and gave to the Board a June 14, 1996 letter by Town Counsel. (letter is attached to the minutes for reference).

The proposed resolution is before the board to vote on whether or not this proposal should be agreed to, or what measures would be taken. The preliminary resolution was to find a compromise on a number of lots in order to get this case out of the Court. The proposal several months ago was ten lots. This current proposal adds two more lots, by Peter VanWyck, for "financial" reasons. The Selectmen and S.Pennoyer was not agreeable to the addition of these two lots. A continuation of the discussion would occur after the public hearing.

8:00 P.M. PUBLIC HEARING OF JAMES AND MICHELE O'NEIL, in accordance with the Mass. Gen. Laws, Ch. 40, Sec. 15C, under Scenic Ways.

Note: George Stavros has removed himself from the table on the two applicants, O'Neil and Sarkis.

The public hearing notice was read for James and Michele O'Neil of 12A Story Road for driveway access on Belcher Street. Photographs, a building permit and plans were produced by the applicant showing the markers of the driveway. Bruce Julian, of the DPW was present and has sent an order of conditions for the driveway and had no further comment. W.Burnham noted that there may be evidence of a stone wall, and if such wall is present, they were to be replaced.

MOTION: S.PENNOYER MOVED TO CLOSE THE PUBLIC HEARING. SECONDED BY D.JONES. IN FAVOR WERE W.BURNHAM, J.GINN, S.PENNOYER, D.JONES. G.STAVROS ABSTAINS FROM VOTING. THE MOTION CARRIED.

MOTION: W.BURNHAM MOVES TO ISSUE JAMES AND MICHELE O'NEIL, A SPECIAL PERMIT PERMITTING THEM TO ERECT A DRIVEWAY THROUGH THE EXISTING STONE WALL ON BELCHER STREET, AS INDICATED ON THE PLAN SUBMITTED ON SEPT. 5, 1995 BY HANCOCK ENGINEERING, FINDING THE IMPACT OF CONSTRUCTION OF THE EXISTING STONE WALL WILL BE MINIMAL, AND FURTHER ADDING THAT ANY ROCKS THAT WILL BE REMOVED FROM THAT SECTION OF STONE WALL WILL BE UTILIZED IN RECONSTRUCTING THE STONE WALL. SECONDED BY J.GINN. IN FAVOR WERE, W.BURNHAM, S.PENNOYER, J.GINN, D.JONES. G.STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

James and Michele O'Neil of 12A Story Road, Magnolia for building permit for construction of single family dwelling, Map 17, Lot 4, Lot size 3 acres. 64x34, Approved by BOH, Conserv. Comm, and DPW has given order of conditions for driveway.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING APPLICATION FOR JAMES AND MICHELE O'NEIL FOR A SINGLE FAMILY DWELLING LOCATED ON LOT 2 OF BELCHER STREET AS SHOWN ON A PLAN DATED 9/5/95 BY HANCOCK ENGINEERING. TOTAL AREA OF LAND IS APPROXIMATELY THREE ACRES. FINDING THAT THE LOCATION AND LAYOUT CONFORMS WITH THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS. SECONDED BY J.GINN. IN FAVOR OF THE MOTION WAS S.PENNOYER, W.BURNHAM, D.JONES AND J.GINN G.STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

8:15 P.M. PUBLIC HEARING FOR JOHN T. SARKIS, OF JRC ASSOC., INC., in accordance with Mass. Gen. Laws, Ch. 40, Sec. 15C, under Scenic Ways, and Ch. 87, Sec. 3, under Shade Tree Act.

The Public Hearing notice was read for John Sarkis, of JRC Assoc., Inc., of 14 Worth's Lane, West Newbury, MA for combined hearing. Mr. Sarkis presented the board with photographs and a plan showing the proposed driveway. The Board questioned whether the markers were present, locating the driveway. Bruce Julian noted that the markers were there, and the DPW wanted Mr. Sarkis to be aware of runoff from the driveway to the road, making the best effort on drainage to the side. Mr. Sarkis agreed to contain the

runoff since ice would be a problem during the winter months. Trees being cut were an issue, and it was felt that the amount of small trees (choate cherry) would be targeted. Mr. Julian did not feel that any trees should be replaced. The Board wanted to ascertain that the Shade Tree Act was discussed along with the driveway issues.

MOTION: J.GINN MOVES TO CLOSE THE PUBLIC HEARINGS OF THE TWO APPLICANTS, O'NEIL AND SARKIS. SECONDED BY W.BURNHAM. IN FAVOR WERE, W.BURNHAM, J.GINN, D.JONES AND S.PENNOYER. G.STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

MOTION: W.BURNHAM MOVES TO ISSUE A SPECIAL PERMIT FOR JOHN T. SARKIS, OF JRC ASSOCIATES, INC. OF 14 WORTH'S LANE, W.NEWBURY, ALLOWING TO ~~DIVERSIFY~~ A STONE WALL THAT EXISTS ON CHOATE STREET IN ACCORDANCE WITH THE PLAN SUBMITTED AS SHOWN OF LOT 1 DATED 7/9/96, FINDING THE IMPACT ^{ON} THE WHATEVER EXISTING STONE WALL IS MINIMAL AS BEST. FURTHER, ANY ROCKS WHICH MAY BE REMOVED BY EITHER SIDE OF DRIVEWAY SHALL BE REPLACED. SECONDED BY J.GINN. IN FAVOR OF THE MOTION WERE, J.GINN, S.PENNOYER, W.BURNHAM, D.JONES. GEORGE STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

Construction thru Driveway

Note: George Stavros returns to table.

PETER VANWYCK DISCUSSION RESUMES: The recommendation of the Board was to accept the letter (attached) with the conditions that they would present. W.Burnham noted that the conditions should include a Motion that the normal Subdivision Control process be met. Entitlements, Clerk of the Works, etc. This would force Mr. Vanwyck to come back with the proper plans showing the delineation of the lots. It would also establish a time frame in which to close this case.

A performance guarantee

A poll was taken, and the board agreed that the letter should have comments and additions to the conditions requested. It was the addition of the two lots, from ten to twelve, that the Board had difficulty with, along with the paragraph 9 of the letter. The Board wanted a final lot configuration. Would the consideration of adding land from the adjoining parcel enhance the lots? The logic was to bring the lots up to the standards of the 1,200 ft. road. It was thought that the intent was to upgrade the conformity of the existing Turtleback Road subdivision. It is his property, to be utilized by the owner, was stated also. In 9, there is the admission that all lots shall meet the minimum lot size as set forth in the Essex Zoning By-laws in effect at the time of the subdivision of Lots 19 and 20.

An abutter, Scotti Robinson, had questions relating to paragraph 3, and the binder coats of three lots. She wanted to know if the entire road was to be completed with a binder coat, and utilities before the release of any lots. The Board agreed that the road was to be completed with a binder coat.

The Board listed each paragraph in the letter, adding their requests for the final Agreement:

Paragraph 3: Adding, "The entire road would be completed with binder coats and utilities prior to the release of any lots."

Paragraph 5: Ten lots, or twelve lots, show the division of land, with the percolation, documenting each lot.

Paragraph 7: Change to ten lots.

Paragraph 9: Keep the paragraph, as discussed above.

MOTION: W.BURNHAM MOVES TO ISSUE A LETTER TO THE BOARD OF SELECTMEN, ROLF MADSEN, CHAIRMAN, RELATIVE TO LETTER OF JUNE 14, 1996, CONCERNING PETER VANWYCK VS. SHELDON PENNOYER, ET AL, RELATIVE TO THE TURTLEBACK ROAD SUBDIVISION OF PETER VANWYCK. IN REVIEWING THE PROPOSED

AGREEMENT OF JUDGMENT, THE BOARD NARROWLY FINDS IN FAVOR OF THE SETTLEMENT WITH THE FOLLOWING EXCEPTIONS: FIRST, UNDER PARAGRAPH THREE, WE WOULD LIKE TO SEE THE WORDING CHANGED TO INCLUDE THE ENTIRE ROAD COMPLETE TO THE BINDER COAT AND UTILITIES PRIOR TO THE RELEASING OF THE FIRST THREE LOTS FOR SALE AND/OR CONSTRUCTION. UNDER PARAGRAPH NUMBER FIVE, WE WOULD LIKE TO CHANGE THE TOTAL LOT NUMBER ALLOWABLE FOR THE SUBDIVISION OF LOTS 19 AND 20, TO BRING THE TOTAL TO TEN. IF TWELVE IS STILL INSISTED UPON, AND DEMANDED, WE WOULD REQUIRE A PLAN DELINEATING TWELVE LOTS, PERC SITES AND OTHER REQUIREMENTS THAT WILL BE NEEDED FOR ANR APPROVAL. UNDER PARAGRAPH NUMBER SEVEN, WE WANT TO CHANGE THE TOTAL NUMBER OF LOTS TO TEN, SUBJECT TO THE SAME REQUIREMENTS SET FORTH IN CHANGE IN PARAGRAPH NUMBER FIVE. WE WOULD ALSO LIKE TO ADD A PARAGRAPH NUMBER ELEVEN, TO INCLUDE A STATEMENT THAT CONSTRUCTION SHALL NOT COMMENCE UNTIL AN UPGRADED ROAD CONSTRUCTION PLAN SHOWING ANY WORK DONE TO DATE AND PRESENTLY UNDER WAY, IS DELIVERED TO THE BOARD, AND THE APPROPRIATE CLERK OF THE WORKS, PERFORMANCE GUARANTEES, AND OTHER REQUIREMENTS OF THE SUBDIVISION CONTROL LAW REGULATIONS HAVE BEEN MET, IN ACCORDANCE WITH THE TOWN OF ESSEX SUBDIVISION REQUIREMENTS PRIOR TO ANY CONSTRUCTION BEGINS. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: S.PENNOYER, W.BURNHAM, J.GINN, D.JONES AND G.STAVROS. THE MOTION PASSED.

W. Burnham has a Motion for the Board to approve regarding the Subdivision Control Law, for specifying the requirements for specialized engineering or environmental analyses to be performed at the expense of the applicant. This is to satisfy the Town Accountant, so that an account can be implemented for payment of the Clerk of the Works for subdivisions.

MOTION: I, WESTLEY BURNHAM MOVE TO ADD THE FOLLOWING AT 6.05-4 AND REPLACE THE EXISTING PARAGRAPH 6.01-1-I WITH THE FOLLOWING: IF NECESSARY, IN ORDER TO DETERMINE COMPLIANCE WITH THE REQUIREMENTS OR INTENT OF THESE RULES AND REGULATIONS, THE BOARD MAY REQUIRE SPECIALIZED ENGINEERING OR ENVIRONMENTAL ANALYSES TO BE PERFORMED AT THE EXPENSE OF THE APPLICANT. ANY OUTSIDE CONSULTANTS SHALL BE EMPLOYED IN ACCORDANCE WITH THE GUIDELINES SET FORTH IN MGL. CHAPTER 44 SECTION 53G, EMPLOYMENT OF OUTSIDE CONSULTANTS. SECONDED BY: JOE GINN. IN FAVOR OF THE MOTION: W.BURNHAM, S.PENNOYER, J.GINN, D.JONES, G.STAVROS. THE MOTION PASSED.

A Public Hearing is scheduled to be held on Wednesday, August 21, 1996 at 8:00 p.m.

The is currently an invoice from Graham Associates, Inc. for professional services rendered. At this time, the invoice will be sent to PMC Realty Trust.

A letter of changes regarding the topography of Gateway Subdivision by Atlantic Eng. Survey was read. All parties of interest, including the Clerk of the Works have been notified and satisfied.

FILIAS REALTY TRUST: Re: Chapter 91 Application

Chapter 91 License that was signed by the Board last year, does not meet what the actual Chapter 91 license included. It was not the intention of the board to sign for dredging. Parking spaces were an issue discussed. S.Pennoyer feels that there are sixteen parking spaces, not the twenty spaces listed. He felt that Filias should come back with a proper parking plan to show the Board. W.Burnham felt that it was obvious that the Motion was signed for the Chapter 91. Parking discussions were outside of the Motion. The application included the other information for simplicity of the Chapter 91 license. He felt that the configuration they are working on will be limited to twenty-two slips, pulled back into the shore, less ominous, and an overall improvement. He believes they are grandfathered, and were in existence.

S.Pennoyer wanted the Board to know that he felt that the Marina needs a Special Permit. They came in with one originally. "Was it in existence as a Marina, versus a private dock prior to 1979?" This has never been shown to the Board. W.Burnham remarked that the Apartments were there since 1967 or so, and shortly after that, they built the whole thing up.

Charlie Burnham came to the Board with his comments. He felt that the signatures for applicants should have included a signature from the Town Clerk. W.Burnham disagreed. Charlie Burnham came to the Board because he has filed for a Hearing date in the Courts on the Filias Marina. He was requesting that the Board submit a letter stating that the Board did not sign the Application for the expansion or dredging.

W.Burnham reiterated that Paula Filias came to the Board with pictures showing the Apartments, the Floats, and boats on the floats. Therefore, it is grandfathered. There was a disagreement as to what a permanent structure was by definition. (W.Burnham leaves at 9:25p.m. for work.)

S.Pennoyer wanted the Boards' opinion on whether or not to send letters to the U.S. Army Corp of Engineers and the DEP regarding the Special Permit requirement. Even though the comment period has closed as of June 27, 1996, the Board agreed to make a Motion to send the letters, with some additions that would appease the request of Charlie Burnham. Both Filias and C.Burnham will receive copy of letter.

MOTION: J.GINN MOVES TO SEND THE LETTERS TO THE U.S.ARMAY CORP OF ENGINEERS AND THE DEP AS WRITTEN, TO INCLUDE THAT IT WAS THE PLANNING BOARD'S INTENT TO AUTHORIZE THE CHAPTER 91 LICENSE FOR THE EXISTING UPLAND PORTION OF THE PIER, AND NOT FOR THE EXPANSION OF ADDITIONAL FLOATS AND DREDGING. THE PROPOSED WOULD PROBABLY REQUIRE A SPECIAL PERMIT PROCESS UNDER THE EXISTING TOWN BY-LAWS. IT WAS NOT THE BOARD'S INTENT WITH ITS MOTION TO AUTHORIZE THE EXPANSION. AN EXPANSION WOULD REQUIRE A SPECIAL PERMIT UNDER RECREATIONAL USE AND THE WETLANDS PROTECTION DISTRICT. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE J.GINN, S.PENNOYER, G.STAVROS, D.JONES. THE MOTION PASSED.

MOTION TO ADJOURN THE MEETING WAS MADE BY D.JONES. SECONDED BY G.STAVROS. ALL MEMBERS WERE IN FAVOR. THE MOTION PASSED.

Presented by: Lisa Randall

Attested:



File
to Selectmen
file: Van Wyck

RONAN, SEGAL & HARRINGTON
ATTORNEYS AT LAW

COPY

JAMES T. RONAN (1922-1967)
JACOB S. SEGAL
MARY PIEMONTE HARRINGTON
GEORGE W. ATKINS, III
BRIAN P. CASSIDY

FIFTY-NINE FEDERAL STREET
SALEM, MASSACHUSETTS 01970-3470

(508) 744-0350
FAX (508) 744-7493

E160.14B
FILE NO. _____

June 14, 1996

Rolf Madsen, Chairman
Essex Board of Selectmen
Town Hall
Martin Street
Essex, MA 01929-1219

RE: Peter Van Wyck v. Sheldon Pennoyer, et als.
Land Court Docket No. 211167

Dear Mr. Madsen:

Enclosed please find what I hope is the final Agreement for Judgment in the above-referenced case. It incorporates the changes recommended by Sheldon Pennoyer and you from November 1995 and is consistent with the comments from the Planning Board from their August 16, 1995, meeting.

The only differences from our the November 9, 1995, drafts are as follows:

Paragraph 3: The words "Lots 16 and 17" were deleted. The words "three (3) lots" were added in their place. Attorney Clark indicated that Lots 16 and 17 may not be the first to be developed and requested we remove the reference to lot numbers. They also are requesting that we allow three lots to be released provided to the completion of the entire subdivision. Utilities and a road with at least a binder coat serving the three (3) lots must be in place before they are to be released.

road shall be completed to rel w/ Binder Coats & Util. Prior to rel. of any lots.

Paragraph 5(a): The description of the percentage of land comprising the 10 acres of public access/open space was modified at Attorney Clark's request. The concern was over what constituted "wetlands" I believe the revision is consistent with the intent of the Planning Board and negotiators.


Madsen to accept agreement

Paragraph 9:

We substitute the deed book and page number of the adjacent land for the Assessor Map and Lot number.

In summary the only substantive change in this draft is contained in Paragraph 3 agreeing to the release of one additional lot before the completion of the project. It is my hope that we can discuss the Agreement for Judgment Monday evening and that the Planning Board will take it up at their next meeting.

Sincerely,



Brian P. Cassidy
Town Counsel

cc Essex Planning Board
Sheldon Pennoyer ✓
Charles H. Clark, Esq.

COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

LAND COURT DEPARTMENT
OF THE TRIAL COURTS
CIVIL ACTION NO. 215261

PETER VAN WYCK,)
Plaintiff)
)
v.)
)
FRANCES DUNN, SHELDON PENNOYER,)
WESTLEY BURNHAM, JOSEPH GINN,)
JOHN KNOWLES, KIMBERLY JERMAIN,)
and HOWARD ALTHOLZ, as they are)
members of the Planning Board of)
the Town of Essex,)
Defendants)

AGREEMENT FOR JUDGMENT

NOW COMES, the Plaintiff Peter Van Wyck and the Defendants Frances Dunn, Sheldon Pennoyer, Westley Burnham, Joseph Ginn, John Knowles, Kimberly Jermain and Howard Altholz, as they are members of the Essex Planning Board ("The Planning Board") and agree that judgment shall enter in this case as follows:

1. The Definitive Subdivision Plan of Land in Essex dated August 1, 1987, and revised November 30, 1987 (hereinafter "the Plan") will be approved and endorsed to allow for five (5) lots numbers 16, 17, 18, 19 and 20, as shown on said Plan.
2. This subdivision road, including the installation of all utilities shall be completed within two (2) years from the date of endorsement.
3. Prior to the completion of the work set forth in paragraph 2, the parties agree that the Planning Board will release three (3) lots provided that the utilities are installed and the road, with at least a binder coat, servicing said lots is completed.
4. Lots 19 and 20 may be further subdivided into a maximum of five (5) lots, bringing the total number of lots in the subdivision to eight (8). The Parties agree that, provided the work set forth in Paragraph 2 is completed, such future division of Lots 19 and 20 shall not

*Bring in Plan
of Prov.*

constitute a "subdivision" as defined in G.L.c. 41, 81L and shall be subject to G.L. c. 41, § 81P, the so-called "Approval Not Require" or "ANR" provisions. At his discretion, at a future date Mr. Van Wyck may submit a plan or plans on "Form A", so-called, to accomplish the division of Lots 19 and 20. Nothing in this paragraph shall preclude the further subdivision of Lots 19 and 20 pursuant to Paragraph 5.

5. The parties agree that the Planning Board will allow Peter Van Wyck, his heirs, successors or assigns, to further subdivide Lots 19 and 20 to bring the total number of lots in the subdivision to twelve (12), if Van Wyck grants to the Town of Essex a conservation restriction on a parcel of land consisting of at least ten (10) contiguous acres located on the adjacent 37 acre parcel owned by Van Wyck, herein identified as Lot _____ on Essex Assessors Map _____, pursuant to G.L. c. 184, §§ 31 to 33.

10 LOTS,
OR 12, SHOW US
THE DIVISION OF
LAND, W/ PAGES,
ETC.

document them.

The following criteria will be used to evaluate the acceptability of the land to be the subject of the conservation restriction:

- (a) the land to be restricted may contain land under water, wetlands and upland. The land shall not contain more than 3 and 1/3 acres of land under water and not less than 3 and 1/3 acres of dry land.
- (b) the land will be accessible by a path or paths from an existing way or path. In the event that land is not accessible Van Wyck will grant a ten foot wide easement to the Town for the purpose of creating access from an existing way or foot path to the land subject to the conservation restriction.
- (c) the land to be dedicated shall be limited in use to walking, hiking, running and/or bicycle paths, picnic areas, fishing, wildlife and nature study and similar activities. Off-road vehicles, motor bikes, snowmobiles, and similar motorized vehicles, and hunting are expressly prohibited. Paths, including access paths, may be created and maintained by the Town at its expense.

7. If the designated parcel meets this criteria set forth in Paragraph 6, the Town will accept the conservation restriction and the Planning Board will allow the further division of Lots 19 and 20, subject to G.L. c. 41, § 81P, to bring the total number of lots in the subdivision to twelve (12).

Change
10

8. In the event the parties disagree as to whether the parcel offered meets the above criteria, the parties will submit the dispute to the Land Court which shall retain jurisdiction over this matter.
9. It is understood that some lots created pursuant to Paragraphs 4 and 5 will be under two acres. It is Van Wyck's intent that the Lots that may be created pursuant to Paragraphs 4 and 5 will contain approximately two acres. consequently, Van Wyck may, in his discretion, submit a plan for the Planning Board's consideration adding land from the adjoining parcel described in a deed recorded in the Essex South Registry of Deeds at Book 5850, Page 254, to Lot 20 as shown on the Plan. This would bring the size of the additional lots into conformity with the existing Turtleback Road subdivision. In any event, all lots so created shall meet the minimum lot size as set forth in the Essex Zoning By-laws in effect at the time of the subdivision of Lots 19 and 20.
10. The parties agree that any of the provisions of this Agreement for Judgment may be enforced through injunctive and/or contempt proceedings in the Land Court.

PETER VAN WYCK,
By his Attorney

Charles H. Clark
BBO # 551486
122 Main Street
Gloucester, MA 01930
(508) 281-5900

SHELDON PENNOYER et als.,
as they are members of the
Essex Planning Board,
By their Attorney

Brian P. Cassidy
BBO # 078380
RONAN, SEGAL & HARRINGTON
59 Federal Street
Salem, Massachusetts 01970
(508) 744-0350

Dated:



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JUNE 19, 1996

Meeting to be held at the Scout House on Pickering Street

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of June 5, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Ed Marchetti - Lufkin Point
Dock Amnesty License |
| 7:45 p.m. | John Guerin - Future use of
Wedgewood Pharmacy: Discussion |
| 8:00 p.m. | James O'Neil - New home on Lot
Corner of Belcher and Choate St. |
| 8:15 p.m. | Melanie Tyack - New home on Pond St. |
| 8:30 p.m. | John Maestronzi - ANR/Western Ave. |
| 8:45 p.m. | John Sarkis/JRC Assoc. - Choate St.
re: Scenic Way - Dr.Way/curbcut |
| 9:00 p.m. | Tom Griffith - County Road Addition |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JUNE 19, 1996

The meeting was held at the Scout House on Pickering Street, at approximately 7:10 p.m.
Attendees: S.Pennoyer, W.Burnham, G.Stavros, D.Jones, G.Guerin, J.Ginn and P.Dunn

MOTION: W.BURNHAM MOVES TO APPROVE THE JUNE 5, 1996 MINUTES WHICH INCLUDES ADDING THAT THE MOTION TO DENY THE BUILDING PERMIT OF PMC REALTY TRUST RE: 6-10 MARTIN ST. IS IN VIOLATION OF 6-6.5 BUSINESS LAND USE, SEC. A, NUMBER 7, "MAXIMUM LOT COVERAGE BY ALL BUILDINGS, 25 PERCENT", FOUND IN THE ESSEX TOWN BYLAWS. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WITH THE AMENDMENT: W.BURNHAM, G.STAVROS, D.JONES AND S.PENNOYER. THE MOTION CARRIED.

The changes were duly noted and corrected on the original of the June 5, 1996 minutes.

Note: W.Burnham removes himself from table, as a Trustee of abutting property of below.
Dick Carter/Building Inspector: Les Moore, John Wise Lane, off John Wise Ave. A three-stage process of repair and upgrading of three buildings. Mr. Moore came before the Board to notify them that he is finishing the last structure. There are no setback problems, approval from BOH, and Conservation Comm. The Board was satisfied that there was no action to be taken; the proper procedure had been followed.

Ray and Marion Cahoon of Patriot's Lane: Dick Carter notified the Board that the Cahoon's have a pool located on the property, inside the foundation. No action by the Board was required.

Jeff S. Litka of Eight Story Acres - Application for Building Permit for 24 x 24 two car garage, 10,450 sq.ft Lot, approved by BOH, Conser. Comm., and a list of the abutters, which had no opposition for the garage. Map 35, Lot 14.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT APPLICATION FOR JEFFREY S. LITKA, FOR AN ACCESSORY BUILDING IN THE FORM OF A TWO CAR GARAGE, 24 X 24, AT EIGHT STORY ACRES, FINDING THAT THE PROPOSED USE MEETS ALL OF THE CURRENT ESSEX TOWN ZONING BYLAWS. ALSO FINDING THAT THE PROPOSED USE IS NOT MORE SUBSTANTIALLY DETRIMENTAL THAN THAT OF THE EXISTING USE, AS FOUND UNDER 6-4.2 BYLAW. SECONDED BY D.JONES. IN FAVOR OF THE MOTION WERE, W.BURNHAM, S.PENNOYER, G.STAVROS, D.JONES. THE MOTION PASSED.

Garcia Kimball property: Attorney for Jay and Lynn Havighurst of 10 Winthrop Street handed the Board a letter which will be discussed by the members as soon as copies of the letter are distributed. The discussion of the letter may be scheduled for the next meeting, on July 17, 1996.

Joe Ginn enters at 7:25 p.m., P.Dunn enters at 7:30 p.m., Gil Guerin enters at 7:40 p.m.

John Guerin, Attorney for Edward R. Marchetti of 12 Juniper Road, S. Hamilton, MA for property at 20 Ralston Drive, Essex. Application for 99 year amnesty License for pre-1984 Pier-Float. Sheldon Pennoyer signed the application for the structure. Attorney Guerin gave the Board copies of the BRP WW 02 for the files.

Wedgwood Pharmacy - John Guerin, Attorney came forward to the Board with Mr. Guerin, owner, for a discussion of the future of the property that now houses offices, and the pharmacy (now closed). The Land Court plan shows dimensions of the building, which they may want to rent to the Post Office. Ms.

Kathleen Walker of the US Post Office states that they need 4,000 in net space. The pharmacy building is now only 2,200. John was asking the board how they would react to an expansion of the building. There would be the problem of the 25 percent lot coverage, and the set backs. Atty. Guerin was suggesting that there would be a dock to the right of the building, and a walkway there to provide access. CATA and the Selectmen are applying for a \$50,000 grant funding for additional parking behind the building. Thirteen spaces are needed, and there are eight at the front of the building. The total building with and extension of the back would not require additional BOH requirements. The historical value of the building was discussed, also, with pictures of the pharmacy and its prior uses (dance hall, movie theater).

The Boards' point of view was that the project would have to be not more substantially detrimental to the neighborhood than its existing use. A poll was taken of the Board, stating their opinion. S. Pennoyer would be amenable in having the increase for the Post Office. The Selectmen wrote to Kathleen Walker urging her to keep the Post Office in Town. A letter written by the Planning Board to Kathleen Walker was discussed, and would be drafted. W. Burnham was in favor of the changes, P. Dunn was in favor, providing that the general public was amenable, J. Ginn was 100 percent in favor, and felt that parking was a serious problem, and would like these changes made in conjunction with the Grant moneys the Selectmen are working on attaining for CATA and the Town. W. Burnham agreed that there should be a solution for the parking. D. Jones had no problem with the proposed changes, G. Stavros agreed that all of the Boards should work together to resolve the parking issues. G. Guerin was amenable to the proposed changes. S. Pennoyer closed discussion by agreeing to write to Kathleen Walker, copying to John Guerin and the Selectmen.

Note: George Stavros removes himself from the table during the discussion below.

James and Michele O'Neil - Lot 4, corner of Choate and Belcher Streets, Map 17, Lot size of 3 acres, for new dwelling, located on a scenic way.

MOTION: W. BURNHAM MOVES TO SCHEDULE A PUBLIC HEARING ON JULY 17, 1996, UNDER MASS. GEN. LAW, CHAPTER 40, SEC. 15-6 UNDER "SCENIC WAY", FOR JAMES AND MICHELE O'NEIL, OF 12A STORY ROAD, MAGNOLIA, MA, TO INSTALL A DRIVEWAY FOR ACCESS ON NEW DWELLING TO BE BUILT ON BELCHER ST., ESSEX, AT 8:00 P.M. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE J. GINN, P. DUNN, W. BURNHAM, S. PENNOYER, D. JONES. GIL GUERIN VOTED PRESENT AND G. STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

Note: G. Stavros removes himself from discussion and voting during the following:

Robert and Melanie Tyack of 74 Western Ave, for Building Application for single family dwelling. A site plan was shown, prepared by Vernon J. LeBlanc, PLS, dated March 1996. Frontage is shown on a Way, Subdivision approve in 1985, and plans were signed in 1991. Mr. Tyack returned to the board with a site plan showing sidelines. Joe Ginn asked if this plan presented tonight, any different for the two others shown at the last meeting. Mr. Tyack answered that the Court specified which plans were to be presented, and the signatures were listed on them. He also showed the septic plan on one of the plans in his file. A question was asked by Dr. John Stavros: "Why was there a wait from 1989 until now to build?" Mr. Tyack said that they were living on another property (Western Ave.) that they were building, and they weren't ready to build another home until now. Mike Faherty, Attorney for Ruth Montgomery came forward with his comments and questions: ~~Was there a Form A Plan?~~ ^{Subdivision} Was a Public Hearing held after the Court case was established for the changes on the ~~Form A?~~ He wanted to know if there was a modification on the change to the road. His contention was that the road was laid out for two lots, denied the permit for variance, the applicants went for a subdivision road, approval given was only under the lines on the site plan. Attorney Faherty would be contacting the Board to schedule a time to look at the files for a Public Hearing on this property. Joe Ginn wanted to know where the balance of the frontage was coming from, on the site plan given this evening (March 16, 1996 plan). Sixty feet was shown on Pond Street, but the

balance was not distinguishable, he felt. Mr. Tyack referred to the 1991 site plan by Matt A. Hautala. The present site plan references the 1991 map.

MOTION: S.PENNOYER MOVES TO APPROVE THE BUILDING PERMIT FOR MELANIE AND ROBERT TYACK OF 74 WESTERN AVENUE, FOR THE PROPERTY OF 65 POND STREET, ESSEX, FOR CONSTRUCTION OF A NEW, WOOD FRAME SINGLE FAMILY DWELLING, WITH FOUR BEDROOMS, 96'X32'X20, SEEING THAT IT MEETS ALL THE REQUIREMENTS OF THE ESSEX TOWN BYLAWS. APPROVAL IS CONTINGENT UPON THE APPROVAL OF A CURB CUT FROM THE D.P.W. APPROVED BY BOH, CONS.COMMISSION APPROVED THE SITING ONLY. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WAS G.GUERIN, D.JONES, S.PENNOYER, W.BURNHAM, J.GINN. G.STAVROS ABSTAINS FROM VOTING. THE MOTION PASSED.

G.Stavros returns to table.

Gil Guerin stated that the flow charts that W.Burnham is drafting is needed for the applicants, especially for the building permit applications. A check list available for the building inspector should be attached to the permit to aide those coming to this Board. The Board agreed that this is an important task to be completed in the near future.

John Maestronzi - Western Avenue Realty Trust. Representing Mr. Maestronzi was David Varga, of W.C. Cammett Eng., in Amesbury. Book No. 12167, Page No. 344 for 197 Rear Western Avenue, 39+ acres, Stated on Form A, "Parcel "D" is not a building lot. Remaining land has more than required frontage and area. Site Plan shows parcels "A", "B", "C" also. Cut off of 14.3 acres, sold to John Donovan, sole purpose: not a building lot. Extent of ANR is the "Remaining Land of Western Avenue Realty Trust, showing 23.19 acres.

MOTION: S.PENNOYER MOVES TO APPROVE THE FORM A SUBDIVISION FOR WESTERN AVENUE REALTY TRUST FOR THE CREATION OF PARCEL A, B, C, AND D, LEAVING THE REMAINING LOT AS "REMAINING LAND OF WESTERN AVENUE REALTY TRUST". SIZE IS 23.19 ACRES, AS SHOWN ON PLAN OF LAND BY W.C. CAMMETT ENGINEERING, 297 ELM STR., AMESBURY, DATED JUNE 19, 1996, FINDING THE FOUR PARCELS BEING CREATED ARE NOT TO BE CREATED AS BUILDABLE LOTS. SECONDED BY J.GINN. IN FAVOR OF THE MOTION WERE, S.PENNOYER, W.BURNHAM, P.DUNN, D.JONES, G.GUERIN, G.STAVROS AND J.GINN. THE MOTION PASSED.

Note: G.Stavros leaves the table for the next order of business.

John Sarkis of JRC Associates, West Newbury, for hearing date for Driveway Permit on Belcher Street, a Scenic Way. His purpose is to sell the lot.

MOTION: S.PENNOYER MOVES TO SCHEDULE A PUBLIC HEARING FOR JULY 17, 1996 UNDER MASS. GEN. LAW CH. 40, SEC 15-C UNDER "SCENIC WAY", FOR JOHN T. SARKIS OF JRC ASSOC., INC., OF W.NEWBURY, MA, FOR DRIVEWAY ACCESS ON CHOATE STREET. SECONDED BY J.GINN. IN FAVOR WERE, W.BURNHAM, S.PENNOYER, J.GINN, D.JONES, P.DUNN, G.GUERIN. G.STAVROS ABSTAINS FROM VOTING. THE MOTION PASSES

G.Stavros returns to table.

Tom Griffith of 43 County Road for home renovation expansion. Removing existing porch and extend living room through and beyond this space, add bedroom and end of living room and correspondingly enlarge bedroom above, with bathroom. Site plan dated June 23, 1988, Book 5636, Page 393, by Essex Survey Serv.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING APPLICATION FOR TOM GRIFFITH OF 43 COUNTY ROAD, FOR AN ADDITION FOR TWO STORY ADDITION, REPLACE EXISTING PORCH, EXTEND LIVING ROOM, AND BEDROOM WITH BATHROOM, ADDITION BEING APPROXIMATELY 5X18, FINDING THAT THE NEW CONSTRUCTION DOES NOT INCREASE THE NONCONFORMITY, FINDING ALSO THAT IT IS NOT MORE SUBSTANTIALLY DETRIMENTAL THAN THAT OF THE EXISTING USE. CONTINGENT UPON BOH APPROVAL. SECONDED BY JOE GINN. IN FAVOR WERE, W.BURNHAM, J.GINN, S.PENNOYER, D.JONES, G.STAVROS, P.DUNN, G.GUERIN. THE MOTION PASSED.

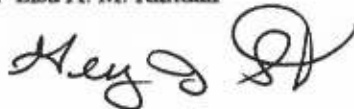
Gateway: Joe Ginn wanted the Board to know that there will be a change in the road to meet the existing topography. There will be no trees removed, some will actually be saved by the minor change. Larry Graham, Clerk of the Works, is being contacted about the change.

J.Ginn: Has there been any resolution to the storage trailers parked behind Gaybrook? W. Burnham has spoken to Stan, owner, and there are no violations of the Water Res. Port. District. The storage is a short-term situation, as the trailers are being moved to Maine. The property in Maine has had problems with the access driveway due to hindrance from rain. The lease with the tenant has stipulations of hours that the trailers can be accessed. They should only be there for another 6 to 8 weeks. J. Ginn mentions the fact that there have been problems by other trailer owners in other areas.

MOTION: W.BURNHAM ADJOURNS THE MEETING AT 9:05 P.M. SECONDED BY S.PENNOYER. ALL MEMBERS VOTED TO APPROVE THE MOTION. THE MOTION PASSED.

Presented by: Lisa A. M. Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JUNE 5, 1996

- | | |
|-----------|---|
| 7:00 p.m. | Minutes of May 15, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Melanie Tyack - Lot on Pond Street |
| 7:45 p.m. | Hunneman Real Estate : Property behind Glass Dimensions |
| 8:00 p.m. | Other Business |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, JUNE 5, 1996

The meeting was held at the Essex Elementary School on Story Street and began at 7:23 p.m.
Attendees: W. Burnham (Vice Chairman), G. Stavros, D. Jones, J. Ginn

MOTION: G. STAVROS MOVED TO ACCEPT THE MAY 15, 1996 MINUTES AS WRITTEN. SECONDED BY G. GUERIN. ALL MEMBERS PRESENT WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

Note: For the record, Joe Ginn will not be voting on the below application.
Scott Dewitt of Lakeview Drive, for addition of maintenance building and office for Brookside Apartments on 23 Story Street. Map 13, Lot 12, 209,000 sq. ft. Rear setback of 50 ft. No plumbing, erect building to rear of property.

MOTION: G. STAVROS MOVES TO APPROVE THE BUILDING PERMIT FOR SCOTT, DONNA, TRESMOTT DEWITT, ET AL, FOR PROPERTY ON 23 STORY STREET, BROOKSIDE APARTMENTS, FOR MAINTENANCE BUILDING WITH OFFICE, 70'X48'X20' WITH CORRECTED SETBACK OF FIFTY FEET FOR REAR YARD AS SHOWN ON PLAN DATED DECEMBER 27, 1994. NOTING APPROVAL OF BOARD OF HEALTH AND CONSERVATION COMM. SECONDED BY G. GUERIN. IN FAVOR WERE, G. STAVROS, G. GUERIN, D. JONES, W. BURNHAM. J. GINN ABSTAINS FROM VOTING. THE MOTION PASSED.

PMC Realty Trust: Dick Carter asked about the 6-10 Martin Street property as the May 15th Planning Board meeting left the members with questions for Town Counsel. A letter to Counsel was drafted on May 23, which asked, "Would the same opinion given in the memo of the Garcia Kimball property be applied to the 6-10 Martin Street Application for extension of the building? Presently, it is nonconforming, and the applicant is asking to increase the nonconformity." Also, the Board asked for a review of the zoning requirements for pre-existing nonconforming use. Town Counsel responded by answering "No" to the question above. "The law that applies to the Kimball property only relates to vacant lots. It is designed so that lots meeting the statutory minimum of 5000 square feet of area and 50 feet of frontage may be built upon after zoning changes render them substandard." The building constructed at 6-10 Martin Street in 1955: "The requirements of G.L. c. 40A, sec. 6, relating to the extension or a preexisting nonconforming use or structure will apply." Town Counsel also attached copies of his prior memoranda on this subject, which a copy will be given to all new members of the Board. The opinions of Town Counsel led the Board to believe that PMC Realty Trust would have to apply to the Board of Appeals. A letter will be drafted to go to the Board of Appeals, for recommendation of the extension. (Please reference May 15, 1996 minutes for details of the building application.)

* MOTION: G. STAVROS MOVES TO DENY THE BUILDING APPLICATION FOR JOHN COUGHLIN, PMC REALTY TRUST OF 239 WESTERN AVENUE, ESSEX, FOR THE PROPERTY ON 6-10 MARTIN STREET, POST OFFICE BUILDING, TO BRING OUT THE OVERHANG TO PROVIDE A HANDICAP ACCESSIBLE ENTRANCE, ENCLOSE THE ACCESS WAY, AND ELIMINATE THE WATER/ICE RUN-OFF PROBLEMS LOCATED AT THE ENTRANCE OF THE POST OFFICE. SITING 6-4.2, CURRENT BUILDING EXCEEDS THE TWENTY-FIVE PERCENT MAXIMUM, AND THE ADDITION WILL INCREASE THE NON-CONFORMING USE. SECONDED BY D. JONES. IN FAVOR OF THE DENIAL WERE, G. STAVROS, D. JONES, W. BURNHAM. GIL GUERIN AND JOE GINN ABSTAIN FROM VOTING. THE MOTION PASSED.

* See Correction On Back Page.

Note: G.Stavros abstains from discussion of the Tyack's property located at 65 Pond Street.

Richard and Deborah Tyack: 65 Pond Street. The board was apprised of the history of the property, as there was a contesting of the land of Parcel A (1985). This has since been cleared 12/15/89. Over 200 feet of frontage on an existing way. Subdivision approved in 1985. Approval was signed on subdivision of 61,310 sq. ft., Lot 29, Map 5, approved by Board of Health, Conserv. Comm. Note: Conservation Commission approval does not include construction of the property. There was no site plan introduced this evening showing the parcel, set backs, side lines, or a plot plan showing the lot in its entirety. Therefore, the Board did not take action, but did let the Tyacks know exactly what they would require for the next meeting. There was a question as to how much of the property included wetlands, as the land is in the Water Resource Protection District. This would be delineated on the plan, and Joe Ginn questioned a ten foot buffer zone located on one of the plans shown (there were three plans shown, but none were of a plot plan showing the entire subdivision, etc.) Mr. Ginn noted that the 10 foot buffer zone is to be clarified on the plan, also.

Mr. and Mrs. Montgomery, of 79 Pond Street, were present during the discussions. They would like it noted that the Subdivision discussed this evening was the first that they had ever heard of this. They are abutters, and felt they were never notified (going back to 1985 in the files). The file does show that the Montgomerys are on the list of abutters.

Mr. and Mrs. Fawcett of Apple Street: Re: Scenic Ways. The Fawcetts have a black birch tree which is growing on Town property, disturbing their hedge and garden. Apparently, the branches extend through their hedge, disturbing the garden. They were asking the board permission to cut two or three branches to rectify the situation. There will be no visual change from the road, and no branches will be cut on the street side. The Board had no problem with the request, providing Mr. Julian, the Tree Warden, was notified. The Fawcetts agreed to notify Mr. Julian.

Hunnemann Real Estate: Property behind Glass Dimensions. No Show.

MOTION: GEORGE STAVROS MOVED TO COMMENCE THE SUMMER SCHEDULE BEGINNING AFTER THE JUNE 19 MEETING, HELD AT THE SCOUT HOUSE. THE FOLLOWING DATES WILL BE PLANNING BOARD MEETING DATES, LOCATED AT THE SCOUT HOUSE ON PICKERING STREET, SCHEDULED FOR 7:00 P.M.: WEDNESDAY, JULY 17,1996, WEDNESDAY, AUGUST 21, 1996, WEDNESDAY, SEPTEMBER 18, 1996. SECONDED BY DAVE JONES. ALL MEMBERS PRESENT WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

J.Ginn wanted to discuss a question brought to his attention: Do storage trailers require a permit for their placement on certain properties? How should these trailers be classed or registered? The Board reviewed the bylaws, 6-5.11 a, and in the Water Res. Prot. Dist. The bylaws made note of trailers (temp.house), yet did not address storage trailers, directly. The situation will be watched, and the building inspector will be made aware of the situation.

A memo was given to the Board from the Board of Selectmen: There will now be quarterly review meetings. Dates are: July 8th at 8:00p.m. at the Scout House, October 7th at 8:00p.m. at the Essex School, January 6, 1997 at 8:00 p.m. at the school, and April 7, 1997 at 8:00 p.m. at the school.

A letter was sent to the Board from the Commonwealth of Mass, Executive Office of Environmental Affairs, Department of Environmental Management, Re: National Flood Insurance Program Community Assistance Visit of May 1, 1996. Michele Steinberg, the regional planner with this program met with the Essex town officials to discuss Essex's floodplain management procedures. Based on this meeting, she concluded that there appeared to be relatively few existing structures in the floodplain, and very few new or improved structures in the floodplain. However, the letter contained the following new information:

"Flood Insurance Rate Maps (FIRM), revised on July 2, 1992, to include undeveloped coastal barrier resource areas or "CBRA" designations as an overlay. All of the three panels that make up Essex's FIRM were affected by the designation of CBRA areas. Although by definition these areas are considered "undeveloped", there may be a few existing structures within the designated CBRA, or developable parcels. Residents in these areas will no longer be able to purchase flood insurance to protect the structure, and if structure is also located within a Special Flood Hazard Area, will be unable to secure a federally-backed loan or mortgage, since purchase of flood insurance is mandatory for loans on properties in flood hazard areas. She recommended that local officials advise project proponents in these areas of the restrictions on flood insurance for new construction or substantial improvements.

Ms. Steinberg made the following recommendations:

The town should amend its floodplain district zoning ordinance to refer to the current dated of Essex's maps, July 2, 1992.

Addition of a Statement of Purpose. A Statement of Purpose tells project proponents and permit reviews why consideration of the siting of a project in the floodplain is important. A sample Statement of Purpose is found in Article 1, Section A of the enclosed Model Floodplain District Bylaw.

Either within the Zoning Bylaw or the town's subdivision regulations, there should be a requirement that any subdivision or development proposal greater than 50 lots or 5 acres must provide base flood elevation date. See example in enclosed model in Article II Section A.

Section 6-12.1 of the Essex bylaw should refer to existing requirements including the state Wetlands Protection Regulations. See Article IV, Section A of the enclosed model.

Include use regulations for "e" communities listed in Article IV, Section B of the enclosed model.

The Chairman and Vice Chairman will review the material given to the Board, and act accordingly. Note: Please reference the material also in the Town Files (floodplain).

MOTION: G.STAVROS MOVED TO ADJOURN THE MEETING AT 9:00 P.M.
SECONDED BY D.JONES. ALL MEMBERS PRESENT VOTED TO APPROVE
THE MOTION. THE MOTION PASSED.

Presented by: Lisa Randall

Attested to:

Motion includes: "in violation of 6-6.5 BUSINESS LAND USE, Sec. A, number 7, "MAXIMUM LOT COVERAGE by ALL BUILDINGS, 25 percent," as found in the Essex Town Bylaws.

AMENDMENT MADE ON June 19, 1996 MTG.

Jan



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MAY 15, 1996

7:00 P.M.	Minutes of May 1, 1996
7:15 P.M.	Dick Carter/Building Inspector
7:30 P.M.	Mark Glovsky, Atty. for Garcia Kimball Maple Street
7:45 P.M.	Jason Heath - Pond Street
8:00 P.M.	Carlson Realty - Story Street
-----	Planning Board Business

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, MAY 15, 1996

The meeting was held at the Essex Elementary School on Story Street and began at 7:12 p.m.

Attendees: P.Dunn, W.Burnham, S.Pennoyer, G.Guerin, D.Jones, G.Stavros, J.Ginn

(Note: Joe Ginn refrains from voting on the below discussion)

Dick Carter/Bldg. Inspector: Post Office Building/Offices located at 6-10 Martin Street. PMC Realty has a plan to bring out the overhang to provide a handicap accessible entrance, enclose the access way, and eliminate the water/ice runoff problems located at the entrance to the post office. Members of the board did not have a problem with the addition, except that this increases the nonconforming use. Based on previous advice from town counsel, the board will address the addition by means of a letter to town counsel. The letter states that "A recent Land Court decision held that a grandfathered lot meeting the statutory requirements minimum frontage and lot area was not required to meet setbacks." (Note: A copy of Town Counsel's letter is attached for the purpose of this application and the Garcia Kimball application.) PMC Realty will be notified of the action that the Board is taking, and the application will be decided upon after the interpretation of Town Counsel.

MOTION: S.PENNOYER MOVED TO POSTPONE THE DECISION ON THE APPLICATION BY PMC REALTY TRUST OF 6-10 MARTIN STREET UNTIL THE QUESTION REGARDING COVERAGE IS ANSWERED BY TOWN COUNSEL. TOWN COUNSEL WILL REVIEW THE ZONING REQUIREMENTS FOR A PRE-EXISTING NONCONFORMING USE. SECONDED BY G.STAVROS. IN FAVOR WERE G.STAVROS, S.PENNOYER, G.GUERIN, DAVE JONES, AND W.BURNHAM AND J.GINN ABSTAIN FROM VOTING. P.DUNN VOTED PRESENT.

(J.Ginn and W.Burnham return to the table.)

Dick Carter for Tony Loicano of 105 Martin Street. Existing shed to be replaced by accessory building to replace it. No bathroom, two car garage on bottom with office on top floor. Mr. Loicano services copiers, away from his home office.

MOTION: S.PENNOYER MOVES TO APPROVE THE BUILDING APPLICATION FOR ANTHONY AND MYRA LOICANO OF 105 MARTIN STREET. FOR THE REMOVAL OF A SHED, TO BE REPLACED WITH A TWO CAR GARAGE WITH HOME OFFICE, WITH HOME OFFICE, WITH NO PLUMBING OR WATER, AS SHOWN ON SITE PLAN SUBMITTED. THIS IS BEING APPROVED UNDER 6-4.2 SEEING THAT IT IS NOT SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING USE. SECONDED BY G.STAVROS. IN FAVOR WERE, W.BURNHAM, G.STAVROS, S.PENNOYER, D.JONES, G.GUERIN, J.GINN, G.GUERIN. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

The May 1, 1996 Minutes were addressed, and the wording of the Sea Meadow Designs discussion will be changed by omitting the word "less" and replacing it with "more". The notation was duly corrected.

MOTION: G.STAVROS MOVES TO APPROVE THE MINUTES OF MAY 1, 1996 AS AMENDED. SECONDED BY J.GINN. ALL MEMBERS VOTED UNANIMOUS TO APPROVE THE MOTION.

W.Burnham noted that the DPW and Building Inspector discussed the hot topping issue regarding the permits, re: the fifteen percent coverage. The secretary will mail the DPW a copy of the Water Resource District Plan Map. This issue will allow the DPW to inspect the coverage of the hot topping along with the inspection of curb cuts, and the permit given to the applicants.

Mark Glovsky, Atty. for Garcia Kimball: Application for bldg. permit on Maple Street, Map 36, Lot 34, 14,705 s.f., to construct a 24' x 28' two story gambrel with 12'x 12.6 one story el at rear - unfinished second floor. Two entries approved by BOH, Conserv., Wetlands.

The board discussed with Clay Morin the fifteen foot setback from the road. The configuration is consistent with the rest of the neighborhood.

Also, a letter from Town Counsel addressed the board's three questions. (Note: A copy of this letter is attached to the Minutes for explanation.)

MOTION: W.BURNHAM MOVED TO APPROVE THE BUILDING APPLICATION FOR GARCIA KIMBALL OF 90 MARMION WAY, ROCKPORT, MA, TO CONSTRUCT A 24X28 TWO STORY GAMBREL WITH 12X12.6" ONE STORY EL AT REAR AS SHOWN ON THE SITE PLAN OF MORIN ENGINEERING DTD. 10/11/94, REVISION TWO DATED 2/96. APPROVAL BASED ON THE LETTER FROM TOWN COUNSEL, BRIAN CASSIDY, DATED MAY 8, 1996, FINDING LOT WAS IN EXISTENCE, THEREFORE A PRE-EXISTING NONCONFORMING LOT, AND MEETS THE MINIMUM REQUIREMENTS AS STATED IN TOWN COUNSEL'S LETTER. APPROVAL HAVING BEEN PREVIOUSLY APPROVED BY THE B.O.H., CONSERVATION COMMISSION STILL WILL REQUIRE D.P.W. CURB CUT FOR THE DRIVEWAY. SECONDED BY S.PENNOYER. IN FAVOR OF THE MOTION WERE, W.BURNHAM, G.STAVROS, G.GUERIN, J.GINN. AGAINST WERE, D.JONES, S.PENNOYER. P.DUNN VOTED PRESENT. THE MOTION PASSED.

Jason Heath, for property off Pond Street. Land overlooks Chebaco Lake on Wood Drive. 175,700 s.f. Mr. Heath wants to divide this lot into two. Clay Morin represented Mr. Heath, who was asking what the Board expects in relation to dividing the property, creating a subdivision. The applicant got answers to his questions, and may return to the Board with a preliminary plan. Mr. Morin would receive a copy of the Subdivision Rules and Regulations and a map of the Water Resource Protection District to begin their plans.

Carlson Realty: Re: 24 Story Street. There is an old home located there, and in very poor condition. The Realtor was asking whether or not the home could be torn down and sold as land only. Since there is no historical district in Town, the answer was yes. There is only 14,000 s.f. of land. The board noted that if the footprint was not increased, you could rebuild. A question was raised about the septic system, and the setbacks.

Gateway: Larry Graham, the Clerk of the Works for Gateway, submitted a proposal for estimated costs. PMC Realty would receive a copy of this proposal, with a request to fund the \$4,970.00 fees, which would then be handled by Brian Dagle, Town Accountant. W.Burnham then dictated a letter to be sent to PMC Realty.

Nominations of Chairman, Clerk:

The Board thanked Pat Dunn for a tireless, diligent and often thankless job as Chairperson for the past two years.

W.BURNHAM NOMINATES S.PENNOYER FOR CHAIRMAN OF THE BOARD.

S.PENNOYER ACCEPTS THE NOMINATION.

ALL MEMBERS OF THE BOARD VOTED UNANIMOUSLY TO ACCEPT SHELDON PENNOYER AS CHAIRMAN OF THE PLANNING BOARD.

S.PENNOYER NOMINATES W.BURNHAM FOR VICE CHAIRMAN OF THE PLANNING BOARD.

W.BURNHAM ACCEPTS THE NOMINATION.

ALL MEMBERS OF THE BOARD VOTED UNANIMOUSLY TO ACCEPT WESTLEY BURNHAM AS VICE CHAIRMAN OF THE PLANNING BOARD.

W.BURNHAM NOMINATES G.STAVROS FOR CLERK OF THE PLANNING BOARD.

G.STAVROS ACCEPTS THE NOMINATION.

ALL MEMBERS OF THE BOARD VOTED UNANIMOUSLY TO ACCEPT GEORGE STAVROS AS CLERK OF THE PLANNING BOARD.

The Board then discussed finishing a short handbook for the positions of each, on the Planning Board. This would be an ongoing process with the Board.

Scot's Way: The Road is unfinished, and letters to R.B. Strong went unnoticed by Mr. Strong. The board acknowledged that this issue was handled incorrectly, the covenant was released, and initiating legal counsel would burden the Town, and would not seem to resolve the issue. The Board noted that these situations have led the Board to create avenues in which applicants will be held accountable for the "as built" plans. The Clerk of the Works, and the financial conditions is a step in the right direction, for future projects.

The Board discussed the summer schedule, but no dates were given at this time.

MOTION: J.GINN MOVED TO ADJOURN THE MEETING AT 9:30 P.M. SEC. BY G.STAVROS. ALL MEMBERS VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED.

Presented by: Lisa A. M. ~~Randall~~

Attested to:



RONAN, SEGAL & HARRINGTON

ATTORNEYS AT LAW

FIFTY-NINE FEDERAL STREET
SALEM, MASSACHUSETTS 01970-3470

(508) 744-0350


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JAMES T. RONAN (1922-1987)
JACOB S. SEGAL
MARY MEMONTE HARRINGTON
GEORGE W. ATKINS, II
BRIAN P. CASSIDY

E160.7B
FILE NO. _____

May 8, 1996

TO: Essex Planning Board

FROM: Brian P. Cassidy 
Town Counsel

RE: Garcia Kimball, Lot 34 Maple Street

By memorandum dated April 22, 1996, you requested that I respond to certain questions relating to three lots of land located on Maple Street and designated as Lots 34, 34A and 34B on Essex Assessors Map 38. These lots are presently owned by Garcia Kimball. All three lots were created before the adoption of a zoning by-law in the Town of Essex.

The matter is presently before the Planning Board pursuant to Section 6-7.2 a. of the Essex Zoning By-laws.¹ In preparing this opinion I have reviewed the prior correspondence from Attorney Kroesser and Town Counsel John Tierney, minutes of the 1993 Planning Boards meeting, the 1959 Town Meeting vote, correspondence from Attorneys Mark Glovsky and Kevin Dalton and various deeds supplied by them. For purposes of this memorandum I am accepting the representation that the three lots were held in common ownership in 1959 and 1975.

¹ "No building or structure shall be erected, added to, moved or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the site plans showing the buildings to be placed thereon and the proposed use there for [sic], except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provisions of Chapter 40A Massachusetts General Laws."

QUESTION 1: Is Lot 1 buildable? Is this Lot grandfathered and thereby exempt from today's standards?

ANSWER: Yes.

REASONS:

There are two provisions of the Zoning Enabling Act that relate to preexisting lots.² The first requirement of Section 6 of G.L. c. 40A provides that:

"any increase in area, frontage, width, yard or depth of a zoning ordinance or by law **shall not apply** to a lot for single or two family residential use which at the time of recording or endorsement was not held in common ownership with any adjoining land, conformed to the existing requirements and had less than the proposed requirements but at least five thousand [5,000] square feet of area and fifty [50] feet of frontage.

At a Special Town Meeting held on July 1, 1959, the Town approved a zoning by-law establishing a minimum lot area of 30,000 square feet and minimum frontage on a way of 150 feet for all areas of the Town except Conomo Point.

To determine the exempt status of the lots you must examine the ownership and dimensions before the change in the zoning. Sieber v. Zoning Board of Appeals of Wellfleet, 16 Mass.App.Ct. 985 (1983); see, Massachusetts Zoning Manual, § 7.35, Vol. 1, p. 7-38 (1995 Rev.Ed.). The 1959 By-law rendered all three of the Kimball lots nonconforming. Of the three, only Lot 34 met the 5,000 square foot, 50 feet of frontage requirement. Neither Lot 34A (4,084 s.f.) and Lot 34B (4,656 s.f.) met the minimum area requirement and neither had frontage on a way. Standing alone lots 34A and 34B are not buildable lots. However, since the lots were held in common

² The second provision of G.L. c. 40A, § 6, does not apply to lots in existence on January 1, 1976 that did not comply with the existing zoning requirement on that date. Ferzoco v. Board of Appeals of Falmouth, 29 Mass.App.Ct. 986 (1990); See, Massachusetts Zoning Manual, § 7-35, p. 7-39. Since these lots were non-conforming after the enactment of the 1959 Bylaw, the second provision does not apply.

ownership, combining them would reduce the nonconformity in the lot area requirement of Lot 34.

Attorney Glovsky indicated that in 1992, Ms. Kimball transferred Lot 34A (2) to Attorney James Kroesser's secretary. The secretary then conveyed Lot 34A (2) to Ms. Kimball's daughter, who ultimately reconveyed the property back to Ms. Kimball. This attempt at "checkerboarding", conveying adjoining lots to avoid having to combining the lots for zoning purposes, cannot and did not defeat the fact that for zoning purpose the lots are merged. Where the underlying beneficial ownership and control of the lots remain in common ownership it is likely to be held ineffectual. Lee v. Board of Appeals of Harwich, 11 Mass.App.Ct. 148, 151 n. 4 (1981). The Court looks at who controls the lot rather than the name on the deed.

QUESTION 2 If you add to a grandfathered lot (parcel 2 & 3), does it affect the grandfathered status?

ANSWER: No.

REASONS:

As I stated in response to Question 1, Lots 2 (34A) and 3 (34B) must be combined with Lot 34 for zoning purposes in order to reduce the nonconformity.³

The Massachusetts Appeal Court has held that "a landowner will not be permitted to create a dimensional nonconformity if he could have used his adjoining land to avoid or diminish the nonconformity." (emphasis added). Planning Board of Norwell v. Serena, 27 Mass.App.Ct. 689, 690 (1989) *aff'd*. 406 Mass. 1008 (1990). The owner of adjoining parcels cannot avail himself of this preexisting nonconforming lot exception unless he includes adjoining lots held in common ownership to minimize the nonconformity. Sorenti v. Board of Appeals of Wellesley, 345 Mass. 348, 353 (1963).

³ This does not require the deeds to be changed to create one lot. The land can be described as three separate lots in the deeds but they are considered one lot for zoning purposes.

QUESTION 3 What are the zoning requirements for this grandfathered lot with respect to other zoning requirements?

ANSWER: By this I assume you mean that in addition to the 5,000 square feet of area and 50 foot frontage on a way, whether any other dimensional requirements may apply. It appears that the answer to that question is no.

REASONS:

The exemption in G.L. c. 40A, § 6 protects a lot from any increase in area, frontage, width, yard or depth of a zoning ordinance. The issue of how side yard setbacks should be treated in relation to grandfathered residential lots was raised, but not decided, in Priore v. Sawyer, 30 Mass.App.Ct. 943 (1991). In the Priore case an abutter argued that current side yard set backs should apply to a preexisting nonconforming lot if they could be met. The Appeals Court avoided that issue and decided the case on other grounds.

A recent Land Court decision held that a grandfathered lot meeting the statutory requirements minimum frontage and lot area was not required to meet setbacks. Mscisz v. Town of Middleton Zoning Board of Appeals, 4 Land Ct.Rptr. 10 (1996). Judge Kilborn wrote: "I find plaintiff need not show his structure cannot comply with existing yard requirements. Section 6 states that the current requirements 'shall not apply' and there are no conditions or reservations in the statute." Mscisz v. Town of Middleton Zoning Board of Appeals, 4 Land Ct.Rptr. at 11.

CONCLUSIONS

Lots 34, 34A and 34B are merged to form one building lot for zoning purposes. Under G.L. c. 40A, § 6, the merged lot is protected from any increase in area, frontage, width, yard or depth of a zoning. No current set back requirements apply to the proposed building location on the lot.

cc Essex Board of Selectmen
 Essex Zoning Board of Appeals
 Essex Building Inspector

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 1, 1996

The meeting was held at the Essex Elementary School on Story Street, and opened at 7:10 p.m.
Attendees: P.Dunn, J.Ginn, S.Pennoyer, G.Guerin, D.Jones, W.Burnham and G.Stavros

Discussion: Kimball Property: Mark Glovsky, Attorney for the applicant canceled his appointment for this evening. The April 22, 1996 letter written to Town Counsel by the Planning Board was not answered and the questions the Board had of this application still had not been addressed. W.Burnham would meet with Ed Neal to discuss the situation, as Mr. Neal had given P.Dunn an incomplete resolution. Three specific questions were asked, and the Board was questioning why Town Counsel did not respond.

Dick Carter/Building Inspector: Tony Loicano, 105 Martin Street, Map 33, Lot 7, 38,276 lot. Shed to be removed, accessory building to replace it. No bathroom, two car garage on bottom with office on top floor. Mr. Loicano services copiers, away from his home office. The Board requested that Mr. Loicano return with a specific site plan showing the lot area, setbacks, and to reference location of the septic system.

Peter Perrigo of Wood Drive: A transfer of ownership / 3,000 s.f. land. He will return with a plan certified by an engineer/surveyor.

Michelle Steinburg of the Flood Hazard Management Program, which administers the National Flood Insurance Program. She came to the Board and the Building Inspector to explain the program, give statistics, and distribute information. There are currently 63 policy holders in Essex, and policies average about \$467.00 per policy. Basically, she stated that there is access to affordable insurance for those in and out of the floodplain district. Please reference the Town files, "Floodplain". There are updated brochures and maps on file. Re: Handbook for Local Officials for Projects in the Floodplain, Protecting Coastal Property from Major Storm Damage, Flood Hazard Management Program, FEMA: Answers to questions about the National Flood Insurance Program, Premium Examples, and a form showing publications and access to requested information about floodplain insurance, etc.

Note: Joe Ginn removes himself from the table during the below discussion/motion.

Manual Amaral, 88 Maplewood Ave. Gloucester, for single family dwelling, Lot 2, Pine Ridge Road, foundation permit only. Map 5, Lot 2-1A, Lot size 1.38 acres.

MOTION: S.PENNOYER MOVES TO APPROVE THE SITING OF A FOUNDATION ONLY OF A SINGLE FAMILY RESIDENCE FOR MANUAL AMARAL OF 88 MAPLEWOOD AVENUE, GLOUCESTER, AS SHOWN ON THE SITE PLAN BY TURNER DESIGNS, SEEING THAT IT MEETS ALL THE REQUIREMENTS OF THE ESSEX TOWN BYLAWS. SECONDED BY W.BURNHAM. IN FAVOR OF THE MOTION WERE, G.GUERIN, G.STAVROS, W.BURNHAM, D.JONES, AND S.PENNOYER. P.DUNN VOTED PRESENT AND J.GINN ABSTAINS FROM VOTING. THE MOTION PASSED.

Joe Ginn returns to the table.

Sea Meadow Designs: Two abutters to the property located on Main Street, Mr. Jim Mulcahy and Dean Persutti came to the board with several questions: 1. Could you have two home occupations in the same building? W.Burnham stated that there is no written law pertaining to the amount of home occupations located at the same address, however, there is a control on the number of employees that can be employed in the home occupation bylaw. 2. Parking: No less than three parking spaces will be available for the home occupation. Could parking along the street on Main Street be regulated? W.Burnham felt that directing the

Changes made
during May 15
Meeting.
Joe

More

traffic on that street regarding the parking on the Main Street would be near impossible. S.Pennoyer noted that there is currently no bylaw stating you have to mark parking spaces. 3. Does the home occupation allow giving an outside group of people space in the home occupation? W.Burnham: They are allowed outside employees, and this too, has a maximum number in the bylaws. P.Dunn felt that the Board should have been given the courtesy of being privy to the venture, before the shop had been established. S.Pennoyer noted that this issue may bring a need for regulations. Requiring a site plan for parking, proof of ownership by legal documentation, or a permit process. There should be fair ground rules, but not adding regulation to stymie the home occupation bylaw. J.Ginn stated that the home occupations should be registered with the Town Clerk. There is a ten dollar fee for filing. The Building Inspector stated firmly that there should be guidelines and a permit. This particular home occupation has prompted two residents to raise the question of the parking issue. It is a very busy area, and the parking may become a concern. The board will work on the concept and the mechanics of changes to improve the home occupation bylaw.

Dick Carter: Hot topping process - The watershed bylaw covers both the building and pavement, but there is no permit for zoning purposes for hot topping. The DPW should require a permit for hot topping, along with the curb cut. Presently, the DPW requires a permit only for a resurfacing. This change should be included in the bylaws. The Board recognized the issue, and would discuss the paving permit change with Bruce Julian. W.Burnham agreed to handle the matter.

Gateway: Larry Graham of C.T. Male Assoc., the Clerk of the Works for the Gateway Subdivision came to the board to give an overview of the site. Currently, he has had no plans, reviews, or certificate of conditions. He listed several questions that the Board answered, such as a telephone contact (W.Burnham's and S.Pennoyer's work numbers), Expectations of reports: Progress reports on milestones and monthly reports. Technical review regarding the location of roads, septic, neighborhood impact, and grading. Drainage: BOH agent and the Applicant were dealing with this item. Accounting: Escrow account to be maintained, and an estimate or schedule of payments would be instituted. There may be a need to hire an outside source for the sampling, testing, compaction for gradation testing. Minutes of Gateway Subdivision were given to Larry Graham, and a copy of the Subdivision Rules and Regulations.

MOTION: S.PENNOYER MOVED TO APPROVE THE MINUTES OF APRIL 10, 1996, AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR WERE P.DUNN, W.BURNHAM, S.PENNOYER, D.JONES, G.GUERIN, G.STAVROS. J.GINN ABSTAINED FROM VOTING. THE MOTION PASSED.

MOTION: S.PENNOYER MOVED TO APPROVE THE MINUTES OF APRIL 17, 1996, AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR WERE P.DUNN, W.BURNHAM, S.PENNOYER, D.JONES, G.GUERIN, G.STAVROS, J.GINN. THE MOTION PASSED.

MOTION: D.JONES MOVED TO ADJOURN THE MEETING AT 9:30 P.M. SECONDED BY G.GUERIN. ALL MEMBERS VOTED UNANIMOUSLY. THE MOTION PASSED.

Presented by: Lisa Randall

Attested to:



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, APRIL 17, 1996

The meeting is scheduled to be held at the Scout House on Pickering Street at 7:00 p.m.

- | | |
|-----------|--|
| 7:00 p.m. | Read Minutes of April 10, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Ron Ober/Pine Ridge Subdivision |
| 7:45 p.m. | Kaplon - 27 Lake Shore Drive
Extend existing room |
| 8:00 p.m. | Joan Cook - Hunt Durey - Dividing 28 Acres
on 3 acres in Essex, 25 acres in Ipswich |
| 8:30 p.m. | Mark Glovsky - Garcia Kimball/Maple Street and
Addison Schade of Apple Street
Re: ANR/Division of three lots |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, APRIL 17, 1996

The meeting took place at the Scout House on Pickering Street and began at approximately 7:08 p.m.

Attendees: P.Dunn, W. Burnham, D.Jones, G.Guerin, S.Pennoyer, J.Ginn, G. Stavros

P. Dunn read a letter from Sea Meadow Designs, co-owners are Amy Sim and Georgeanne Lane. The new home business is selling hand-crafted items, handpainted furniture and gifts relating to nature and children. The letter stated that the shop involves the front of the house on Seven Main Street, and the entry way leading to it. Both P.Dunn and Dick Carter felt that parking is an issue in that area, as there is one apartment and now two home occupations. The Board does not approve or disapprove, unless the Bylaws are not being adhered to. Therefore the Board and the Building Inspector would wait and see what kind of traffic generated at the Main Street location.

Dick Carter mentioned the fact that there was an issue with Howie Lane's trucks being parked on John Wise Avenue. Mr. Lane is currently looking at land for his trucks, and is actively working to improve the situation.

MOTION: W.BURNHAM MOVED THAT THE PLANNING BOARD NOT RECOMMEND THE ARTICLE PLACED BY PETITION RELATIVE THE "SIGN CORRECTION" OF THE 1995 ANNUAL TOWN MEETING. SECONDED BY S.PENNOYER. IN FAVOR OF THE MOTION WERE, W.BURNHAM, S.PENNOYER, G.GUERIN, D.JONES, G.STAVROS, P.DUNN. J.GINN ABSTAINED FROM VOTING. THE MOTION PASSED.

Ron Ober/Pine Ridge Road: The Board requested Mr. Ober meet to commence action to finalize the project off Pond Street. P.Dunn brought up the issue that the sprinkler systems to be installed (see Jan. 6, 1993 minutes) weren't mandated, and the occupancy permits of the residents were already in place. J.Ginn added that the sprinklers were to be installed as part of a safety issue; to protect the residents. If the sprinklers were not installed, then the town should be given something in return, and if you gave the DPW something, materials, or the dollar value (\$1,000.00), this would then be a fair trade-off. S.Pennoyer noted that consistency should be an issue, but the owners could not be held accountable at this late date.

Patti Perrio, a resident of Pine Ridge Road said that the DPW was not allowed to take their money; the money could only be placed in the General Fund of the Town. Residents did act on good faith. G. Guerin noted that no burdens were put on the developer to put the sprinkler systems. Ron Ober said that everyone was told to put in a sprinkler system and he did not have ownership of the lots during the sprinkler system issues. P.Dunn said that she would have liked to have something acted upon sooner on this, occupancy permits were given, the Board was shown that the system would have been a poor one, and very costly. That is when the Board suggested that the residents make a donation to the Town, for the DPW, a \$1,000.00 donation per resident on Pine Ridge Road.

It was decided that this issue was not going to be resolved, and enforcement was no longer an option, since there are now several residents which weren't part of the original subdivision plans. The current residents will receive notice of the Motion below.

MOTION: W.BURNHAM MOVED TO ABSOLVE THE CURRENT RESIDENTS OF PINE RIDGE ROAD OF ANY SUCH REFERENCE TO AGREEMENTS RELATING TO A COVENANT RIDER "A", DEFINITIVE PLAN "PINE RIDGE SUBDIVISION", WHICH STATES THAT THE APPLICANT, ITS HEIRS AND ASSIGNS, SHALL INSTALL AND MAINTAIN IN EACH DWELLING UNIT

LOCATED WITHIN THE SUBDIVISION SPRINKLER SYSTEMS OF A TYPE AND DESIGN AS CONFORMS TO THE STANDARDS SET FORTH IN THE "STANDARDS FOR INSTALLATION OF SPRINKLER SYSTEMS IN ONE AND TWO FAMILY DWELLINGS AND MOBILE HOMES - NFPA13D-1984". CURRENT RESIDENTS ARE ALSO ABSOLVED OF THE DECEMBER 1992 MOTION WHICH STATES: "GINN MOVED THAT THE PLANNING BOARD WILL RELEASE THE COVENANT ON THE PINE RIDGE SUBDIVISION LOTS REQUIRING A SPRINKLER SYSTEM BE INSTALLED IN ALL NEW HOUSE CONSTRUCTION IN RETURN ON ONE THOUSAND DOLLARS IN KIND CONTRIBUTION PER LOT TO BE USED FOR PURCHASE OF WATER LINE AND FIRE HYDRANTS AND VALVES TO BE DONATED TO THE DPW THIS HAS TO BE GIVEN TO THE TOWN BEFORE A FULL OCCUPANCY PERMIT WILL BE GRANTED FOR EACH LOT. HALL SECONDED THE MOTION, WITH THE BOARD VOTING UNANIMOUSLY. SECONDED BY S.PENNOYER. THE BOARD VOTED UNANIMOUSLY TO PASS THE MOTION.

The "as built" drawings were discussed, and when the monuments were in place, a release of moneys would commence (a total of 23 monuments). Mr. Ober will notify the board after the work was completed so that the final amount would be released, and this will finalize the Pine Ridge Road Subdivision project.

27 Lake Shore Drive (Gregory Island Road), Mr. and Mrs. Kerry Kaplon. Two story structure, approximately 16' x 7-1/2' on poured full footings. Moving existing office/computer room to front, and making 3/4 bathroom with bedroom. Book 6625, Page 369, dtd. 1/24/86. Plan reference Book 59, Plan 91. Building is interior space, not going outside deck, within existing building of deck. Not creating any more of a non-conforming use. Creating a master bedroom, not an additional bedroom. BOH approved, passed inspection for three bedrooms. 6-4.2 finding as a minimum, a vertical dimension.

MOTION: S.PENNOYER MOVED TO APPROVE THE BUILDING PERMIT FOR MR. AND MRS. KERRY KAPLON OF 27 LAKE SHORE DRIVE, FOR AN ADDITION AS SHOWN ON DRAWING, TO EXTEND EXISTING MASTER BEDROOM AND BASEMENT BELOW. SEEING THAT NO ADDITIONAL BEDROOMS ARE BEING CREATED. CONTINGENT UPON CONSERVATION COMMISSION APPROVAL. BOARD OF HEALTH HAS SIGNED THE PERMIT. SEEING THAT UNDER 6-4.2, THE PROPOSED CONSTRUCTION IS NOT MORE DETRIMENTAL THAN THAT OF THE EXISTING PLAN. SECONDED BY JOE GINN. IN FAVOR WERE, G.STAVROS, G.GUERIN, D.JONES, J.GINN, S.PENNOYER, W.BURNHAM. P.DUNN VOTED PRESENT. THE MOTION PASSED.

Form A - Joan Cook, 38 Candlewood Road in Ipswich, 24.5 acres in Ipswich, and three acres in Essex. Subdividing Lot 3 and Lot 2. Book 6692, Page 281. Property is behind and adjacent to 38 Candlewood Road Ipswich.

MOTION: W.BURNHAM MOVED TO ENDORSE THE FORM A FOR JOAN COOK 38 CANDLEWOOD ROAD FOR TWENTY-EIGHT ACRES. TWENTY-FIVE ACRES IN IPSWICH, THREE ARE IN ESSEX, BUT IS NOT RELATIVE TO ESSEX PLANNING BOARD'S PURVIEW, AND THEREFORE WE ARE NOT CONCERNED OF THE ACTION BEING TAKEN BY THE APPLICANT. SECONDED BY JOE GINN. IN FAVOR WERE, W.BURNHAM, S.PENNOYER, G.GUERIN, J.GINN, D.JONES, G.STAVROS, AND PAT DUNN. THE MOTION PASSED.

Mark Glovsky for Addison and Mary S. Schade of 125 Apple Street. Dividing property into three lots, owned since 1972. Lots are 7.61, 1.08, and 1.22 acres, respectively. All lots have frontage. Book 5941, Page 062.

P. Dunn questioned the access of the lots, as there is a driveway road that leads into the property from Apple Street. Would this be made into a common driveway? What kind of upgrades would be made? W. Burnham stated that when the Board approves the siting, that is the time the Board approaches the road situation, and the applicants have the right to subdivide their property. But B.J. Frye read the Subdivision Control Law regarding Form A. She believed that frontage should be used as frontage to the property, and are the Schades going to upgrade the driveway road? She felt that if a requirement was made, the applicants could build the home only on their frontage, and not share a common driveway. She did note that a common driveway leading to the properties is more attractive than driveway along side of each other. The applicants were there for only the Form A application.

MOTION: S.PENNOYER MOVED TO APPROVE THE SUBDIVISION OF PROPERTY UNDER SUBDIVISION CONTROL LAW NOT REQUIRED, FOR MR. AND MRS. SCHADE OF 125 APPLE STREET, FOR CREATION OF TOTAL OF THREE LOTS WHICH PRESENTLY SHOWS A TEN ACRE LOT ON A PLAN DATED APRIL 9, 1996 BY RURAL LAND SURVEYORS OF DANVERS, MA, FINDING IT MEETS ALL OF THE REQUIREMENTS FOR APPROVAL NOT REQUIRED IN THE TOWN OF ESSEX. SECONDED BY J.GINN. IN FAVOR WERE, J.GINN, S.PENNOYER, W.BURNHAM, P.DUNN, D.JONES, G.GUERIN, AND G.STAVROS. THE MOTION PASSED.

Mark Glovsky, Attorney for Garcia Kimball, Maple Street. Atty. Glovsky referenced his letter of April 16, 1996 which states that Mrs. Kimball derives title by two Deeds. The first Deed, from Malcolm M. Donahue, Administrator, dated May 14, 1991, and recorded with the Essex South District Registry of Deeds in Book 10847, Page 312, conveys Parcels I, II and III on Maple Street to Mrs. Kimball. Subsequently, Mrs. Kimball deeded Parcel II to Denise Diluio, who, in turn deeded, the same Parcel II to Mrs. Kimball's daughter, Anne K. Davis. By Deed, dated October 27, 1992, recorded with said Registry in Book 12211, Page 470, Ms. Davis conveyed the property back to Mrs. Kimball. Consequently, title to the entire property has been in Mrs. Kimball's name since 1992. (Copies of the Deeds are in the Kimball file.)

The building permit application signed by Garcia O. Kimball dated 4/29/95 has been approved by the Board of Health, and the Conservation Commission. Wm. Holten, a resident near the property in question stated that this property has been controversial since the 1980's, and there was a reference to "disappearing lot lines". He felt that this application should be looked at very carefully. The lot is small, near a busy street, and there are obvious water problems. Richard Cairns, an abutter, wanted the board to look at this application very carefully, also. He thought the grade of the lot was a serious issue, and his property is very wet due to the Kimball runoff.

The Board had numerous questions that needed to be answered. They were in agreement that Town Counsel should be involved with this application, before making any decisions. W. Burnham dictated an outline for Brian Cassidy. 1. Is Lot 1 buildable? Is this lot grandfathered and thereby exempt from today's standards. 2. If you add to a grandfathered lot (parcel 2 & 3), does it affect grandfather status? 3. What zoning requirements for this grandfathered lot with respect to other zoning requirements?

This letter would go to Attorney Cassidy and Mark Glovsky would then be put on the agenda of the Board after Counsel's reply.

The Board then discussed the proposed Articles for the Annual Town Meeting. W. Burnham and S. Pennoyer reiterated their views from previous meetings. (See the minutes of March 20, 1996 and the Public Hearing date of April 10, 1996) P. Dunn suggested that the Board make a final decision of the Articles for record.

MOTION: W.BURNHAM MOVES THAT THE BOARD RECOMMEND PASSING THE


ARTICLE ON THE WARRANT DURING THE ANNUAL TOWN MEETING THAT STATES, "DELETE 6-13.3, a. 13. IN ITS ENTIRETY. SECONDED BY S.PENNOYER. IN FAVOR OF THE MOTION WERE, W.BURNHAM, S.PENNOYER, G.GUERIN, D.JONES, P.DUNN, G.STAVROS. J.GINN ABSTAINS FROM VOTING. THE MOTION PASSED.

MOTION: W.BURNHAM MOVES THAT THE BOARD RECOMMEND PASSING THE ARTICLE ON THE WARRANT DURING THE ANNUAL TOWN MEETING THAT STATES, "CHANGE 6-13.3, b. 7 BY DELETING IT IN ITS ENTIRETY AND SUBSTITUTING THEREFORE THE FOLLOWING: 'RENDERING IMPERVIOUS MORE THAN 15 PERCENT OF LOT AREA OR 2,500 SQUARE FEET, WHICH EVER IS GREATER, TO BE APPROVED ONLY A SYSTEM FOR ARTIFICIAL RECHARGE OF STORMWATER THAT WILL NOT DEGRADE GROUND WATER QUALITY.'" SECONDED BY G.GUERIN. IN FAVOR OF THE MOTION WAS, W.BURNHAM, G.GUERIN, D.JONES, P.DUNN, G.STAVROS. J.GINN ABSTAINS FROM VOTING. S. PENNOYER VOTES AGAINST. THE MOTION PASSES.

MOTION: D.JONES MOVES TO ADJOURN THE MEETING. SECONDED BY G.STAVROS. ALL MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

Presented by: Lisa A. M. Randall

Attested to:

Two handwritten signatures in black ink, one appearing to be a first name and the other a last name, written over the 'Attested to:' label.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, APRIL 10, 1996

The meeting will be held at the Essex Elementary School on Story Street, beginning at 7:00 p.m.

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of April 3, 1996 |
| 7:30 p.m. | Public Hearing - Proposed Amendments
of Chapter Six of the Essex Zoning By-laws |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, APRIL 10, 1996

This Public Hearing was held at the Essex Elementary School on Story Street, at approximately 7:10 p.m.

Attendees: P.Dunn, W.Burnham, G.Stavros, D.Jones, S.Pennoyer, G.Guerin

W.Burnham requested that a change be made to the April 3, 1996 minutes by replacing the word "notified" with "aware" in the paragraph relating to the Army Sims property on Main Street. The change was duly noted and recorded.

MOTION: W.BURNHAM MOVED TO APPROVE THE APRIL 3, 1996 MINUTES AS AMENDED. D.JONES SECONDED. ALL MEMBERS VOTED UNANIMOUSLY TO ACCEPT THE MOTION. THE MOTION PASSED.

MOTION: W.BURNHAM MOVED TO RESCIND THE MOTION OF APRIL 3, 1996 WHICH STATES, "W.BURNHAM MOVE THAT THE BOARD AUTHORIZE THE CHAIRMAN TO SEND THE LETTER TO THE TOWN ACCOUNTANT TO BE PLACED ON THE WARRANT FOR THE TOWN MEETING IN MAY, ADDRESSING THE ISSUE OF INSTITUTING A REVOLVING ACCOUNT FOR USE IN CONJUNCTION WITH THE CLERK OF THE WORKS." THE MOTION IS NOW DEEMED UNNECESSARY DUE TO FURTHER INFORMATION. SECONDED BY G.STAVROS. IN FAVOR WERE, W.BURNHAM, G.STAVROS, D.JONES, G.GUERIN. PAT DUNN VOTED PRESENT. THE MOTION CARRIED.

The motion is due to the fact that there was a regulations change for the procedure of a revolving account. The town accountant, Mr. Brian Dagle and selectman David Folsom have discussed the request of an account for projects dealing with the planning board and the clerk of the works. An account will be set up for this purpose (see the minutes of April 3, 1996).

Ruth Montgomery sent the board a letter concerning Markham property on Pond Street. The letter was duly noted by the board and filed appropriately.

PUBLIC HEARING OPENED AT 7:30 p.m.

G.Stavros, Clerk, read the public notice. (S.Pennoyer arrives)

Bruce Fortier of Southern Avenue addressed the article petitioned of Chapter 6 of the Essex Town Bylaw by making the following change: "Insert the following definition for Signs in the locations listed: Signs shall be allowed provided that the total area of signage subject to 6-5.10 does not exceed 32 square feet, except in the case of internally illuminated signs which shall not exceed 20 square feet. Affecting 6-6.5 Business Land Use, d.signs, 6-6.6 Motel and Hotel Land Use, d.signs, 6-6.7 Industrial Land Use, Class A, d.signs, 6-6.8 Industrial Land Use, Class B, e.signs, 6-6.9 Special Permits, k.2 Signs.

Bruce Fortier stated that the amendment to be submitted will give the Town restrictions on signs, including the internally lit signs. Bruce felt that the wording of last year's motion does not give restrictions on signs. The intent is to bring back the 32 s.f. cumulative, and the restrictions of the illuminated signs.

"Change 6-13.3, b.7 by deleting it in its entirety and substituting therefore the following: "Rendering impervious more than 15 percent of lot area or 2,500 square feet, whichever is greater, to be approved only a system for artificial recharge of stormwater that will not degrade ground water quality."

S. Pennoyer read the above article. He felt that the amendment should read, "... Rendering impervious more than 15 percent of the lot, to be approved only with systems with artificial recharge." Deleting the "2,500 square feet, which ever is greater." Creates condition where a 10,000 s.f. lot could have a greater impervious area by right, than a legal lot, as a percentage. He felt that the amendment seemed inconsistent with the intention of the district. Fifteen percent would be more equal.

W. Burnham stated that the intent was to ensure that there is adequate open space to allow the water to recharge in the ground. The 2,500 s.f. was put in for the average house, driveway, etc., S. Pennoyer pointed out that there was a procedure for a home owner to access if the intent to build goes over the fifteen percent. Pennoyer felt that the 2,500 s.f. pushes a small lot to a total of 25 percent. W. Burnham wanted this to go through to give a reasonable base line figure for the home owner, and the building inspector, easing the issue of having to go through a special permit process every time a homeowner wants to put a bird feeder in, etc. S. Pennoyer still felt that the home owner does have a procedure to go through, if they are to go over the fifteen percent limit.

Maria Burnham of Southern Avenue spoke several times by repeating that this bylaw was meant to protect the water shed. The issue was, are we polluting our water?

Stephen Gersch of Conorno Point pointed out that the average loss was incremental destruction. The accumulation does build up, and we need a clear demarcation. He questioned also the notion of "recharge" and the quality of this process.

Howard Altholtz of Wood Dr. felt that this issue opens up a new class of land use - to issue special permits for recharge systems. He did not want more regulation, but does want to have the protection of the water resource district. The land area mass is the issue. It is good to equalize with residential and commercial properties, but hold them to a higher standard, not a lower standard.

Scott Dewitt of Lakeview Road, felt that the land owner should have a right to add a shed, walkway, basketball hoop, etc. He felt that paving would be an issue where you can control the runoff.

S. Pennoyer added that 10,000 s.f. or 40,000 s.f. - Gravel can be used wherever, are we making a mistake? Is there any benefit to limit, or make incentives to paving? Should we eliminate driveways?

The discussion of all realized that the intention was not to degrade the quality of the area, and the board would postpone the proposed article to work on the issue more.

The next proposed article, Delete 6-13.3, a. 13. in its entirety. The current article now reads: "Residential development which renders impervious more than 15 percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit."

W. Burnham felt that this article is counter productive to what he has been listening to for the past several years, as to how people would like to see that end of town (western) develop. As it is written now, as an example, a residential property that is 38,000 s.f. would not be able to add an "inlaw" apartment, there is no special permit process for that residential property, and if sold, the property would increase in value if sold as "commercial" property, adding to the commercial/industrial uses in that part of town.

H. Altholtz thought that the residential properties should have the same rights as the commercial properties. He felt that if you move the article "a" to section "b", you could solve the issue. There would be the special permit process in this section.

Every one agreed that the the article could be a benefit for residential use, yet some recommended that the article be put aside to be worded differently, or "honed". Some of public stated that this change would reduce the protection district. The argument was counter pointed by W. Burnham, who stated again, that

the water resource protection district is not being dismantled; the changes are to give a reasonable balance between the commercial and residential uses.

MOTION: W.BURNHAM MOVES TO CLOSE THE PUBLIC HEARING AT APPROXIMATELY 8:42 P.M. SECONDED BY S. PENNOYER. IN FAVOR OF THE VOTE WERE, W.BURNHAM, S.PENNOYER, G.GUERIN, G. STAVROS, PAT DUNN, D.JONES. THE MOTION PASSED.

The board continued discussion on the articles, getting an opinion of all present. The board members agreed that the article "Change 6-13.3, a.13 in its entirety" should be implemented and would recommend this article to the town.

The second article, "Change 6-13.3, b.7 by deleting it in its entirety and substituting therefore the following: "Rendering impervious more than 15 percent of lot area or 2,500 s.f., which ever is greater, to be approved only a system for artificial recharge of stormwater that will not degrade ground water quality," this article was not a clear cut decision of recommendation for all. It was questioned to whether or not the article should be held until next year. S. Pennoyer and W. Burnham held scenarios of changes relating to the 2,500 s.f. addition. Should the cut of be 18,00 s.f., 1,500 s.f., 2,000 s.f., etc. What scientific methods could be used to finalize the measurement. S. Pennoyer wanted to postpone the article. G.Stavros agreed, as did D.Jones. G.Guerin was "hung" on this article. Paving came into the discussion, and should this be an issue by deleting the paving in the square footage proposal. This issue was not one that the board would entertain at this time, but it was an idea that the board would bring to the table again.

In conclusion, the board agreed to continue talks at the next meeting, sheduled to be April 17, 1996 at 7:00 p.m., at the Scout House on Pickering Street.

NOTE: THE PUBLIC HEARING TAPE IS AVAILABLE TO THE PUBLIC FOR A NOMINAL FEE. PLEASE CONTACT THE PLANNING BOARD FOR COPIES.

MOTION: G.STAVROS MOVED TO AJOURN THE MEETING AT 9:10 P.M. SECONDED BY D.JONES. ALL MEMBERS VOTED UNANIMOUSLY TO END THE MEETING. THE MOTION PASSED.

Presented by: Lisa A.M. Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, APRIL 3, 1996

The planning board will meet at the Essex Elementary School on Story Street

7:00p.m. Minutes of March 20, 1996

7:15p.m. Dick Carter/Building Inspector

7:30p.m. Garcia Kimball

8:00p.m. Christian Payla of P.G. Trianic Co
Re: Brynes Bros. property

*Cancelled
Apr. 3.*

Discussion: Main Street Business (across from Ernies Garage)
BOH meeting held on April 2
Hot Top re: Byrnes Bros.

ESSEX PLANNING BOARD
WEDNESDAY, APRIL 3, 1996

The meeting was held at the Essex Elementary School on Story Street, and began at approximately 7:05p.m.

Attendees: P.Dunn, Chairperson, G.Stavros, D.Jones, J.Ginn, G.Guerin and W.Burnham

MOTION: G.STAVROS MOVES TO APPROVE THE MINUTES OF MARCH 20, 1996 AS WRITTEN. SECONDED BY D.JONES. IN FAVOR WERE, P.DUNN, G.STAVROS, D.JONES. VOTING PRESENT WAS J.GINN AND W.BURNHAM. THE MOTION PASSED.

Dick Carter/Building Inspector: William and Alice Bancroft of 189R John Wise Avenue, to construct a new garage with dwelling above. Map 22, Lot 3, approx. 7 acres, on plan dated 1/29/96 by Meridian Eng., Inc.

MOTION: W.BURNHAM MOVED TO APPROVE THE SITING FOR WILLIAM AND ALICE BANCROFT OF 189R JOHN WISE AVENUE, FOR A STRUCTURE OF A ONE BEDROOM APARTMENT OVER GARAGE, 24X30X25HT., AS SHOWN ON PLAN BY MERIDIAN ENG., INC., DATED 1/29/96, FINDING THAT IT MEETS THE MINIMUM REQUIREMENTS AS REQUIRED BY THE TOWN OF ESSEX BYLAWS. ALSO NOTING THAT B.O.H., CONSERV.COMM.,D.P.W. HAVE APPROVED THE APPLICATION. SECONDED BY G.STAVROS. IN FAVOR WERE, P.DUNN, G.STAVROS, W.BURNHAM, D.JONES. J.GINN VOTING PRESENT. THE MOTION PASSED.

Note: Joe Ginn removed himself from the Planning Board table during the following discussion/vote. Gil Guerin enters.

Chris Venti of 18 John Wise Avenue, returned to the board with new plans of the storage/barn/shed/woodworking shop/garage. The accessory building on the plan is being moved to accommodate the 10 ft. setback. See minutes of Feb.21, 1996 and March 6, 1996 which details the discussion and denial of the previous plans to build the accessory building.

Map 40, Lot 13, Size 24,271 s.f. - Replace sheds with barn and move salvageable portions up hill to conforming location. Three entries, 48x34x25'ht. plus attached 17'x 12 x 13ht. with one entry. P.Dunn wanted to know what was the difference was from the last plan, and it was noted that was not extending the nonconformity. The redesign is creating a fully conforming use.

MOTION: W.BURNHAM MOVES TO APPROVE THE SITING OF A BARN/SHED/GARAGE/ACCESSORY BUILDING FOR CHRIS VENTI AND BRIGID A. VENTI OF 18 JOHN WISE AVENUE, FINDING THE PROPOSED DRAWING TO BE CONSISTENT WITH THE MINIMUM STANDARDS FOR AN ACCESSORY BUILDING UNDER THE TOWN OF ESSEX BYLAWS. LOCATED ON AN EXISTING NON-CONFORMING LOT, PROPOSED CHANGES REMOVES THE EXISTING NON-CONFORMING SHEDS AND EXISTING STRUCTURES, WITH NEW STRUCTURE BEING IN COMPLIANCE, AS THE REDESIGN CREATES A FULLY CONFORMING USE. THEREFORE 6-4.2 FINDING IS DEEMED UNNECESSARY. SECONDED BY G.GUERIN. VOTING IN FAVOR OF THE MOTION WERE, W.BURNHAM, G.GUERIN, D.JONES, G.STAVROS. VOTING PRESENT WAS P.DUNN. THE MOTION PASSED.

Note: Joe Ginn returns to the planning board table.

Garcia Kimball: Discussion continued in relation to the lots. There is a question to whether or not the lots are registered at the Registry and the Assessors office, and if all three lots are in the name of Garcia Kimball.

Past minutes show that the same information relates to the question of ownership. J.Ginn suggest that the Town Counsel work with the board on this matter, since the facts do not seem to be coming forthwith. No action would be taken on the Building Application at this time. W.Burnham gave a detailed description which explained to the board and abutters present that if the three lots show clear ownership by Garcia Kimball (are in common ownership), then the planning board would probably have to sign the building permits because of zoning purposes.

The board decided to write a letter to Garcia Kimball, asking for proof of ownership of the lots. Also, Town Counsel will be notified before any such action is taken on the matter.

Bynes Bros. Christian Payla of P.G.Triatic Co. has canceled the appointment for this evening with the board.

P. Dunn had a question as to the removal of the hot top at Bynes Bros. It was noted that the hot top was lifted and removed off the property. The board agreed that this was an improvement to the property. It was noted that there was no bylaw permit process for hot topping or removal.

* Amy Sims, of Main Street, (across from Ernie's ^{aware} Garage) - It appears that a home occupation might be established there. The board was not notified of the alleged home occupation plans, so it was decided that the board draft a letter to Ms. Sims and include the home occupation bylaw copy. The letter will also include concerns of parking in front of the property, which is located on Main Street.

The board reviewed a letter written for Brian Dagle, Town Accountant, for establishing a revolving account in conjunction with Clerk of the Works and construction of subdivisions, etc. This would enable the Town to be in control of the project, and the Clerk would receive payments directly from the Town, and not from the contractor.

MOTION: W.BURNHAM MOVE THAT THE BOARD AUTHORIZE THE CHAIRMAN TO SEND THE LETTER TO THE TOWN ACCOUNT TO BE PLACED ON THE WARRANT FOR THE TOWN MEETING IN MAY, ADDRESSING THE ISSUE OF INSTITUTING A REVOLVING ACCOUNT FOR USE IN CONJUNCTION WITH THE CLERK OF THE WORKS. SECONDED BY J.GINN. ALL MEMBERS VOTED UNANIMOUSLY IN FAVOR OF THE MOTION. THE MOTION PASSED.

Ronald Ober will be coming in to the board on the 17th of April, and a letter has been sent to confirm this appointment. This meeting will attempt to bring a closure to Pine Ridge Road "as built" plans.

John Henderson served board members a Civil Action Summons this day, April 3, 1996. A copy will be sent to Town Counsel for an Answer. The suit relates to the ANR that was signed by the board for W. Peter Henderson on January 17, 1996.

MOTION: G.STAVROS MOVED TO ADJOURN THE MEETING AT 9:00 P.M. SECONDED BY D.JONES. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE THE MOTION. THE MOTION PASSED.

Note: Next meeting is scheduled for Wed., April 10, 1996 at the Essex Elementary School.

Presented by: Lisa Randall

Attested to 

* change by W. Burnham, Motion on April 10, 1996 minutes are approved after said change was done. *lak.*



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MARCH 20, 1996

Planning Board meeting held at the Essex Elementary School on Story Street.

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of March 6, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Sue Cain and AT&T re: Installation of Communications at Fire Tower |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MARCH 20, 1996

Meeting was held at the Essex Elementary School on Story Street, and was opened at approximately 7:08p.m.

Attendees: P.Dunn, Chairperson, G. Stavros, D.Jones, G.Guerin, and S. Pennoyer

Discussion: P.Dunn read the notice from the BOH regarding a request that Planning Board be present for an April 2, 1996 meeting. Discussion will be about the proposed Board of Health Drainage and Erosion Control Regulations. Both P. Dunn and G. Stavros will be present at the meeting, held at the Essex Elementary School at 8:00 p.m.

Minutes: G.Stavros wanted the March 6, 1996 minutes to reflect his opinion that the property of Chris Vente was more detrimental to the neighborhood based on the scale issue, adding: "also based on the proximity of the lot line". The change will be noted on the March 6, 1996 minutes.

MOTION: G.STAVROS MOVED TO APPROVE THE MINUTES OF MARCH 6, 1996 STAND AS CORRECTED. SECONDED BY D.JONES. IN FAVOR OF THE MOTION WERE P.DUNN, D.JONES, GIL GUERIN, G.STAVROS. THE MOTION PASSED.

(S.Pennoyer enters for the discussion below.)

Dick Carter: Re: Garcia Kimball, Maple Street. A building application for Planning Board will be held off until April 3, 1996 since the meeting this evening did not include several members that were privy to the situation regarding the lots and its history. Three lots were being combined as one, yet the plans dated 2/96 were only of a registered engineer, noting that the plans are contiguous. S. Pennoyer stated that the plans are to be signed by a civil engineer, and the plans should be registered with the town assessor's office. P. Dunn added that the water run off from this property is a big issue, and she questions why the Board of Health has signed this application, knowing the situation the Town is in with our septic systems.

Several abutters were present for the discussion: Jay and Lynn Havighurst of 10 Winthrop Str. Mr. Havighurst has a full history of the situation. He said that there were originally three separate parcels marked on the town assessors map in one property. He claims that G.Kimball wanted to erase the lot lines and combine them. She came before the board to get grandfather status. The three lots, the middle one being previously owned by Julia Mears, the other two lots being owned by her son. The parcels were held in common ownership, and therefore the middle lot should not have been granted grandfather status. According to the notes, he said that each individual parcel was given grandfather status. His argument is that she (Kimball) then went before the Health Board (for septic approval)and the town counsel, who said that she could build on the two separate lots, and keep them separated. Mr. Havighurst said that this latest action does not show on the map (that there is three separate parcels). He feels that she is going to build on parcel 1, put the septic on 2, and sell the middle lot, and come back, asking to put a septic on parcel 1, and extend the driveway.... The board assured Mr. Havighurst that this could not happen. There is no frontage for that proposal. The board will discuss whether the lots are legally contiguous, and the Kimball file will be available for viewing, as the discussion will continue at the April 3, 1996 meeting.

Richard Cairns of 35 Martin Street, also an abutter, is very concerned of the flow of water in this area, which has increased during the last few years. The ice build up from Winthrop to Maple is obvious, and the Easterly portion of his property has quite a bit of dampness and he felt that any additional building would adversely affect his yard. He was concerned also of the dispute of the title.

MOTION: S.PENNOYER MOVED TO TABLE THE APPLICATION FOR A BUILDING PERMIT FOR GARCIA A. KIMBALL, FOR LOT LOCATED AT MAPLE STREET, UNTIL OTHER MEMBERS OF THE BOARD ARE PRESENT WHO WERE INVOLVED IN THE INITIAL DISCUSSIONS REGARDING THE BUILDABILITY OF THE LOT.

SECONDED BY G.GUERIN. IN FAVOR OF THE MOTION WERE, G.STAVROS, G.GUERIN, S.PENNOYER, P.DUNN, AND D. JONES. THE MOTION PASSED.

Dick Carter: Ted and Linda Cook of 195 John Wise Avenue, Map 22, Lot 2B, lot size 1.02 acres, to add a 12ft x 30ft screen porch and 10ft x 26ft deck along back of house, replace power vent on boiler with a 16ft x 16ft chimney.

The board found that there was a 30ft set back, making a nonconforming property, not pre-existing. The board cannot create a nonconforming property.

MOTION: S.PENNOYER MOVED TO DENY THE APPLICATION FOR TED AND LINDA COOK OF 195 JOHN WISE AVENUE, TO ADD A DECK AND PORCH TO THE BACK OF THE SINGLE FAMILY RESIDENCE, GIVEN THAT IT WOULD CREATE A NONCONFORMING CONDITION THAT IS NOT IN EXISTENCE AT THIS TIME. SECONDED BY G.STAVROS. ALL IN FAVOR OF THE MOTION: S.PENNOYER, G.GUERIN, G.STAVROS, D.JONES. P.DUNN VOTED PRESENT AND THE MOTION PASSED.

Sue Cain and Dianne Polley of Cain and Polley were present with two representatives of AT&T, Mr. Peter Jeffrey and Mr. Richard Berg. The discussion was to see if the town was willing to entertain the idea of placing a monopole next to the Fire Tower. This would begin the phases to determine access for a full range of wireless services to communities around the Rtes. 128, 495, 95, 3, 90, 95S, and poss. Providence. The initial phase would be for Rte.128 and signals would travel in our town. The services would include wireless voice/PCS, narrowband PCS/2-way messaging, messaging/paging, aviation communications, wireless data, wireless voice/cellular (see AT&T file located at the town for detailed information of services). The representatives would like to know who owns the road, the land around it. It is "Page 43, Off the Map". They want to build a mono pole and would pay the town a rental fee. S.Pennoyer felt that the issue around the fire tower was the access. The use may create a need to expand the road. The water tower is land owned by the town, but the visual impact would be an issue. The Coolidge Trust was an issue, particularly with Pat Dunn. She was firm about stating that "there would never be a shoveled turned...". S.Pennoyer pointed out that the area was "off the Map", and nobody really knows who owns the land there (Page 43). He felt that the water tower should be looked at. G.Stavros noted that other companies have come to the board for the same requests. He wants to see one site. Easy access, having the companies focusing in one area, and he does not want to see another company located at the fire tower, a quiet, unspoiled area. The representatives have looked into the water tower, and it was not an appropriate site for communications.

The AT&T representatives reiterated the fact that they were only present to investigate the possibilities, and to get the reaction from the board on their intentions, only. If a monopole was built, it would be an effort including all other companies, combining their applications to go on the same line. S.Pennoyer brought up the issue of Special Permits, and the Dept. of Env. Manag. power to override our requirements for a special permit, if the communications would be place on the tower.

Mr. Paul Pitman of Southern Avenue, an abutter of the fire tower. If there was a plan to put a bldg. at the tower, would this override the regulations of the by-laws? The site is not conforming. S.Pennoyer repeated the fact that the DEM overrides the regulations. Mr. Pitman felt that if AT&T were allowed their structure to be built that this would set a precedence. He would not like to see any further equipment there. Aesthetics was an issue, also. Are there lights required there? He did not want to have lights shining into his property all hours at night.

In conclusion, AT&T left with the information discussed this evening, with no action taken.

Dick Carter for Danny Amero, 20 Grove Street, for an 8ft x 38ft dormer on a nonconforming property, not increasing the footprint. The plans would be approved contingent upon BOH approval.

S.PENNOYER MOVED TO APPROVE THE BUILDING APPLICATION FOR DANIEL AMERO, 20 GROVE ST., FOR CONSTRUCTION OF A SHED DORMER ON PROPERTY, BEING MADE UNDER 6-4.2. SEEING THAT IT IS NOT CHANGING ANY SETBACK FROM WHAT IS EXISTING, AND THAT IT IS NO MORE NON-CONFORMING. SUBJECT TO BOARD OF HEALTH APPROVAL. SECONDED BY G.GUERIN. IN FAVOR OF THE MOTION WERE, S.PENNOYER, G.GUERIN, D.JONES, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

P.Dunn: Re: Gloria Story gave the board a print out of guidelines for an applicant, following the granting of a variance by the Board of Appeals. No variance is effective until it is recorded with the Registry of Deeds. The board noted the guidelines, the letter will be filed accordingly.

MOTION: G.STAVROS MOVED TO RESCHEDULE THE PUBLIC HEARING OF APRIL 3, 1996, TO BE SCHEDULED FOR APRIL 10, 1996 AT 7:30 P.M., AT THE ESSEX ELEMENTARY SCHOOL. SECONDED BY G.GUERIN. IN FAVOR OF THE MOTION WAS G.STAVROS, P.DUNN, S.PENNOYER, D.JONES, G.GUERIN. THE MOTION PASSED.

The board will meet on Wednesday, April 3, 1996 at 7:00 p.m. at the Elementary School.
The board will meet on Wednesday, April 10, 1996 at 7:00 p.m., at the Elementary School, where a Public Hearing will be scheduled to be held at 7:30 p.m.
The board will meet on Wednesday, April 17, 1996 at 7:00 p.m., at the Scout House on Pickering Street.

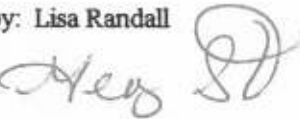
S.Pennoyer: Wants the change of 6-13.3 to read, "rendering impervious more than 15 percent." Taking out the 2,500 s.f. He wanted to bring up this change to the board at a future meeting. He felt that this would make the article consistent to the bylaws.

P.Dunn: Sue Lufkin gave Pat a copy of "Waterways", a periodical which explains a new procedure effective April 19 relating to permitting for small residential docks and piers adopted by the DEP. It explains the efforts to simplify procedures for small docks, piers, and other structures associated with residences. Board members were given a copy of the new procedure.

MOTION: G.STAVROS MOVED TO ADJOURN THE MEETING AT 9:30 P.M. SECONDED BY D.JONES. ALL MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

Presented by: Lisa Randall

Attested to:



Note: BOH meeting on April 2, 1996 at 8p.m.
P.B. meetings: 4/3/96, 4/10/96, 4/17/96 at Scout House.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MARCH 6, 1996

Meeting to be held at the Essex Elementary School on Story Street at 7:00 p.m.

- | | |
|-----------|---|
| 7:00 p.m. | Read Minutes of February 21, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Chris Vente - John Wise Avenue |
| 7:45 p.m. | Bruce Fortier - Discuss and Article 6 |
| 8:00 p.m. | Discussion: 1. Sect'y of State Correspondence of Public Documents
2. ANR re: Fees
3. Property of Garcia Kimball |

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, MARCH 6, 1996

Meeting was held at the Essex Elementary School on Story Street, and was opened at approximately 7:05pm.

Attendees: P.Dunn, Chairperson, W. Burnham, G. Stavros, Dave Jones, S.Pennoyer

MOTION: G.STAVROS MOVED TO APPROVE THE MINUTES AS PREPARED ON FEBRUARY 21, 1996. SECONDED BY DAVE JONES. ALL IN FAVOR WERE, G.STAVROS, D.JONES, P.DUNN. W.BURNHAM VOTED PRESENT THE MOTION CARRIED.

Dick Carter/Building Inspector: Roger Hardy for addition to create two-family home at Three Riverview Road, Essex. 59,00 s.f., Lot 14B, Map 41. Deed recorded prior to 1972, application subject to BOH approval.

P.Dunn had concerns to the contingency of the BOH approval. She felt that we should have BOH approval before approving the siting. W.Burnham noted that the site plan passed Title V for the transfer, and the BOH wants to upgrade for the new addition. A March 5, 1996 letter from Mr.Jacobi, Health Agent requires and upgrade of the existing septic system due to the change in use. The applicants were looking for a finding only.

MOTION: W.BURNHAM MOVED THAT THE BOARD ISSUE A LETTER TO ROGER AND EILEEN HARDY OF 3 RIVERVIEW ROAD, ESSEX, STATING THAT THE PLANNING BOARD FINDS THAT THE EXISTING DWELLING SHOWN ON PLAN DTD. 2/6/68 BY ESSEX SURVEY SERVICES WAS IN EXISTENCE PRIOR TO THE 1972 BY-LAW AMENDMENTS, AND THEREFORE IS GRANDFATHERED AS A SINGLE-FAMILY DWELLING. THE REQUIREMENTS FOR A TWO-FAMILY DWELLING FOOTPRINT BEING EXACTLY AS A SINGLE DWELLING WILL ALLOW SAID PROPOSED CONVERSION. BOARD FINDS THAT THE PROPOSED PLAN IS NOT MORE SUBSTANTIALLY DETRIMENTAL TO THE NEIGHBORHOOD UNDER SECTION 6-4.2. SECONDED BY G.STAVROS. VOTING IN FAVOR WERE, P.DUNN, W. BURNHAM, G.STAVROS AND DAVE JONES. THE MOTION PASSED.

Geoffrey Woodman: A replacement to the original mylar for the lot change of property on Main Street was signed by the board. The following motion was passed for the signing:

MOTION: W.BURNHAM MOVED THAT THE PLANNING BOARD APPROVE AN ANR PLAN FOR PLAN OF LAND LOCATED AT MAIN STREET, PREPARED FOR GEOFFREY WOODMAN BY SURVEY ASSOC. OF GLOUCESTER, MA. BASED ON BOARD OF APPEALS DECISION GRANTED FOR THE NECESSARY VARIANCE OF LOT SIZE, FRONTAGE, SIDELINES, ETC., AS SHOWN ON THIS PLAN. THIS IS A RE-SIGNING OF PLAN PREVIOUSLY APPROVED, ORIGINAL MYLAR HAVING BEEN LOST. THIS IS THE REPLACEMENT OF THE ORIGINAL. SECONDED BY G.STAVROS. IN FAVOR WERE, W.BURNHAM, P.DUNN, G.STAVROS, S.PENNOYER, D.JONES. THE MOTION CARRIED.

(S.Pennoyer appears for above voting of Motion.)

GATEWAY: The Planning Board inspected the file ascertaining that all of the necessary paperwork was completed and within the guidelines of the Sub. Control Law's procedures before signing the plans.

MOTION: W.BURNHAM MOVED TO APPROVE THE CLERK OF THE WORKS BEING HUGH L. GRAHAM, P.E. OF GRAHAM ASSOC., INC. OF TWO CENTRAL STREET, IPSWICH, MA, TO OVERSEE THE BUILDING AND CONSTRUCTION OF GATEWAY SUBDIVISION. SECONDED BY S.PENNOYER. IN FAVOR WERE, W.BURNHAM, P.DUNN, S.PENNOYER, D.JONES, AND G.STAVROS. THE MOTION PASSED.

The Bond for Gateway will be paid by PMC Realty Trust. PMC will give the schedule of the site to the contractor who will then work with the Clerk of the Works. The board will have scheduled updates of the Subdivision on a regular basis with the necessary parties involved.

MOTION: W.BURNHAM MOVED TO ENDORSE THE DEFINITIVE PLAN FOR GATEWAY, OF SEVEN LOTS SHOWING ROADS "A" AND "B", FINDING THAT ALL REQUIREMENTS OF THE DECISION OF NOVEMBER 8, 1995 HAVE BEEN MET. THE PERFORMANCE GUARANTEE IS IN PLACE, CLERK OF THE WORKS HAS BEEN IDENTIFIED AS HUGH L. GRAHAM, P.E. OF GRAHAM ASSOC., INC., AND TWENTY-DAY APPEAL PERIOD HAVING PASSED. SECONDED BY S.PENNOYER. IN FAVOR OF THE MOTION: P.DUNN, W.BURNHAM, S.PENNOYER, D.JONES AND G.STAVROS. THE MOTION PASSED.

Kim Hurley of 19 Milk Street came to the board with her plans to start a home occupation/hair salon. She will have two chairs for hair service and has the parking for her customers. She was advised to review the home occupation by-laws, and notify the Board of Health of her plans.

Chris and Brigid Vente of John Wise Ave. (see minutes of Feb. 21, 1996) returned to the board with the building permit application, a letter from abutters and the septic system plans. BOH approved. They want to replace sheds with a barn and move salvageable portions uphill to conforming location. Dimensions are 38.5x30x23, plus attached 17x12x11'ht., proposed use to be storage, woodworking shop, garage, and proposed home occupation. The question the board wrangled with: Was the proposed building more substantially detrimental to the neighborhood. New bldg. would not be closer to lot line and is not creating more of a setback. S.Pennoyer noted that perhaps the Ventes change the plans and relocate the building, which the Vente's acknowledged but would not entertain. Pennoyer was concerned of the scale. P.Dunn felt that size was an issue and wanted the bldg. moved back. G.Stavros felt that it was more detrimental to the neighborhood, based on the scale issue. D.Jones was against the addition also.

MOTION: W.BURNHAM MOVED THAT THE BOARD APPROVE THE SITING FOR A BARN/SHED AS ACCESSORY BUILDING FOR CHRIS AND BRIGID VENITE OF 18 JOHN WISE AVENUE. PROPOSED STRUCTURE TO INVOLVE REMOVING EXISTING SHEDS, CONSTRUCTING A 38.5X30' BLDG., 23' FT. IN HGT., ON THE EXISTING LAND OF THE SIDE LINE TO ABUTTERS, FINDING THAT THE PROPOSED USE WILL NOT BE MORE SUBSTANTIALLY DETRIMENTAL THAN THE EXISTING USE. SECONDED BY S.PENNOYER. IN FAVOR WERE, W.BURNHAM, S.PENNOYER. AGAINST WAS P.DUNN, G.STAVROS, D.JONES. THE MOTION DID NOT PASS.

ADD: ALSO in Proximity of the lot line.

G. Stavros amendment and Stavros corrected at the March 20, 1996 mtg. See March 20, 1996 minutes.

Bruce Fortier of Southern Avenue has placed an Article on the Warrant for the Annual Town Meeting. The board will schedule a Public Hearing for April 3, 1996 at 7:30 p.m. It reads as follows: Article ___. To see if the Town will vote to amend Chapter 6 of the Town's Zoning By-laws by making the following change: Insert the following definition for SIGNS in the locations listed: SIGNS. Signs shall be allowed provided

that the total area of signage subject to 6-5.10 does not exceed 32 square feet, except in the case of internal illuminated signs which shall not exceed 20 square feet.

6-6.5 BUSINESS LAND USE.

d. SIGNS

6-6.7 INDUSTRIAL LAND USE, CLASS A

d. SIGNS

6-6.9 SPECIAL PERMITS

k.2 SIGNS

6-6.6 MOTEL AND HOTEL LAND USE

d. SIGNS

6-6.8 INDUSTRIAL LAND USE, CLASS B

e. SIGNS

W. Burnham presented two articles to be placed on the Warrant also:

1. Delete 6-13.3, a. 13. in its entirety. The current Article now reads: "Residential development which renders impervious more than 15 percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit;"

2. Change 6-13.3, b. 7 by deleting it in its entirety and substituting therefore the following: "Rendering impervious more than 15 percent of lot area or 2,500 square feet, which ever is greater, to be approved only a system for artificial recharge of stormwater that will not degrade ground water quality."

MOTION: S. PENNOYER MOVED TO PLACE ON THE WARRANT FOR THE 1996 TOWN MEETING THE TWO ARTICLES DISCUSSED, 6-13.3, a. 13, AND 6-13.3, b. 7. SECONDED BY D. JONES. ALL MEMBERS VOTED UNANIMOUSLY. THE MOTION PASSED.

MOTION: S. PENNOYER MOVED TO SCHEDULE A PUBLIC HEARING FOR WED., APRIL 3, 1996 AT 7:30 P.M. FOR DISCUSSION OF THE ABOVE THREE ARTICLES. SECONDED BY D. JONES. ALL MEMBERS VOTED UNANIMOUSLY. THE MOTION PASSED.

Garcia Kimball: The board reviewed a letter dtd. 3/1/96 for the BOH and P.B. concerning her property, and will be placed in the files at the Town.

The letter from the Public Records Analyst, was reviewed and filed. It included procedures regarding storing and destroying public records.

A letter was reviewed from the Comm. of Mass Dept. of Public Utilities. Nextell and AT&T have inquired about placing mobile telecommunications in Essex. The letter entailed details concerning exemptions from local zoning by-laws or ordinances: They are not exempt. Requests for providing air space in Essex requires a Public Hearing before the Town.

W. Burnham read a letter to be forwarded to the Board of Appeals on behalf of Liberty Research.

MOTION: W. BURNHAM MOVE THAT THE BOARD APPROVE THE LETTER OF THE PLANNING BOARD TO BE FORWARDED TO THE ESSEX ZONING BOARD OF APPEALS IN FAVOR OF A VARIANCE BEING SOUGHT BY THE LIBERTY RESEARCH CO., INC. SECONDED BY D. JONES. IN FAVOR OF THE MOTION WERE: W. BURNHAM, S. PENNOYER, D. JONES AND G. STAVROS. P. DUNN VOTED PRESENT. THE MOTION PASSED.

MOTION: D.JONES MOVED TO ADJOURN THE MEETING AT 10:00 P.M.
SECONDED BY G.STAVROS. ALL MEMBERS VOTED UNANIMOUSLY.
THE MOTION PASSED.

Presented by: *Lisa Randall*

Attested to: *Frances A. Dunn*

Note: Next meeting is scheduled for Wednesday, March 20 at 7:00p.m.



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

MEMORANDUM

TO: BOARD OF SELECTMEN
FROM: PLANNING BOARD
DATE: MARCH 8, 1996
SUBJECT: ARTICLES FOR WARRANT

Please place the following Articles on the Warrant of the 1996 Annual Town Meeting:

Article _____. To see if the Town will vote to amend Chapter 6-13 WATER RESOURCE PROTECTION DISTRICT, SECTION 6-13.3 a 13, by deleting it in its entirety.

Article _____. To see if the Town will vote to amend the Zoning By-law by deleting section 6-13 WATER RESOURCE PROTECTION DISTRICT, SECTION 6-13.3 b 7 in its entirety and substituting therefore the following:

6-6.13 b. 7 "Rendering impervious more than 15 percent of lot area or 2500 s.f., whichever is greater, to be approved only if using a system for artificial recharge of stormwater that will not degrade ground water quality."



ESSEX PLANNING BOARD

Essex, Massachusetts 01929

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 21, 1996

Meeting to be held at the Scout House on Pickering Street

- 7:00 P.M. Read minutes of February 7, 1996
- 7:15 P.M. Dick Carter/Building Inspector
- 7:30 P.M. Roger Hardy: Change of Use to Two-Family - *Cancelled*
- 7:45 P.M. David Pitman - Information on Division of Land, Re: accessing over Coolidge Trust
- 8:00 P.M. Chris Venti - Remove sheds, replace with barn
- 8:15 P.M. Allen Waller - Build Garage

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, FEBRUARY 21, 1996

The meeting was held at the Scout House, Pickering Street at approximately 7:06 P.M.

Attendees: P.Dunn, Chairperson, S.Pennoyer, G.Guerin, J.Ginn, D.Jones, G.Stavros

P.Dunn addressed the Home Occupation By-law, as Nicholas Zakas was under the impression that he had approval for the antique shop that he will have at his property (see approval of a residential home on 149 Western Ave. at the 2/7/96 meeting). Home occupation is approved only after the building has been approved. The board discussed the guidelines whereby the applicants should be informed that the board does not approve a home occupation at the time the building application is approved. It was clear, however, that Mr. Zakas did inform the board of his intentions, and was reminded also to refer to the bylaws regarding home occupation (see 6-6.2 and 6-6.3 of the Town of Essex Bylaws). It was also noted that the Motion to approve the building application did not approve any such home occupation for the purpose of selling antiques.

Dick Carter/Building Inspector: Two letters addressing Howie Lane's property on John Wise Avenue of the alleged trucking business/truck stop use at his residence was read by the board. Mr. Carter acknowledged the receipt of the correspondence and will address the matter.

MOTION: J.GINN MOVED TO ACCEPT THE FEBRUARY 7, 1996 MINUTES AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE, J.GINN, G.GUERIN, G.STAVROS, D.JONES. VOTING PRESENT WERE P.DUNN, S.PENNOYER. THE MOTION PASSED.

Dick Carter/Building Inspector: Re: Geoffrey Woodman presented the site plans for the residence on Main Street where the property was divided into three lots. Board signature of the plans could not take place, as the decision of the Appeals Board (the variance granted) was not with the plans. The applicant would endeavor to locate that decision and return later.

David Pitman: Re: Property on Southern Avenue. Mr. Pitman has approximately twenty acres with a road that accesses over the Coolidge Trust. He wants to divide the land in half, creating two properties. The land has no frontage. The board discussed in detail the intent of the Coolidge Trust, which was to preserve the quality of Southern Avenue. Subdividing the Pitman property would challenge the Trust. Both J.Ginn and S.Pennoyer felt that the intent of the Trust was to prevent and slow down the growth of that area, and Pennoyer assented to the preservation. J. Ginn felt that the interpretation of the Trust should be directed to the Board of Selectmen. They have the files and knowledge pertinent for interpretation. G.Guerin felt that Mr. Pitman's intentions should be referred to the Trustees. Dave Jones agreed, as did George Stavros. Stavros did not want to see more growth, and Pat Dunn felt that the Coolidge Trust was established for the health and enjoyment of the Essex residents.

In conclusion, the Board gave Mr. Pitman the recommendation to seek interpretation of the Trust, and meet with the Board of Appeals, and or the Board of Selectmen.

B.O.H. Recommendations: The proposed Rules and Regulations Pertaining to Onsite Drainage & Erosion Control given to the Planning Board, will be scheduled for a discussion only, during a Thursday, February 22, 1996 meeting to be held at the Scout House. The Public Hearing is still open, and the Board of Health will continue the open hearing until it is satisfied that all interested parties have given their input. Any interested board members will meet at 8:00 p.m., to give their opinions of the six-page proposed rules and regulations. (Please refer to the Board of Health for information regarding this proposal.)

Commonwealth of Massachusetts Executive Office for Administration & Finance - Survey of State Grants: The State director of Grant Administration has requested a status update of the grants that have not had activity for the past fiscal year. S.Pennoyer will forward information regarding this correspondence to the secretary, who will complete the forms and forward to the Town Accountant.

Note: Joe Ginn has excused himself from the board during the following issue of property at 18 John Wise Avenue, Mr. Ginn being an abutter of this proposed building permit.

Chris Vente: Building Permit for property at 18 John wise Avenue. Map 40, Lot 13, Lot Size, 24,271 square feet. Replace sheds with barn and move salvageable portions uphill to conforming location. 38'x30'x23', plus attached 17x12x11'h with one entry. Proposed use: Storage, woodworking shop, garage. Approved by BOH, Conservation, Wetlands. There is no frontage of the property. A nonconforming lot. Several pictures and tentative drawings were presented along with the application. Mr. Vente described the present sheds as rotted, aged and in poor condition. Some of the building was salvageable. The new design would continue to be an accessory bldg. with minimal use.

A lengthy discussion by the board and the Ventes ensued, as the impact of the abutters was an important issue. The proposed dimensions of the building was large, increasing the footprint, and the runoff of the building created an impact of the abutting property. S.Pennoyer explained that the board could not sign for a permit; there is no frontage, the entire lot is nonconforming. Joe Ginn, speaking for his family and as the abutter present, felt that the plan needed more work, particularly on the dimensions. It is a large building, and is not "totally against" the plan, but stressed the importance of wanting a qualification of the septic plan, a plan for the drainage-a cistern-leaching area. The Ventes will return at the next scheduled meeting (Mar.6) with their building permit application, satisfying the issues of the abutters, and the septic system plans. They were specific about wanting to provide all the necessary means to satisfy all concerned parties.

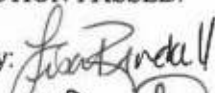
(Joe Ginn returns as a board member.)

Alan P.H. Waller: 140 Main Street, Essex, for Building Permit across from 101-103 Southern Avenue, Essex. Barn for storage. Parcel 2, Map 10, Lot 15, lot size of 28,000 sq.ft. Book 10930,Page538. Five entries, 50'x30'x28'h. The lot is pre-existing, no other buildings are on the lot, meets all of the setback requirements.

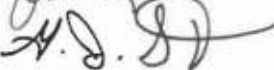
MOTION: JOE GINN MOVED TO ISSUE THE BUILDING PERMIT FOR ALAN P.H. WALLER, PROPERTY ACROSS FROM 101-103 SOUTHERN AVENUE, FOR A 30'X50' TWO-STORY WOOD FRAMED GARAGE/BARN/BUILDING FOR STORAGE. B.O.H., CONSERVATION COMM. HAVE APPROVED PERMIT. THE D.P.W. WILL HAVE TO APPROVE FOR CURB-CUT. BUILDING WILL NOT HAVE BATH, OR SEPTIC SYSTEM. SECONDED BY S.PENNOYER. IN FAVOR OF THE MOTION, S.PENNOYER, J.GINN, G.GUERIN, D.JONES, G.STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED.

MOTION: D.JONES MOVED TO ADJOURN THE MEETING AT 9:30 P.M. SECONDED BY G.STAVROS. ALL MEMBERS VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED.

Presented by:



Attested to:



Note: Next meeting to be held at the Essex Elementary School, March 6, 1996 at 7:00p.m.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 7, 1996

- 7:00 PM Read minutes of January 17, 1996
- 7:15 PM Dick Carter/Building Inspector
- 7:30 PM Debi Griffith/Plans for 6' addition at 43 County Road
- 7:45 PM John Guerin for Roger Hardy Re: Two-family home *Cancelled*
- 8:00 PM Diane Polley and Susan Cain/Discussion of ATT at Fire Tower *Cancelled*
on Southern Ave.
- 8:15 PM Barry Richards/Building permit on Belcher Street
- 8:30 PM Derrick Perkins/Liberty Research Re: Permit for addition
- 8:45 PM Charlie Burnham re: Filias' application of Ch. 91

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, FEBRUARY 7, 1996

The Essex Planning Board met at the Essex Elementary School, Story Street. Meeting opened at approximately 7:03 P.M.

Attendees: P.Dunn, Chairperson, G.Stavros, W.Burnham, D.Jones, G.Guerin and J.Ginn

MOTION: W.BURNHAM MOVED TO APPROVE THE JANUARY 17, 1996 MINUTES AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE P.DUNN, G.STAVROS, D.JONES, G.GUERIN, W.BURNHAM. THE MOTION PASSES.

(J.Ginn enters.)

P.Dunn distributed copies of the Commonwealth of Massachusetts State Ethics Commission Fact Sheet #6. The conflict of interest law prohibits public employees, including elected officials, from participation (by voting, discussing, delegating or otherwise acting) in any matter that affects their own financial interests, the financial interests of their immediate family members, etc. A full written copy can be obtained at the Town Clerk's office. The board read the fact sheet as a reminder for any future situations that may pertain to any one member of the board.

Another fact sheet distributed by P. Dunn was of the Subdivision Control Law, decision of planning board, Approval Not Required. A case law, re: sixty day appeal of ANR, because there is no public hearing, or notification, a judge granted a 60-day appeal period. Apparently, John Henderson of Southern Avenue is appealing the ANR of Warwick P. Henderson, dtd. 12/19/95. See January 17, 1996 minutes.

The recommendation of the Board of Health relating to Rules and Regulations Pertaining to Onsite Drainage and Erosion Control was discussed. There was a Public Hearing on Tuesday, Feb. 6, where the Planning Board was not available to make their own recommendations. Copies will be distributed among all board members for comments relating to this subject. The Board of Health has kept the Public Hearing opened for this purpose.

Ida Doane, Realtor for Sherman D. Jones, presented the mylar and prints of the One Lot Subdivision off Apple Street. The prints were signed by the board members, as the Town Clerk had certified that the twenty-day appeal period had gone by with no appeals.

Nicholas Zakas, building a nine room home at 149 Western Avenue, with a two-car garage and consisting of a home occupation (antiques), also. The building application was approved by the Board of Health, DPW, Wetlands, Conservation Commission. 95'x34', 25'hgt.

P.Dunn noted that the road leading up to the home should be upgraded. Bruce Fortier noted that the applicant was present for approval of the building permit, and not a driveway application. Joe Ginn noticed that there was about one foot, six inches short of frontage on the septic plan. The plan showed only lot 1, and not lot 2, which gave the additional measurement for the footage. The plan could not be approved without the appropriate frontage. The parties would return with the proper plot plan, and/or deed showing the 150 feet.

Barry and Sarah Richards: 39 Belcher Street, for building permit of three bedroom cape with 2-1/2 bath, and attached garage. 15'x30'x25'hgt. Approved by BOH, Conserv., Wetlands, DPW. Map 13, Lot 10D, size of 42,197.

A discussion of the opening of the property, (see November 15 minutes) Re: Whether or not Dennis Outwater should have been made to hold a public hearing regarding the opening of the stone wall located on the property of Belcher St., a "scenic way". Sally O'Maley was concerned of the outcome of the past meeting because there was no enforcement or public hearing of the opening. In fairness to others that had properly gone through the process, she felt that Mr. Outwater should be held accountable for the alleged opening. Joe Ginn stated that he would not be voting for this permit because he felt that a public hearing should have been held. G.Stavros noted that there was never a formal complaint brought to the board, the DPW could not substantiate the claims, and the planning board does not enforce alleged disputes.

MOTION: W.BURNHAM MOVED TO APPROVE THE BUILDING PERMIT OF THE SITING FOR BARRY AND SARAH RICHARDS OF 39 BELCHER STREET. SAID DIMENSIONS ARE 15' X30' X25', FINDING IT MEETS THE MINIMUM OF STANDARDS OF THE ESSEX ZONING BYLAWS. THE BOARD OF HEALTH, DPW., CONSERVATION COMM., WETLANDS, HAVE APPROVED THEIR PORTIONS OF THE PERMIT. SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION WERE, G.STAVROS, DAVE JONES, W.BURNHAM, G.GUERIN. P.DUNN VOTED PRESENT, J.GINN VOTED AGAINST. THE MOTION PASSED.

Note: During the below discussion and Motion, Joe Ginn has excused himself from the board, citing the State Ethics Comm. conflict of interest law.

Liberty Research: Derrick Perkins presented Mr. Rainer Koch, a registered architect, who explained a proposed site development plan for Seven Essex Park Road, Liberty Research building expansion. He distributed the site plan and a work sheet that described the definitions of Ch. 6-3.19, (Use: Industrial Use-Class A, Ch.6-4.2 (General Provisions) Existing Non-Conforming use, Non-conforming structure, and Non-conforming parking, Ch.6-6.7 (Land Use Regulations). Despite the facts that the existing building is approved existing, non-conforming, and the interpretations of Mr. Koch, (please see work sheet attached to the minutes), W. Burnham stated that the board would go with the Town Attorney's interpretation and would have to deny the building application. Mr. Perkins realized that a denial would be granted, but did want the support of the board during the Board of Appeals meeting. Mr. Perkins wanted to take the time to go through the process, despite the constraints upon his business. He noted that he has the approval of the DEPE and the Board of Health for the septic plan.

MOTION: W.BURNHAM MOVED TO DENY THE BUILDING APPLICATION FOR THE PROPOSED ADDITION FOR PERKINS REALTY TRUST, SEVEN ESSEX PARK ROAD. FINDING THAT PROPOSED ADDITION THE NONCONFORMING SIDELINE REQUIRED FROM THE EXISTING 40' TO A PROPOSED 20' IS IN VIOLATION OF CHAPTER 6-6.7 UNDER DIMENSIONS REQUIRED. ALSO FINDING THAT THE PLAN FAILS TO MEET THE REQUIRED PARKING, WHICH SHOULD EQUAL OR EXCEED 28 SPACES. PLAN SHOWS 22 SPACES ON LOT AND SIX SPACES ON THE SIDE OF THE DEAD END STREET, WHICH IS CONSIDERED ITS FRONTAGE. IT SHOULD BE NOTED THAT SPECIAL PERMIT HAS BEEN APPROVED UNDER CHAPTER 6-13 OF THE WATER RESOURCE PROTECTION DISTRICT FOR AN ADDITION OF UP TO 3,729 SQUARE FEET, PERMIT BEING APPROVED ON JANUARY 17, 1996. THIS DENIAL REFERENCES PLAN OF LIBERTY RESEARCH PARK BY HANCOCK ENG., DATED 8/3/94, REVISED NOV.7,1994, SECOND REVISION ON OCTOBER 23, 1995. SECONDED BY G.STAVROS. IN FAVOR WERE W.BURNHAM, G.GUERIN, D.JONES, G. STAVROS. VOTING PRESENT WAS J.GINN AND P.DUNN. THE MOTION PASSED.

Derrick Perkins requested that an opinion of the Planning Board, relating to the above, be presented to the Board of Appeals.

Charlie Burnham: Re: Filias Realty and the Chapter 91 Application signed by the Planning Board on April 19, 1995. Mr. Burnham has filed a petition to the DEPE, regarding the water quality of the river, and his opposition to the dredging proposed by Filias. Mr. Burnham questioned why there was no Special Permit granted. It was noted that prior to 1972, the float was there - there was a structure. Mr. Burnham felt that the existing use has been expanded. He wanted to know if there was permission from the board to expand the structure. The Chapter 91 license that was signed by the board also gave approval for the dredging, alleged Charlie Burnham. The board went back to the April 19 minutes, where a Motion was made whereby the board was only moving to sign the application, and not for the purpose of dredging, or expansion. Charlie Burnham's conclusion was that once a signature was placed upon the Chapter 91 application, it was difficult to appeal to the DEPE for concerns relating to this project. Enforcement of the proper use would have to go to the Building Inspector.

John Henderson of Southern Avenue came to the board to address concerns relating to the January 17 meeting where the motion to approve the ANR of Warwick P. Henderson for creation of lots 1,2, and 3 and parcel D. John Henderson disputed the facts of the plan, stating that his disapproval of the ANR did not want to lead him to go to Court. He wanted to be able to solve these issues with his family. He questioned why he was not notified of the plans of his family. W. Burnham and P. Dunn noted that they were not aware of what was being brought to the board, and the agenda was published in the Times. The minimum requirements were met, and the applicants can re-configure their lot lines, and only a Subdivision requires notification to the abutters. G. Guerin apologized on behalf of the board to Mr. Henderson, but the board had no process to deal with disputes between neighbors.

Nicholas Zakas: Returned with copies of a Quitclaim deed, describing Parcel 1, Parcel 2, showing description of the Lots. Lot 1 containing 40,021 sq. ft. Lot 2 containing 5,134 sq. ft. The copies of material gave the board authority to grant the following Motion:

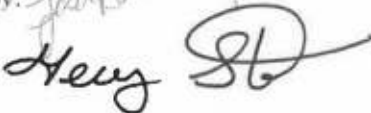
MOTION: W. BURNHAM MOVED TO APPROVE THE BUILDING APPLICATION FOR SINGLE FAMILY DWELLING WITH ATTACHED BARN FOR NICHOLAS ZAKAS, 149 WESTERN AVENUE, ESSEX, FINDING IT MEETS ALL THE MINIMUM REQUIREMENTS FOR RESIDENTIAL PROPERTY OF ESSEX. CONFIGURATION OF FRONTAGE WAS UNABLE TO BE DETERMINED ON THE PLOT PLAN GIVEN. SUBSEQUENT INFORMATION OF QUITCLAIM AND TITLE INSURANCE DOCUMENT VERIFIES TRANSFER FROM MARKHAM TO ZAKAS' LOT 2 WHICH SHOWS THE ADEQUATE FRONTAGE OF THE PLAN. SECONDED BY J. GINN. ALL IN FAVOR OF THE MOTION WERE: W. BURNHAM, G. GUERIN, D. JONES, J. GINN, G. STAVROS. P. DUNN VOTED PRESENT. THE MOTION PASSED.

MOTION: D. JONES MOVED TO ADJOURN THE MEETING AT 10:00 P.M. SECONDED BY G. STAVROS. ALL MEMBERS WERE IN FAVOR OF THE MOTION. THE MOTION PASSED.

Presented by:



Attested to:



Note: Meeting scheduled for February 21, 1996 at the Scout House, Pickering Street, Essex, at 7:00 P.M.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 17, 1996

- | | |
|-----------|---|
| 7:00 p.m. | Read and approve minutes of January 10, 1996 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Henderson - ANR - Southern Avenue |
| 7:45 p.m. | S.Pennoyer - 68 Grove Street - ANR |
| 8:00 p.m. | Public Hearing - Liberty Research re: Addition of Building
Water Res. Prot. District |
| 8:15 p.m. | Joe Lawless/NEXTELL Communications re: Locate antenna
for commercial use |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 17, 1995 1996

Attendees: P.Dunn, Chairperson, W.Burnham, J.Ginn, G.Guerin, S.Pennoyer, D.Jones, G.Stavros

The Planning Board opened the meeting at the Essex Elementary School, Story Street, at approximately 7:07 p.m.

MOTION: W.BURNHAM MOVED TO ACCEPT THE JANUARY 10, 1996 MINUTES AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR WERE, G.GUERIN, W.BURNHAM, D.JONES, G.STAVROS AND P.DUNN. THE MOTION PASSED.

(S.Pennoyer and J.Ginn arrive at 7:15)

Roger Hardy of Essex appeared before the Board with Attorney John Guerin to discuss plans relating to a home with a 40' easement from Dodge Street. The question was to whether or not the home could be sold as a two-family dwelling. The Lot, being Lot 16, is 1.3+ acres, (58,950 sq.ft.) Land Court shows an easement, the property has frontage on a way in existence, which is a private way. There is no change to the footprint. The board felt that if the property was going to be sold as a two-family, the Hardys would have to present the Board with a Building Application showing Board of Health approval. A 6.4-2 finding seemed likely, and the Board did not have a problem with the proposed use. The Hardys would return on February 7, 1996 with the necessary documents for the Boards' decision.

Note: Sheldon Pennoyer wanted it noted that he would not be voting on the following Form A applications, but he would be explaining the site plans for both parcels.

Sheldon Pennoyer - Form A, for Estate of Warwick Peter Henderson/W.Peter Henderson, Jr., Exec., Deeds of property recorded, W.P.Henderson/Book 7639, Page 492, Maynard/Book 6591, Page 248, M.Henderson/Book 6840, Page 387. Located at 182 Southern Avenue, Assessors Map 6 Lots 5,5B,5C. Lots shown have sufficient frontage and lot area as required by the Essex Zoning By-Laws, and signature sheet is attached to the Form A application. Sheldon explained the plan of land prepared by Donohoe and Parkhurst, Inc., was created to include the frontage needed for two lots. The plans show notes explaining the final lot configuration: Lot 2 + parcel C = 8.65 acres, Lot 1 + parcel A = 6.27 acres, and Lot 3 + parcel D + parcel E + parcel F = 6.34 acres. The site plan is available in the files for viewing the configurations.

MOTION: W.BURNHAM MOVED TO APPROVE THE FORM A APPLICATION FOR THE PLAN OF LAND LABELED AS THE ESTATE OF WARWICK P. HENDERSON DATED 12/19/95, FOR CREATION OF LOTS 1, 2, AND 3, AND PARCEL D FINDING THE NEW REQUIREMENTS OF FRONTAGE AND LOT AREA IN COMPLIANCE WITH THE TOWN OF ESSEX HAVE BEEN MET. PLAN HAVING BEEN SUBMITTED UNDER THE CO-APPLICANTS WALTER AND JANE MAYNARD, AND W.P. HENDERSON AND MICHAEL HENDERSON. SECONDED BY J. GINN. IN FAVOR OF THE MOTION WERE, W.BURNHAM, J.GINN, D.JONES, G.GUERIN, G. STAVROS. P.DUNN VOTED PRESENT. THE MOTION CARRIED

Sheldon Pennoyer - Form A for Paul G. and Cecily H. Pennoyer, property located at 68 Grove St., Lot contains legal frontage, area, and building setbacks. Book No. 5875, Page No. 751, Assessor's Map 11, Parcel 3.

MOTION: W.BURNHAM MOVED TO APPROVE THE ANR PLAN SHOWN ON THE PROPERTY OF PAUL G. PENNOYER AND CECILY H. PENNOYER DATED DECEMBER 28, 1995 FOR CREATION OF PARCEL A AND LOT 2, FINDING THEY MEET THE MINIMUM REQUIREMENTS OF 150' FRONTAGE AND LOT ACREAGE AS REQUIRED BY THE TOWN OF ESSEX. SECONDED BY JOE GINN. IN FAVOR

OF THE MOTION WERE, W.BURNHAM, P.DUNN, J.GINN, G.STAVROS,
D.JONES, G.GUERIN. THE MOTION PASSED.

8:00 P.M. - PUBLIC HEARING OF LIBERTY RESEARCH - SPECIAL PERMIT

The notice was read by G.Stavros. Joe Ginn wanted the record to show that he would not be voting on the Special Permit of Liberty Research, but would participate in the discussions.

Derrick Perkins introduced Mr. Wm. (Bill) Manuell of Hancock Environmental Consultants, a division of Hancock Survey Associates. He explained the State Plumbing codes for sizes of downspouts required for a given roof area. The given roof size of the addition of 3,729 sf, the plan showed three three(3) inch diameter downspouts. The water would travel over the grassed area (lawn), ending into the wetlands beyond the property.

J.Ginn brought up the Water Resource Protection District and the recharge systems used for the purpose of the laws. The existing run off housed a series of drains. The main run off point goes into the ground and goes to a rocky area that is underground. The addition would have three separate drains that would run surface-wise into the swale. Mr. Manuell explained that this method utilizes the natural features that are out there (the wetlands), it utilizes the overland travel through an established lawn area, which knocks velocity down further and promotes infiltration, and also retains any sediment.

The present coverage is about twelve percent total land area, or 19,200 sf. The addition, adding another 3,700 sf, comes out to fourteen percent total land area.

It was asked by the board of the parking spaces relative to the square footage - Mr. Perkins felt that he had plenty of parking space, and the addition was for machinery and a possible office only, adding that growth of the company was expected in the future, but not a large amount. The company manufactures turned products. The company does lathe work, fiber optics and coaxial work.

Pat Dunn brought up a concern by George French. He felt that there may be fifty gallon oil drums on or near the property. Derrick Perkins had no knowledge of any drums relating to Mr. French's concern. He uses drums for metal scrap only. No toxic waste. One 55 gal. drum is removed each month, it is waste oil.

MOTION: WESTLEY BURNHAM MOVED TO CLOSE THE PUBLIC HEARING AT 8:45 P.M. SECONDED BY GEORGE STAVROS. ALL MEMBERS VOTED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING. THE MOTION CARRIED.

MOTION: S.PENNOYER MOVED TO APPROVE THE SPECIAL PERMIT FOR THE EXPANSION OF THE LIBERTY RESEARCH COMPANY, EXPANSION OF 3,729 SQUARE FEET, FOR FACTORY LIGHT INDUSTRIAL USE, SEEING THAT ALL THE PROPOSED DRAINAGE AND RECHARGE SYSTEMS AS SHOWN ON THE SITE PLAN BY HANCOCK SURVEY ASSOCIATES, DATED AUGUST 3, 1994 AND REVISED OCTOBER 23, 1995, SEEING THAT IT MEETS THE INTENT OF THE REQUIREMENTS OF THE WATER RESOURCE PROTECTION DISTRICT BY-LAW. SECONDED BY G.STAVROS. IN FAVOR OF THE MOTION WERE, S.PENNOYER, G.GUERIN, D.JONES, G.STAVROS, W.BURNHAM, AND PAT DUNN. J.GINN VOTED PRESENT. THE MOTION CARRIED.

John Lawless - Nextell Communications, a commercial Mobil radio communications company. Basically, a unit that uses one connection to speak to many users. He would like to be able to locate his antennae on Southern Avenue's fire tower. Tonight's agenda was to ask for input from the board on his proposal to the Dept. of Environmental Management. The antennae would be hooked onto the fire tower, with a 100 watt per channel. There is also a 10x12ft space available for storage use. The antennae would not be increasing the height of the tower. The actual height of the antennae would stay below the window line of the fire

tower. The board went on to ask Mr. Lawless what benefits the town would incur if they agreed to the installation. Mr. Lawless could not give the board any direct benefits for the agreement. They have 110 sites around the country, incorporating all types of services - alpha numeric, a Motorola system, all built into one unit - paging, etc. The system is for subscribers only, and discounts or agreements with the Town could not be arranged. The board concluded by discussing the 6-5.3 by-law: The company would have to go through the special permit process for any type of new installation at the fire tower.

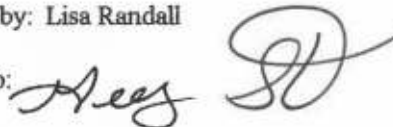
W. Burnham brought up a planning board issue relating to the Water Resource Protection District By-law. He would like the board to consider changing the sentencing, deleting portions of the article. No decisions were made, but the board agreed that perhaps sentence 13 would be deleted, and #7 would read, "Rendering impervious more than 15% of lot area or 2,500 square feet, whichever is greater, to be approved only if using a system for artificial recharge of storm water that will not degrade groundwater quality. (The addition that is being proposed is, "whichever is greater".)

S. Pennoyer has been examining the Cluster Zoning issue, and has five towns' zoning By-Laws for this, from the State of Maine. The examples are from towns that are similar to Essex's characteristics. There were no further discussions of planning issues, but the board would meet to examine any changes wanted, at a later date.

MOTION: S. PENNOYER MOVED TO ADJOURN THE MEETING AT 9:30 P.M.
SECONDED BY: D. JONES. ALL MEMBERS VOTED TO PASS THE MOTION
UNANIMOUSLY. THE MOTION PASSED.

Presented by: Lisa Randall

Attested to:


Next Mtg: FEB. 7th



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 10, 1996

- 7:00PM Approve minutes of December 6, 1995 and January 3, 1996
- 7:10PM Vote on extension of 1/10/96 of Sherman D. Jones
One Lot Subdivision (due to 1/3/96 inclement weather, cancelation
of Planning Board meeting)
- 7:15PM Sherman D. Jones - One Lot Subdivision off Apple Street
Decision
- 7:30PM Sheldon Pennoyer - ANR
68 Grove Street
- 8:00PM Daisy Nell - John Wise Avenue: CANCELED

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 10, 1996

The meeting was held at the Essex Elementary School in the Home Ec. Room, and opened at 7:08PM.

Attendees: W.Burnham, S.Pennoyer, Gil Guerin, D.Jones, G.Stavros, Joe Ginn, and Pat Dunn, Chairperson

The Minutes of December 6, 1995 and January 3, 1996 were examined and W.Burnham noted that the January 3rd minutes should reflect that the cancellation was agreed to by all of the board members, who were contacted by telephone by the chairperson. It was also agreed that all of the board members were contacted by telephone and agreed to the extension of the One Lot Subdivision off Apple Street.

MOTION: W.BURNHAM MOVED TO APPROVE THE JANUARY 3, 1996 MINUTES AS ADJUSTED. SECONDED BY S.PENNOYER. IN FAVOR WERE, W.BURNHAM, S.PENNOYER, G.GUERIN, D.JONES, G.STAVROS, J.GINN AND PAT DUNN. THE MOTION CARRIED.

MOTION: S. PENNOYER MOVED TO APPROVE THE DECEMBER 6, 1995 MINUTES, AS IS. SECONDED BY D.JONES. IN FAVOR OF THE MOTION WERE, P.DUNN, D.JONES, GIL GUERIN AND S.PENNOYER. VOTING PRESENT: G.STAVROS AND W.BURNHAM. THE MOTION CARRIED.

MOTION: W.BURNHAM MOVED TO APPROVE THE TIME EXTENSION FOR SHERMAN D. JONES, ONE LOT SUBDIVISION OFF APPLE STREET SUBMITTED BY MARK GLOVSKY, ATTORNEY FOR THE APPLICANTS SHERMAN D. JONES AND ELOISE W. HODGES. EXTENSION TO RUN UNTIL JANUARY 10, 1996, RELATIVE TO ONE LOT SUBDIVISION. SECONDED BY GIL GUERIN. ALL IN FAVOR OF APPROVING THE MOTION WERE: G.GUERIN, S.PENNOYER, J.GINN, W.BURNHAM, D.JONES AND PAT DUNN. G.STAVROS VOTED PRESENT. THE MOTION CARRIED.

The Board made their views known before the vote of the One Lot Subdivision off Apple Street.

W. Burnham: In favor of the approval with waivers of the regulations

S. Pennoyer: In favor of the approval, and separated this issue from any others

J.Ginn: In favor of the approval, and felt that the board has the privilege to grant restrictions

G.Guerin: In favor of the approval, felt that putting a home on the property would not be more detrimental but was concerned of other building in the area.

D.Jones: Will vote against it, as inexperience and the advice that town counsel gave for the board. Dave felt that if town counsel was against the plan, he should side with town counsel on this vote.

G.Stavros - Voting present, and had no opinion at this time.

P.Dunn: Voting against the Subdivision, and felt that this would set a precedent, and given the advice of Town Counsel, the plan did not constitute a subdivision of the land. An approval of this plan would create an inadequate and unsafe access. She felt that accepting the waivers, the Board is working completely against our Rules and Regulations.

Discussions continued where J.Ginn noted that this is for one house only, and seemed safer than other subdivision roads that were approved. W. Burnham noted that the Regulations are to set a minimum standard for larger areas of land.

Mark Glovsky then read the most recent decision from the Appeals Court. The Court approved a One Lot Subdivision, and this particular road access was safe; the plan shows detailed information of safe access.

The board read the draft of the findings, making changes and additions.

MOTION: I, WESTLEY BURNHAM, MOVE THAT THE BOARD APPROVE THE DEFINITIVE SUBDIVISION OF LAND OFF APPLE STREET IN ESSEX, MA, OF SHERMAN D. JONES AND ELOISE W. HODGES, FOR THE PLAN OF LAND LOCATED AT THE NORTHEASTERLY SIDE OF APPLE STREET AS SHOWN ON THE PLAN DATED JULY 26, 1995, BASED UPON THE FOLLOWING FINDINGS:

1. The proposed roadway will be safe and convenient for travel for the proposed single house lot (Lot 1). Constructed with a minimum of 12" of gravel and adequate maneuvering room for emergency vehicles.
2. In view of the location and length of the proposed dead-end roadway (approximately 900 feet) and the location of wetlands, the roadway will not extend or be connected with other road systems; any previously established Rights of Way shall not be considered terminated in any way.
3. The proposed roadway is laid out between two ancient stone walls that connect the subject property to Apple Street, a "scenic way". Retention of the stone walls preserves the historic character and scenic beauty of the neighborhood in which the subject property is located.
4. Eloise Hodges, the Co-Applicant, is the owner of all property abutting both the Northwestern and Southeastern sides of the proposed roadway. In the event that she desires to subdivide her remaining property, the Board will require upgrading of the roadway based upon her proposed use.
5. The Applicant's plans have been previously approved by the Board of Health and by the Conservation Commission, ensuring that Lot 1 will be served by an adequate septic system, and that the subdivision can be made and the improvements completed without harmful effect to adjoining land.
6. Under the special circumstances relating to the subject property, it is in the public interest, and not inconsistent with the intent and purpose of the Subdivision Control Law, that waiver from strict compliance with the Subdivision Rules and Regulations, as requested in writing by the Applicants, be granted.

On the basis of the foregoing findings, the Board waives strict compliance with the Subdivision Rules and Regulations, as requested, and shall endorse the plan entitled "Definitive Subdivision of Land Off Apple Street in Essex, MA", prepared by Hancock Survey Associates, Inc., dated July 26, 1995, and submitted by Sherman D. Jones, Trustee of Apple Street Realty Trust, and Eloise W. Hodges, for property located on the Northeastern side of Apple Street, subject to the following conditions:

1. Lot 1, as shown on said Plan, shall not be hereafter subdivided.
2. Not more than one (single-family) residence shall be constructed on said Lot 1 (together with usual and customary outbuildings and structures for a single-family residence such as a barn, a garage, sheds, swimming pool, tennis court and the like) and all buildings, structures and improvements (other than access driveway) shall be located within the "Building Restriction" line shown on said Plan.
3. No tree greater than 4 inches in diameter shall be removed within 100 feet of salt marsh vegetation as shown on plan.
4. Except to the extent otherwise required or prohibited by applicable municipal or governmental authority:
 - a. All utilities serving the improvements on said Lot 1 shall be installed underground; and

b. The access driveway serving said Lot 1 shall not be paved and shall not exceed twelve feet in width throughout its length to Apple Street.

MOTION SECONDED BY SHELDON PENNOYER.

A ROLL CALL OF THE MOTION:

W. BURNHAM - IN FAVOR
S. PENNOYER - IN FAVOR
G. GUERIN - IN FAVOR
J. GINN - IN FAVOR
P. DUNN - AGAINST
D. JONES - AGAINST
G. STAVROS - PRESENT

BASED UPON A FOUR TO TWO VOTE, THE MOTION PASSES.

Pat Dunn noted that Joe Lawless may be coming in to the Board with plans for installing an antenna for a multitude of purposes. A date was not given.

The meeting was adjourned at 8:45PM.

Next scheduled meeting to be held on January 17, 1996 - a public hearing of Liberty Research will be heard at that time, also.

Presented by: Lisa Randall

Attested to: *Frances A. Dunn*



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 3, 1996

- 7:00 Read and approve minutes of December 6, 1995
- 7:15 Dick Carter/Building Inspector
- 7:30 Sherman D. Jones - One Lot Subdivision off Apple Street
- 8:00 S. Pennoyer: Henderson/ANR
S. Pennoyer: 68 Grove Street
- 8:15 Daisy Nell - John Wise Avenue: Change of Lot Line

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, JANUARY 3, 1996

Due to inclement weather this day, the January 3, 1996 meeting was canceled. A fax was received by Mark B. Glovsky, attorney for Sherman D. Jones. An extension for Wednesday, January 10, 1996 of the vote of the One Lot Subdivision was requested. The board would schedule a special meeting for January 10 at 7:00pm to vote on the decision of the above subdivision.

Note:

The decision to cancel the January 3, 1996 and the agreement to accept the extension of the One Lot Subdivision off Apple Street was per telephone conversation, in which Pat Dunn called all board members directly. The Town Clerk was notified to post the cancelation and to post the next scheduled meeting of January 10, 1996.

Presented by: Lisa Randall

Attested to:

Frances A. Dunn



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD

MEETING NOTICE FOR DECEMBER 22, 1997

On Monday, December 22, 1997 at 7:30 P.M.
there will be a meeting of the Planning Board
at the Essex Elementary and Middle School
located at Story Street.

Posted at Town Hall
on December 18, 1997.

*PMC Realty: Scott's way
Spec. Permit
Procedural Correction*

**ESSEX PLANNING BOARD MINUTES
MONDAY, DECEMBER 22, 1997
SPECIAL MEETING**

The Planning Board met at the Essex Elementary School for a meeting that started at approximately 7:30. Attendees were: Sheldon Pennoyer, Pat Dunn, David Jones, Brian Feener and Gil Guerin. Absent: Westley Burnham and Joe Ginn.

The Board opened the meeting with discussion of the procedures of a Special Permit Vote. This was in relation to the Approval for Special Permit for PMC Realty Trust at 1 Scot's Way, under Section 6-13.3.b.7 taken December 17, 1997 - 4 persons voting in favor, 1 abstention and 0 persons voting against. Gil requested a reconsideration of that vote. A two-thirds vote is required if the Board has more than five duly qualified members. The voting requirements apply to absolute Board membership as opposed to quorums present from time to time.

MOTION: I, GILBERT GUERIN, CLERK FOR THE PLANNING BOARD, AS ONE OF THE FOUR (4) BOARD MEMBERS VOTING IN FAVOR OF THE ABOVE REFERENCED SPECIAL PERMIT, HEREBY REQUEST A RECONSIDERATION OF THE IDENTICAL VOTE TAKEN ON DECEMBER 17, 1997. THIS MOTION TO RECONSIDER THE VOTE IS BASED ON THE FACT THAT I DID NOT FULLY UNDERSTAND THE PROPER VOTING PROCEDURE OF THE PLANNING BOARD ACTING AS THE SPECIAL PERMIT GRANTING AUTHORITY. SECOND: FRANCES A. DUNN. MEMBERS VOTING IN FAVOR OF THE MOTION WERE: SHELDON PENNOYER, GIL GUERIN, PAT DUNN, DAVID JONES, BRIAN FEENER. THE MOTION PASSES.

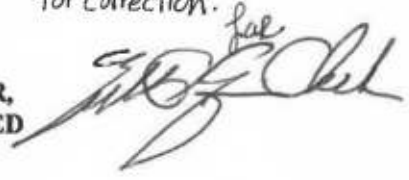
MOTION: GIL GUERIN VOTES TO APPROVE THE SPECIAL PERMIT APPLICATION OF PMC REALTY TRUST FOR A PERMIT UNDER SECTION 6.13 FOR ONE SCOT'S WAY IN ACCORDANCE WITH THE ATTACHED MOTION. SECONDED BY BRIAN FEENER. UPON ROLL CALL VOTE, ALL MEMBERS, SHELDON PENNOYER, GIL GUERIN, PAT DUNN, BRIAN FEENER AND DAVE JONES VOTED IN FAVOR OF THE MOTION. THE MOTION PASSES.

RICHARD CARTER/APPLE STREET: ^{Public Hearing} ~~SPECIAL PERMIT APPLICATION~~ UNDER "SCENIC WAY AND SHADE TREE ACT" - APPLE STREET. Dick Carter is applying for a ~~Special Permit~~ to cut trees on the premises of his Apple Street property.

Corrected

*** MOTION: SHELDON PENNOYER VOTES TO SCHEDULE A PUBLIC HEARING FOR WEDNESDAY, JANUARY 21, 1998 AT 8:00 P.M. FOR RICHARD AND PATRICIA CARTER, ET AL, OF 8 APPLE STREET, 8 REAR APPLE STREET, 10 APPLE STREET, UNDER THE ~~SPECIAL PERMIT~~ M.G.L. CHPT. 40, SEC. 15-C, AND CHAPTER 87, SEC. 3 (SHADE TREE ACT), APPLE STREET BEING A "SCENIC WAY". MR. CARTER IS PROPOSING TO CUT THREE TREES. SECONDED BY GIL GUERIN. ALL MEMBERS PRESENT, SHELDON PENNOYER, GIL GUERIN, PAT DUNN, DAVE JONES, AND BRIAN FEENER VOTED IN FAVOR OF THE MOTION. THE MOTION PASSES.**

** See Jan. 7, 1998 minutes for correction.*



MOTION: SHELDON PENNOYER MOVES TO AMEND THE NOVEMBER 19, 1997 MINUTES TO ADD IN A DOCUMENT OF NOTES OF THE DEFINITIVE SUBDIVISION, TURTLEBACK ROAD EXTENSION, WHICH IS A SUMMARY OF THE DISCUSSION OF THE *COMPREHENSIVE*

Page Two of the December 22, 1997 Minutes, Continued.....

TECHNICAL REVIEW REPORT NO. 1, ADDRESSED IN RELATION TO THE INDIVIDUAL PLAN SHEED REVIEW AND COMMENTS. THE NOTES WILL BE ATTACHED HERETO AND WITH THE NOVEMBER 19, 1997 MINUTES APPROVED AT THE DECEMBER 17, 1997 MEETING. SECONDED BY PAT DUNN. IN FAVOR OF THE AMENDMENT TO ADD THE NOTES: SHELDON PENNOYER, PAT DUNN, GIL GUERIN, DAVE JONES, BRIAN FEENER. THE MOTION PASSES.

There being no further business, the meeting was adjourned at 8:30 p.m.

MOTION: PAT DUNN MOVES TO ADJOURN THE MEETING. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO ADJOURN THE MEETING AT 8:30P.M. MOTION PASSES.

Presented by: Lisa A. Randall

Attested to:


See Attachment Hereto: Approval of Special Permit.

December 22, 1997

The Essex Planning Board acting as the Special Permit Granting Authority hereby approves the application for a Special Permit submitted by PMC Realty Trust, 239 Western Ave. Essex, Ma.

This Special Permit is being approved based in part on the following:

The proposed construction of a commercial building to be located on Lot 1 of Scot's Way. The accompanying plan prepared by Atlantic Engineering, dated 6/6/97 - revised on 8/22/97, appears to meet the intent of Town of Essex bylaw 6-13.3.b.7 in that the plan submitted will artificially recharge storm water runoff in such a way that will not degrade the surrounding groundwater.

The following conditions shall apply:

1. In accordance with Town of Essex bylaw 6-13.3.b.1 any building constructed or use proposed shall not exceed an estimated on site sewage disposal flow of 360 gallons per day.
2. The total impervious coverage attributed to buildings, including main and all accessory buildings shall not exceed 6000 square feet.
3. The total impervious coverage authorized for the remainder of the lot is 8580 square feet. This total includes all parking areas, walkways, culverts, etc. "Any material on the ground that does not allow surface water to penetrate." (ref. Essex bylaws definition 6-3.18).
4. No below grade loading docks will be permitted.
5. In accordance with the written statement submitted by Paul Shea Jr. P.C. on your behalf, The property shall be used only for the following uses:
 - Light manufacturing.
 - Office space.
 - Research and development.
 - Storage / Warehouse.
6. In no event shall the property be used for the storage of any septic handling trucks or equipment or for the storage of any hazardous waste. Nor shall it be used for any use which has the potential of introducing noxious, hazardous, or unpleasant odors into the atmosphere.
7. The applicant shall produce a statement of approval from the Essex Conservation Commission stating their approval, and any conditions or restrictions which they require prior to this Special Permit becoming in full effect. Any additional conditions or restrictions shall be added to this permit as an addendum and filed with the Registry of Deeds accordingly.

Page Four of the December 22, 1997 Minutes, Continued....

8. An as-built plan is to be filed with the Board showing all impervious coverage. This plan to be in the Board's possession prior to occupancy by any tenants or transfer of title for this property.

Our finding is based on the testimony received at the public hearing held on October 15, 1997 and our own determination that the site meets the minimum requirements for commercial development.

The site is located within the 'Water Resource Protection District' as defined in the Town of Essex bylaws, and therefore is subject to extra scrutiny with regard to potential impact on available groundwater supplies.

Approval of this proposal is not to be interpreted as certification of the engineering solution by the Essex Planning Board (acting as the Special Permit Granting Authority). Any liability for inadequate performance of the proposed groundwater recovery system shall remain with the property owner.

Approval of this plan does not constitute approval of any building siting, except that any building proposed to be built shall be located within the confines of the area delineated "proposed building". The proposed use and exact location of the building shall conform to the applicable bylaws of the Town of Essex. This determination shall be made at a later date and time.


This Special Permit is not in effect until the applicant has filed a certified copy of the decision with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. and shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

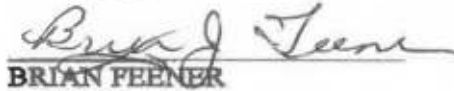
**AFFIRMATION OF RECONSIDERATION
OF ESSEX PLANNING BOARD**

The undersigned, being all of the members present at a meeting of the Essex Planning Board on December 17, 1997, all of whom voted in the affirmative to approve a Special Permit for PMC Realty Trust for land situate at 1 Scot's Way under section 6:3:3:b:7 of the Zoning By-law, there being no negative votes and one abstention, it being our understanding at the time we were properly voting an approval of said Special Permit, do hereby agree to reconsider the vote taken on December 17, 1997 for the purpose of casting a new vote on the Special Permit requested.


JOSEPH GINN, Abstaining Member
Sheldon Penoyer Chairman.
Present at Meeting


PATRICIA DUNN


GILBERT GUERIN


BRIAN FEENER


DAVID JONES

**DEFINITIVE SUBDIVISION - TURTLEBACK ROAD EXTENSION
A REFERENCE OF ITEMS REVIEWED AND DISCUSSED
AT THE NOVEMBER 19, 1997 PLANNING BOARD MEETING**

Below is a summary of the discussion of the Comprehensive Technical Review Report No. 1. EXCEPT FOR THE ITEMS DISCUSSED ON NOV. 19, 1997, PVW AGREED TO ACCOMPLISH ALL OTHER REVIEW COMMENTS.

The items listed below were addressed in relation to the *Individual Plan Sheet Review (attached hereto)* submitted by Peter VanWyck and Graham Associates, Inc. Section V., INDIVIDUAL PLAN SHEET REVIEW AND COMMENTS (attached hereto):

A. RE: Sheet 1 of 7

8. Turtleback Road will be the name of the Road.

B. RE: Sheet 2 of 7

1. The Title Block will indicate Map 9, Lot 11 and Turtleback Road.
8. Identify by note or Legend the depiction of ledge between Sta. 18+00± and 19+50± . (PVW: The 20 foot road will hug the north side of the easement. Ledge will be removed as needed.

C. RE: Sheet 3 of 7

1. Continuing (to a full loop) the proposed water line from Sta. 15+00± to 19+90± will be referred to the Dept. of Public Works.
2. Relocation of the following hydrants: Hydrant shown at 3+00 R. would be relocated to 3+50 L. Hydrant shown at 9+00 R. would remain as is. Hydrant shown at 14+00 R. would remain as is.
3. Additional fire hydrant at Sta. 18+00 Lt. - To be announced.
8. The June 3, 1988 Planning Board letter to Van Wyck required guardrail left side Sta. 5+75 to 7+25. A good quality wood beam type guardrail was requested by PVW.
9. Additional guardrails are warranted and recommended along the following roadway sidelines:
 - Sta. 4+0± to 5+75± Left
 - Sta. 12+75± to 14+50± Left
 - Sta. 17+25± to 17+60± Left
 - Sta. 18+00± to 19+50± Left
17. Sloped granite curbing is recommended but not agreed to along some portions of the roadway edges in accordance with PBR&R Section 7.02.6. Sloped granite curbing is recommended as follows:
 - From 10'± north of CB #1B to Sta. 9+0± Left
 - From Sta. 4+50± to 13+50± Right
 - From Sta. 14+00± to 17+00± Left
 - From Sta. 15+00± to 0+50± Right

However, it was agreed that stone swales will be detailed on the plans.

Technical Review Agent was concerned of the grade - water running lengthwise of road. Granite curbing, with catch basins. W.Burnham felt that the catch basins would not be maintained. PVW agreed to place adequate swales along the road.

20. The following comments pertain to the proposed 4-way intersection at Turtleback Road intersection: PVW will make a right loop, a stop sign, and then take out a side of the road. Three-way intersection - narrowed down "T" type intersection will be presented on the Plan. (Western side of loop will be abandoned)

28. Consideration should be given to the stone weir control structure location for DB3B. If relocated southerly, it will prevent short circuiting caused by overflow at the same relative point as the inflow: Flow of water with swale; it may short circuit; move overflow adjacent to wetlands. PVW agreed to do the above (28).

29. Catch basin needed will be replaced with drainage swales.

D. RE: Sheet 4 of 7

6. Showing the looped water line between 18+00± and 19+90±, previously recommended will be deferred to the Dept. of Public Works.

8. Showing the hydrant recommended at 18+00± Left will be deferred to the D.P.W.

E. RE: Sheet 5 of 7

15. PVW will show all drainage pipes in the profile.

16. The vertical curve alignments need to be revised to improve safe stopping sight distances. The Dept. of Public Works designs the menu on speed distances. The technical nature of this recommendation needed further assistance from Town Counsel, as a 9 percent grade was waived on the Plan, which may or may not be allowed to change as the Agreement for Judgement is in place:

At vertical curve at Sta. 8+63.07, increase curve length to 200' to increase the K value to 14.86

At vertical curve Sta. 11+30.12, decrease curve length to 100'± to allow a longer curve at Sta 12+80.

At vertical curve Sta. 12+80, increase curve length to 200' to increase the K value to 18.18.

Notes taken relative to above: Larry considers with same grades at everyone of these, "cuts and fills" will improve site distance - PVW "would be able to balance cut & fills"

F. RE: Sheet 6 of 7

The below recommended changes (by HLGAI) were deferred to Counsel as in *Item 16. Of Sheet 5 of 7.*

15. The vertical curve alignments need to be revised to improve safe stopping site distances Refer to the comments made above with respect to the Agreement (Sheet 5 of 7. =16.)

At vertical curve at Sta. 14+07.43, decrease length as necessary while maintaining K=15(min.) to increase length of sag curve at Sta. 12-80 and improve its K value.

At vertical curve Sta. 19+42.60, increase length as much as possible. Suggest

increasing to 136.54' by making PRVC at Sta. 18+60. This will result in a new and improved K value of 15.45.

G. RE: Sheet 7 of 7

3. c. Earth berm (detention basin) construction - sections and details in both cut and fill.
Comments: No crushed stone on BASE, natural retention. This was agreed to by PVW.
 - d. Sloped granite curb would be eliminated.
 - e. Granite curb pieces and granite curb transition pieces (sloped to vertical) would be eliminated.
 - f. Five (5) outlet control structure details must be shown.
 - k. Specify curb type frames and grades for catch basins in curb. (Specify 3-flange frames.) This will be eliminated.
5. On Catch Basin Detail:
 - a. Change sump depth from 24" to 30" per PBR&R 7.03.5: Larry Graham suggests this be kept as a recommendation to the Planning Board.
 - b. Specifying 3-flange frame at each catch basins to be used at curb line. All others to be 4-flange frames. This will be eliminated.
6. Drain Manhole details: OKAY.
7. On Drainage Trench Section: This will REMAIN:
 - a. 4" loam should be 6" loam and seed as per Rules and Regs.
 - b. Reference to 12" polyethylene pipe should be removed and replaced with 12" R.C.P. Class III(min).
 - c. The depth of cover has not been indicated. If less than 3' from finished grade specify Class IV (RCP) pipe.
10. On Retaining Wall Detail: PVW agreed to the recommendations. Note: RIP/RAP with Slope.
 - a. Label loam and seed
 - b. What is contractor to do if retaining wall height by field conditions requires wall over four feet in height?
 - c. Are the vertical #4's at 9" o.c. continuous out of footing or will they be overlapped and placed after the footing is in? Specify overlap dimensions, ties, etc.
 - d. footing should be poured on 6" crushed stone base.
 - e. Indicate positioning of the recommended guardrail on this detail
 - f. Why has the designer included the shear key? If not required eliminate same for ease of construction.

VI. STORMWATER MANAGEMENT REVIEW

See the attached Review (last page of *Comprehensive Technical Review Report No.1*)
The discussion on this matter was tabled by the Planning Board. No action was taken as the Department of Environmental Protection has a Superceding Order of Conditions against the applicant, Peter VanWyck.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD

AGENDA

WEDNESDAY, DECEMBER 17, 1997

7:00 P.M.	Minutes of December 3, 1997
7:15 P.M.	Building Inspector/Bob Nelson
7:30 P.M.	Cindy VanHammersvelt-Conomo Pt. Road Discussion of Deck - CANCELLED
7:45 P.M.	PVW-Turtleback Road
8:00 P.M.	PMC Realty Trust - Scot's Way, Special Permit

Next scheduled meeting is January 7, 1998

**ESSEX PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 17, 1997**

The meeting was held at the Essex Elementary and Middle School on Story Street and began at 7:15p.m.
Attendees: P.Dunn, J.Ginn, B.Feener, D.Jones, B.Feener and G.Guerin

MOTION: JOE GINN MOVES TO HAVE PAT DUNN SERVE AS ACTING CHAIRPERSON TO THE BOARD FOR THIS EVENING'S MEETING. SECONDED BY D.JONES. MEMBERS VOTING TO APPROVE THE MOTION WERE: D.JONES, J.GINN, B.FEENER AND P.DUNN. THE MOTION PASSES.

BUILDING INSPECTOR/BOB NELSON: Jay Havighurst of Winthrop Street came to the Board requesting an update of the Garcia Kimball (Scott Boches) Map 36, Lot 34, 34A, 34B, on Maple Street. Apparently, there is a bulldozer digging on the property. A house siting was approved for a single family dwelling of 24X36 on Lot 34 on June 18, 1997. Mr. Havighurst feels that the lot is not a legal, buildable lot. He brought documents from his attorney dated June 17, 1996. In response to the previous questions Mr. Havighurst had regarding the legality of the lot, the Board requested guidance from Town Counsel, Brian Cassidy which was given by letter on May 8, 1996. Attorney Cassidy noted that the three lots were held in common ownership in 1959 and 1975. Since Bob Nelson was new to the situation, he will be given all documents pertaining to the Lots. It was not clear whether or not a building permit was issued by Dick Carter. The matter will be addressed and Jay Havighurst will be apprised of the status of the Lot.

CYNTHIA CARCO VAN HAMERSVELT: The appointment was postponed by C. Van Hamersvelt siting the death of a family member. Bob Nelson was present to update the Board of the situation, as well as Selectman, Jack Schwartz. On October 18, 1997, the Selectmen, acting in their capacity of Conomo Point Commissioners, met at the Van Hamersvelt and Laurinda Durie leased properties on Conomo Point, referred to as lots numbers 116 and 117 on Assessor's Map #19. Based on aerial photographs setting the lot lines used for the definitive plan, the Board took measurements and established a distance of 6 feet 4 inches from the home of Cynthia Carco Van Hamersvelt and the remaining 12 feet and approximately 5 to 7 inches was assigned to the property leased by Laurinda Durie. Having established these bounds, the Commissioners determined that the structure built onto the Hamersvelt home was a deck and exceeded the property line by 18 to 20 inches. With this in mind, Selectman Folsom made a motion to establish the property lines as being 6 feet 4 inches from the home of Hamersvelt (Lot 116) with the remaining 12 feet and approximately 5 to 7 inches assigned to the Durie property (Lot 117). The matter was then referred to the Building Inspector. The "deck" is attached to the home. No building permit was given for the structure. Bob concluded that Ms. Van Hamersvelt be advised to detach the structure from the house, and cut back the size of the structure, and therefore the structure would then be considered a landscaping structure, as opposed to a permanent structure. Also, a portion of soil was removed from the Durie property. This would also necessitate replacement and any action related to repair the property to its previous state. Ms. Van Hamersvelt will be requested in writing, to attend the next Planning Board meeting, scheduled for January 7, 1998 at 7:15p.m. Laurinda Durie will also be notified of the date.

STORY STREET LIGHTING: Pat Dunn asked Jack Schwartz when the lighting would be in place at the Story Street exits of the School. He has taken care of the matter and assured her that the lighting would take place in the very near future.

MOTION: JOE GINN MOVES TO APPROVE THE DECEMBER 3, 1997 MINUTES AS WRITTEN. SECONDED BY DAVE JONES. VOTING TO APPROVE THE MINUTES: P.DUNN, D.JONES, B.FEENER AND JOE GINN. THE MOTION PASSES.

(Gil Guerin enters at 7:38p.m.)

Page Two of the December 17, 1997 Minutes, cont'd...

PETER VAN WYCK/TURTLEBACK ROAD: Peter came to update the Board regarding the paving that he had done of approximately 350 feet of the road. He stated that the gravel came from New Hampshire and would pass Massachusetts codes. He stated that attorneys from both sides have communicated and felt that this action was not problematic. It was noted that Larry Graham has not inspected the job site. The board reminded Peter that there has not been an Approved Plan of the road at this present state. Peter told the Board that a second coat of asphalt needed to be done on the road up to the two lots and that when the lots were sold, a covenant or cash, would be set aside for the final paving (of up to the two lots).

The action that took place with Larry Graham and Attorney Cole regarding Larry's review was brought to Peter's attention. The Board thought that the meeting of November 19, 1997 spelled out what was to be done. Peter wants to make a major change to the portion of road that goes beyond the lots 22,23. He has a Superceding Order of Conditions from the D.E.P. on the road. The road goes into the wetlands. In order to abide by the Order from D.E.P., he must change the plans of the Road. He wants to draw plans with dedicated easements to move the road out of the wetlands. The Board understood the dilemma, but also reminded Peter that he had been well aware of the situation of the Road for a very long time - A Plan must be brought to the Board with the Changes and then be Approved. As of now, the Board is bound by the Agreement of Judgement and cannot approve any changes - Joe Ginn and Gil Guerin reminded Peter that a review was given by the Technical Review Agent, discussed with Peter's Attorney Robert Cole, Larry, and the Board, and all parties went from the Nov. 19th meeting with the understanding of the discussions - And now Peter has come to the Board with his requests for more changes.

Joe Ginn noted that the Board was frustrated with the discussion and felt that Sheldon should talk to Brian Cassidy about the steps necessary to possibly end this continual barrage of requests from Peter, given the situation at hand. He questioned whether or not the Board would be held responsible for not taking action regarding Peter's refusal to cooperate with the Agreement. Since Peter has gone ahead and paved the road without an Approved Plan or the inspection by the "Clerk of the Works", Joe felt that Peter was in Contempt of the Agreement.

(Note: Joe Ginn Removes himself from the Discussion and Action of the Special Permit of Lot #1, Scot's Way.)

DECISION OF SPECIAL PERMIT APPLICATION OF PMC REALTY TRUST, LOT #1, SCOT'S WAY:

GIL GUERIN MOVES TO APPROVE THE SPECIAL PERMIT SUBMITTED BY PMC REALTY TRUST, 239 WESTERN AVENUE, ESSEX, MA, SITING THAT THE PROPOSED CONSTRUCTION OF A COMMERCIAL BUILD-TO BE LOCATED ON LOT #1 OF SCOT'S WAY. THE ACCOMPANYING PLAN PREPARED BY ATLANTIC ENGINEERING DATED 6/6/97 - REVISED ON 8/22/97, APPEARS TO MEET THE INTENT OF THE TOWN OF ESSEX BY-LAW 6-13.3(b).1, IN THAT THE PLAN SUBMITTED WILL ARTIFICIALLY RECHARGE STORM WATER RUNOFF IN SUCH A WAY THAT WILL NOT DEGRADE THE SURROUNDING GROUNDWATER.

The following conditions shall apply:

1. In accordance with Town of Essex bylaw 6-13.3.b.1 any building constructed or use proposed shall not exceed an estimated on site sewage disposal flow of 360 gallons per day.
2. The total impervious coverage attributed to buildings, including main and all accessory buildings shall not exceed 6000 square feet.
3. The total impervious coverage authorized for the remainder of the lot is 8580 square feet. This total includes all parking areas, walkways, culverts, etc. "Any material on the ground that does not allow surface water to penetrate." (ref. Essex bylaws definition 6-3.18).
4. No below grade loading docks will be permitted.
5. In accordance with the written statement submitted by Paul Shea Jr. P.C. on your behalf, The property shall be used only for the following uses:
 - Light manufacturing.
 - Office space.
 - Research and development.
 - Storage / Warehouse.
6. In no event shall the property be used for the storage of any septic handling trucks or equipment or for the storage of any hazardous waste. Nor shall it be used for any use which has the potential of introducing noxious, hazardous, or unpleasant odors into the atmosphere.
7. The applicant shall produce a statement of approval from the Essex Conservation Commission stating their approval, and any conditions or restrictions which they require prior to this Special Permit becoming in full effect. Any additional conditions or restrictions shall be added to this permit as an addendum and filed with the Registry of Deeds accordingly.
8. An as-built plan is to be filed with the Board showing all impervious coverage. This plan to be in the Board's possession prior to occupancy by any tenants or transfer of title for this property.

Our finding is based on the testimony received at the public hearing held on October 15, 1997 and our own determination that the site meets the minimum requirements for commercial development.

The site is located within the 'Water Resource Protection District' as defined in the Town of Essex bylaws, and therefore is subject to extra scrutiny with regard to potential impact on available groundwater supplies.

Approval of this proposal is not to be interpreted as certification of the engineering solution by the Essex Planning Board (acting as the Special Permit Granting Authority). Any liability for

inadequate performance of the proposed groundwater recovery system shall remain with the property owner.

Approval of this plan does not constitute approval of any building siting, except that any building proposed to be built shall be located within the confines of the area delineated "proposed building". The proposed use and exact location of the building shall conform to the applicable bylaws of the Town of Essex. This determination shall be made at a later date and time.

This Special Permit is not in effect until the applicant has filed a certified copy of the decision with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. and shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

MOTION SECONDED BY DAVE JONES.

ROLL CALL OF THE MOTION TO APPROVE THE SPECIAL PERMIT:

**GIL GUERIN - VOTES IN FAVOR OF THE ABOVE MOTION.
BRIAN FEENER - VOTES IN FAVOR OF THE ABOVE MOTION.
DAVE JONES - VOTES IN FAVOR OF THE ABOVE MOTION.
PAT DUNN - VOTES IN FAVOR OF THE ABOVE MOTION.**

THE MOTION TO APPROVE THE SPECIAL PERMIT PASSES.

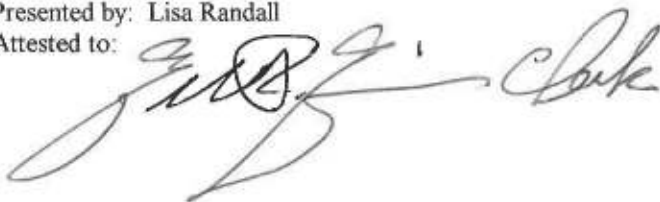
(Note: Joe Ginn returns to the table for the next discussion.)

Discussion: Joe Ginn reiterated his concerns about the Turtleback Road Subdivision. The Board would contact Sheldon and recommend that Atty. Cassidy be present at the next meeting scheduled for January 7th, in order to discuss the paving of the road and action relating to the release of the lot.

MOTION: DAVE JONES MOVES TO ADJOURN THE MEETING AT 8:30 P.M. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO APPROVE THE MOTION.

Presented by: Lisa Randall

Attested to:

A handwritten signature in black ink, appearing to be "Lisa Randall", written over the "Attested to:" line.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX - PLANNING BOARD

A G E N D A

WEDNESDAY, DECEMBER 3, 1997

7:00 P.M.	MINUTES OF 11/3 AND 11/19
7:15 P.M.	BUILDING INSPECTOR/BOB NELSON
7:30 P.M.	PMC REALTY - SCOT'S WAY DECISION
8:00 P.M.	PETER VANWYCK-TURTLEBACK ROAD
8:30 P.M.	OTHER PLANNING BOARD BUSINESS

**DWELLING. SECONDED BY W.BURNHAM. VOTING TO APPROVE
THE ABOVE MOTION AND ADDITION TO THE MOTION WERE:
P.DUNN, D.JONES, S.PENNOYER, W.BURNHAM AND JOE GINN.
BRIAN FEENER ABSTAINS FROM VOTING. THE MOTION PASSES.**

(Note: Brian Feener returns to the Board. Joe Ginn removes himself from the next discussion.)

**PMC REALTY TRUST/ LOT #1SCOT'S WAY: DISCUSSION OF SPECIAL PERMIT
DECISION.**

Westley Burnham gave the Board two copies of a Decision for the Special Permit. He noted that he felt that the Board must Deny the Application siting:

1. The Town of Essex By-Law 6-6.5a(6) for Business Land Use; requires a rear yard setback of 50 feet; the plan submitted indicates a setback of 20 feet at the southwest corner of the building.

Attorney Paul Shea represented John Coughlin regarding interpretation of the Essex Zoning By-Laws relating to the following:

"Normal" setback requirements in the Business Zone are defined in section 6.6.5 and are: Front-25 feet, Side-20 feet, and Rear-50 feet. However, section 6.3.26(b) Lot lines Rear states that "In case of a triangular or irregular lot (as this lot is) (the rear line is) a line 10 feet long within the lot, parallel to and farthest from the front line."

Section 6.3.25 also states that "For purposes of determining yard requirements or corner lots, all side of the lot adjacent to the streets shall be considered frontage and yards shall be provided as indicated under yards in this section." Since we have an "irregular" lot with frontage on two streets (sides), the only method of calculating the rear setback was to establish the 10' offset stated in section 6.3.26(b) as shown on the plan - in the northeasterly corner and resulting in a 76' rear yard setback.

The Board discussed the interpretation with Atty. Shea. Sheldon did not agree that this particular lot was and "irregular" one. Westley felt that the "spirit" of the Zoning ByLaw was to maintain adequate setback footage for neighbors. (See also Section 6-3.25, Frontage Definition)

Following discussion of how the calculations were made for the rear setback, Westley continued with another basis for denial:

2. The Town of Essex By-Law 6-5.8(j), Off Street Parking Requirements - For Office, Professional, and Public Buildings require one parking space for each 300 square feet of floor area, exclusive of cellar. The plan presented shows parking for 14. Six spaces short of the required 20.

Attorney Shea discussed the interpretation and presented to the Board that the Building did not include a cellar and cited the Zoning By-Law, Section 6.5.8(K) "Business, Manufacturing, and Industrial Buildings not catering to retail trade require one parking space for each 500 square feet of floor area or major part thereof $6000 \div 500 = 12$ spaces required. Atty. Shea notes that the application shows 14 spaces and one handicap space.

Page Three of the December 3, 1997 Minutes, Cont'd....

Westley repeated that the Decision would be based upon ALL of the options under the Parking Section, and questions were raised about the number of spaces that should be used. It was also noted that the Application was for the Water Protection District portion of the ByLaws, which was presented by the Engineers with the proper drainage calculations for the 6,000 s.f. building. Should the decisions for the Special Permit should be limited to the 6-6.13 Section of the By-Law was discussed in detail ,

Pat Dunn felt that the Board should table the matter - the 90 day period still gave time for more discussion, and Sheldon felt that Attorney Cassidy should answer questions that the Board had. It was decided that the discussion would continue for the next scheduled meeting on December 17th at 8:00p.m.

Note: Joe Ginn Returns to the Board.

HUNTER'S PLACE: MRS. HEATH came to the Board with the Covenant for the Road which states that the Heath's will not sell any lot in the subdivision or place any permanent building on any such lot until construction of ways and installation of municipal services serve adequately such lot has been completed in the specified application, and in accordance with the covenants, conditions, agreements, terms, and provisions thereof. Marilyn also stated that she is ready to send a check to the Town for the Technical Review Agent's work. She also asked if a binder coat could be placed so that the sale of the lots could take place. The Board agreed that another agreement could be in place to have the Road finished at a later date (or after winter). As long as money for the cost of the Road was placed in escrow. The Town Accountant will be notified to set up a revolving account for the Hunter's Place Subdivision.

PVW/TURTLEBACK ROAD: Peter came to the Board asking if he could have permission to use a gravel substance on the Road. The Board did not approve or disapprove use of the gravel - The Board reminded Peter that it was not their place to make decisions on what substances are to be used, and the Agreement firmly states that a Binder Coat is to be installed. The Board suggested Peter work with the Technical Review Agent, Larry Graham, and reiterated the point that the Agreement must be followed. At the last meeting it was noted what Larry, the Board and Peter's Attorney Robert Cole discussed about getting the Road finished. No action was taken by the Board.

**MOTION: DAVE JONES MOVES TO ADJOURN THE MEETING
AT 9:00 P.M. PAT DUNN SECONDS THE MOTION. ALL
MEMBERS VOTE IN FAVOR OF THE MOTION. THE
MOTION PASSES.**

Presented by: Lisa A. Randall

Attested to:

A handwritten signature in cursive script, appearing to read "J. G. Clerk", written over the printed text "Attested to:". The signature is written in dark ink and is somewhat stylized.

**PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 3, 1997**

The meeting was held at the Essex Elementary School and began at approximately 7:00p.m.
Attendees: S.Pennoyer, P.Dunn, D.Jones, B.Feener, J.Ginn and W.Burnham

MOTION: W.BURNHAM MOVES TO APPROVE THE NOVEMBER 19, 1997 MINUTES AS WRITTEN. SECONDED BY B.FEENER. IN FAVOR OF THE MOTION WERE: W.BURNHAM, P.DUNN, D.JONES, S.PENNOYER, AND B.FEENER. JOE GINN VOTES PRESENT. THE MOTION PASSES.

MOTION: W.BURNHAM MOVES TO APPROVE THE NOVEMBER 5, 1997 MINUTES AS AMENDED. SECONDED BY B.FEENER. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

(Note: Brian Feener removes himself from the next discussion.)

BUILDING INSPECTOR/BOB NELSON: RE: BRIAN AND NANCY FEENER OF 35 EASTERN AVENUE, Map 38, Lot 59, 1 acre, to construct a new one story ranch-type house with two bedrooms. The Feeners came to the Board with a Board of Appeals Approval for a variance of 4.6 feet on the sideline and 6.8 feet for the rear lot line, which is registered as of 11/13/97, with no appeals filed.

MOTION: JOE GINN MOVES TO APPROVE THE BUILDING PERMIT APPLICATION FOR BRIAN AND NANCY FEENER OF 35 EASTERN AVENUE TO CONSTRUCT A 25 X 50 TWO-BEDROOM HOME, FINDING UNDER 6-4.2 THAT IT IS NOT A CHANGE OF USE OF THE PROPERTY AS ITS PRESENT CONDITION HAS A HOME AND THE CONSTRUCTION IS NOT ADDING TO THE NON-CONFORMITY. THE BOARD OF APPEALS HAS GRANTED RELIEF FROM THE SIDE AND REAR SETBACKS AS OF OCTOBER 15, 1997, ALLOWING CONSTRUCTION OF THE NEW HOME. IT IS REQUIRED THAT ONCE THE NEW HOME IS GIVEN A CERTIFICATE OF OCCUPANCY, THE EXISTING DWELLING IS TO BE REMOVED WITHIN SIX MONTHS OF OCCUPANCY OF THE NEW DWELLING. NOTE: ALL OTHER TOWN BOARDS HAVE APPROVED THE APPLICATION. SECONDED BY W.BURNHAM.

Discussion: Sheldon notes: Does he have to remove the existing home? Can it be a future work shop? The Board agrees that the building could potentially remain if the plumbing is removed, and the applicant comes to the Board with a change of use.

JOE GINN MOVES TO ADD TO THE MOTION: IF THE EXISTING DWELLING WERE TO REMAIN, THE APPLICANT MUST APPLY FOR APPROVAL FOR ITS CHANGE OF USE. THE APPLICANT IS ALSO AWARE THAT APPROVAL MUST BE GIVEN BY THE BUILDING INSPECTOR FOR DEMOLITION OF THE EXISTING

PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 5, 1997

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7pm.

Attendees: Pat Dunn, W.Burnham, B.Feener, S.Pennoyer, Joe Ginn, Gil Guerin

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE OCTOBER 15, 1997 MINUTES AS WRITTEN. SECONDED BY PAT DUNN. MEMBERS VOTING TO APPROVE THE MOTION WERE: W.BURNHAM, P.DUNN, B.FEENER, S.PENNOYER AND JOE GINN. THE MOTION PASSES.

MOTION: JOE GINN MOVES TO APPROVE THE OCTOBER 21, 1997 MINUTES AS WRITTEN. SECONDED BY BRIAN FEENER. VOTING TO APPROVE THE MOTION: S.PENNOYER, B.FEENER, JOE GINN AND PAT DUNN. W. BURNHAM VOTES PRESENT. THE MOTION PASSES.

JOHN GUERIN, ATTY: Mr. Guerin came to the Board with Leonard Woodman and David Folsom regarding approximately 5.49 acres off Western Avenue. There is an apparent 1973 approved plan, but the gentlemen were proposing subdividing the property into two lots, leaving a back lot, which property appears to have an existing way before the subdivision regulation was installed. Joe Ginn noted that there was a road leading to the lots. Because the proposed plan was to be subdivided into three lots, the road would have to meet the standards of the subdivision control law. There were several avenues that were discussed; Appeals process, common driveway servicing two lots, and the process for a "paper subdivision". In conclusion, their questions were answered and no action was taken.

BOB NELSON/BUILDING INSPECTOR: JASON HEATH, LOT 4 WOOD DRIVE. For foundation siting only - Meets setbacks, 46,129 s.f. lot, 38x28, has adequate frontage on Wood Drive.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR A FOUNDATION ONLY FOR JASON HEATH, LOT 4, WOOD DRIVE. MEASURING 38X28, FINDING PROPOSED LOCATION AS SHOWN ON SITE PLAN DATED 9/22/97 BY JOHN JUDD ENGINEERS MEETS THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BY-LAWS. FURTHER STATING THAT THE PERMIT HAS BOARD OF HEALTH APPROVAL. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: P.DUNN,

B.FEENER, W.BURNHAM, J.GINN, S.PENNOYER. THE MOTION TO APPROVE THE PERMIT PASSES.

(Gil Guerin enters.)

RICHARD MITNIN: Apple Street, to demolish barn, rebuilding one foot smaller than existing foundation.

MOTION: W.BURNHAM MOVES TO APPROVE THE APPLICATION OF RICHARD MITNIN AND SUSANNE FREEMAN OF ONE APPLE STREET FOR REPLACEMENT OF EXISTING BARN, TO CONSTRUCT A GARAGE/STORAGE BARN. NEW CONSTRUCTION TAKING PLACE IS NOT BEING BUILT TO EXISTING FOOTPRINT, FINDING THAT UNDER 6.42 EXISTING NONCONFORMING USES, THAT THE PROPOSED CONSTRUCTION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. ADDING, THAT THE NEW GARAGE/STORAGE BARN HAS NO PLUMBING FACILITIES SHOWN ON THE APPLICATION AT THIS TIME. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: J.GINN, W.BURNHAM, S.PENNOYER, B.FEENER, GIL GUERIN AND PAT DUNN. THE MOTION PASSES.

PETER VAN WYCK: TURTLE BACK ROAD - DISCUSSION. Being present for counsel to PVW was Attorney Robert Cole, who is also an engineer by profession. Also present for the Planning Board was Town Attorney Brian Cassidy, and the Technical Review Agent, Larry Graham. Larry began the meeting by introducing a *Comprehensive Technical Review Report No. 1*. (See PVW File) The report is broken down into six separate sections, from the documents that were submitted for review: A set of seven(7) prints, and a multi-sheet of "Watershed Analysis and Stormwater Calculations. Since all parties of interest did not have a chance to review this correspondence in detail, Attorney Cole made several counterpoints to some of Larry's recommendations in the review. Technical discussion involving the waterline on Sheet 2 of 7 was discussed, regarding changes, horizontal and vertical dimension changes. The DPW has agreed by letter that the waterline up to the Lots 22,23 are acceptable. But, the plans show the road and waterline out of the right of way. (sheet 2 shows existing conditions) The Board would not accept the road or waterline out of the right of way. Discussion then ensued regarding Peter's request to have the two lots released. It was clear that the lots were not to be released until utilities within the right of way, and the road was completed up to the two lots with a binder coat, and a bond or equivalent financial collateral for the cost of the rest of the road was in place. Sheldon further noted "... that this review process, and an Agreement of what the final documents in the terms of any recommendations

made by Larry would be incorporated into a final agreement and agreed upon by both parties so that we're all reassured that not only the first phase of the road will be built, but the second phase will also be completed." Attorney Cole agreed, and noted that there was only one year left. Attorney Cassidy was not willing to alter the Agreement for Judgement.

In conclusion, it was decided that the review by Larry Graham would be further studied by the Planning Board and Attorney Cole, and a meeting was scheduled for November 19, at 8:30 p.m.

BEN WINSKOWICZ: Centennial Grove Road, came to the Board noting that a pie-shaped piece of Town Property is placed in a way that blocks Mr. Winskowicz's property from having frontage on Centennial Grove Road. He was asking what he could do to be able to access his property to have frontage. The Board recommended that Mr. Winskowicz hire an attorney who could then advise him of his choices to handle the situation.

PMC Realty Trust, re: Special Permit on Scot's Way: Westley noted that a decision would have to be made soon and wanted this placed on the November 19th agenda.

**MOTION: PAT DUNN MOVED TO ADJOURN THE MEETING
AT 10:00 P.M. BRIAN FEENER SECONDED THE MOTION
AND ALL MEMBERS VOTED TO APPROVE THE MOTION.**

Prepared by: Lisa A. M. Randall

Attested to:

A handwritten signature in cursive script, appearing to read "Lisa A. M. Randall", written over a horizontal line.

**PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 19, 1997**

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:00p.m.

Attendees: Brian Feener, W.Burnham, P.Dunn, Gil Guerin

Absent: S.Pennoyer, Joe Ginn, Dave Jones

WALTER RICH FOR THE BUILDING INSPECTOR: Mr. Rich represented Bob Nelson, who was unable to attend tonight's meeting. RE: BOTHWAYS FARM. He addressed the Board with a letter from Peter Fortune of Weston, Ma, who sent with the letter some rough plans to indicate their intentions of a business of growing bedding plants for sale to nurseries and landscapers. He proposes construction of three adjoining bays of greenhouses, each bay being 144' by 30', or 12,960 s.f. Additional small outbuildings for storage will also be constructed. They intend to deliver plants to retail nurseries and expect to have a storage area on the farm where retailers and landscapers can come to pick up materials in bulk. 69 Choate Street was another possible site.

The Board would need more detailed plans, but saw that this venture did not seem unrealistic. No action was taken. Mr. Rich would give Mr. Fortune Westley's phone number if he had other questions.

TECHNICAL REVIEW INVOICE: The Board members present signed the invoice of Larry Graham for services rendered. The amount of \$4,517.50 would be paid out of the Revolving Account held at the Town.

SCOT'S WAY SPECIAL PERMIT FOR PMC REALTY: W.Burnham has a draft of a decision for the Special Permit. Brian Feener had several questions about the building and the proposals for the decision. Even though some members were against the building at that particular site, it was within the legal rights of PMC Realty to ask for the Special Permit which related to drainage calculations. The Board did not move to vote on the Special Permit at this time. The Decision would be placed on the December 3, 1997 agenda for voting.

PVW/TURTLEBACK ROAD: Attorney Cole representing Peter, Larry Graham and the Board members went through the list of concerns/requests from Peter VanWyck. As Sheldon was not able to be present, he submitted nine items to be addressed by the Board. The items that were presented by Attorney Cole were explained in detail, much consultation ensued, and discussed. Decisions were made as to which of the two differences would be accepted.(See the file for cross-definitions) In conclusion, there were two changes that needed discussion with Attorney Cassidy, one had to do with the 9 and ½ grade as part of a waiver, and a change of vertical alignments. Changes could affect the Agreement for Judgement; these decisions would depend upon Atty. Cassidy's
Page Two of November 19, 1997 Minutes, cont'd...

advice to the Board. The other agreed upon revisions and changes (approximately 22) were noted by the Board, Atty. Cole and Larry Graham for documentation of future meetings.

JOHN HEATH, HUNTER'S PLACE: John was given a *Proposal for Engineering Services* by the Town's Technical Review Agent, Graham Associates, Inc. The total estimated fee was for \$1,395.00, which John Heath will forward to the Town for a Revolving Account to be held in escrow. Mr. Heath also delivered the copy of the definitive plan that was requested by the Board. A Performance Guarantee (deposit, bond, tripartite, lot, etc.) will be secured, as well.

MOTION: BRIAN FEENER MOVES TO ADJOURN THE MEETING AT 10:10 P.M. SECONDED BY GIL GUERIN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

Prepared by: Lisa A. M. Randall

Attested to:

A handwritten signature in black ink, appearing to read "Shelley K. J.", written over a horizontal line.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

BOARD OF BOARD REPRESENTATIVE BOARD

AGENDA

WEDNESDAY, NOVEMBER 5, 1997

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of October 20, 1997 |
| 7:15 p.m. | Building Inspector/Bob Nelson |
| 7:30 p.m. | Turtleback Road/Peter Van Wyck |
| 8:15 p.m. | John Guerin - Discussion of frontage for property at Western Avenue
Wedgewood Pharmacy/proposed Post Office |
| 8:45 p.m. | Ben Winskowicz/Centennial Grove Road
Request for lot change |



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex Massachusetts 01929-1219

TOWN OF ESSEX PLANNING BOARD

MEMORANDUM

Tues 21

SPECIAL WARE MEETING SCHEDULED TO BE HELD AT THE ESSEX ELEMENTARY SCHOOL ON STATE STREET ROOM 100A 10:00 AM

FOR INFORMATION ONLY
NO ACTION REQUIRED

POSTED THIS DAY
Monday, October 20, 1997

TOWN OF ESSEX PLANNING BOARD MINUTES

WORK SESSION

TURTLEBACK ROAD SUBDIVISION

TUESDAY, OCTOBER 21, 1997

The Planning Board met with Larry Graham of H.L. Graham Associates, Peter VanWyck, Frank Decosta at the Essex Elementary School on Story Street at 8:30 P.M.

Attendees of the Board: Sheldon Pennoyer, Joe Ginn, Gil Guerin, Pat Dunn and Dave Jones.

Absent: Brian Feener, Westley Burnham

TURTLEBACK ROAD SUBDIVISION - DISCUSSION OF THE ROAD

Sheldon discussed the advice from Town Counsel to follow the guidelines of the Agreement and the regulations of the Subdivision Rules. It was clear that the first portion of the road and the two lots would not be approved until a bond was released for the cost of the entire road. This being noted, Larry Graham explained that he did not have a final report documenting his recommendations and concern for the whole road, but did have comments this evening for the first portion of the road. He also stated that the road should not be considered as two portions - The whole road will be the focus of Larry's report.

Peter wanted to know if he could go ahead with the first portion of the road for the release of the lots. He then stated he would have the money for the bond for the second half. It was repeated several times during the meeting that Peter would have the professional review for the entire road, changes/recommendations would need to be in place, and the bond would be instituted for the entire cost of the road.

Larry explained in detail that the water line for the first portion of the road would need to be replaced and be within the Right of Way, following the Road to the proper depth. Peter understood that if he went with the recommendations of the Tech. Engineer, it was evident that the road up to the first two lots would be acceptable to the Board - Barring any problems that the DEP had, or the DPW. Both of these issues would be investigated at a later date with Larry Graham.

Larry addressed the seven page Plan noting several concerns with the Drainage Plans, the continuation of the water line toward Essex Reach Rd., additional hydrants, addition of gate valves, inline valves, 8" to 1" tenaco protected by easement, drain pipes - class III reinforced concrete pipes (would need a waiver for anything else), a need for guard rails, including the referral to a 1988 letter for the guard rails, concerns about rock-lined swails for the elimination of, and installation of granite curbing or bituminous berm, the driveway crossings were a concern and a recommendation that signing be installed, painting, that shows detailing, or an island at the intersection of TBRd. And Apple Str. This would be addressed in more detail. The Plans should also show the detailing of lots 25 and 26 and its future division - but for GRAPHICS ONLY, or reference only. This will be noted on the drawing. Catch basins were discussed, and also water shed patterns relating to curb cuts.

In conclusion, Larry indicated that he would have a written proposal of the requirements for the road and give this to the Board before the November 5 Planning Board Meeting. Peter understood that he was going to move the waterline to within the right of way of the plans - the plans would remain the same; the Board

Page Two of the October 21, 1997 Work Session, Cont'd...

would be given more details on the plans which would reference Patrowicz's Engineering detail sheet of drainage and elevations, the existing 8" line would continue with 8" fittings. Peter wanted to relocate the water line for what was out of the right of way only, and not the entire loop of turtle back road. Larry felt that the entire water line should be installed, and every one present understood that this is what would take place.

The meeting ended at 10p.m. Larry would continue to work with the DPW, and DEP and the Board. He would forward his finished report by Nov. 5th.

**MOTION: JOE GINN MOVES TO ADJOURN THE MEETING
AT 10P.M. SECONDED BY GIL GUERIN. THE MOTION
WAS APPROVED BY ALL MEMBERS PRESENT.**

Presented by: Lisa Randall

Attested to:

A handwritten signature in black ink, appearing to be "Steve B", written over the "Attested to:" label. The signature is stylized and extends to the right.

orig. 5



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD

A G E N D A

WEDNESDAY, OCTOBER 15, 1997

- 7:00 p.m. Minutes of October 1, 1997
- 7:10 p.m. Building Inspector/Report
- 7:20 p.m. Stan Collinson: Lot Change Only ✓
- 7:30 p.m. Peter VanWyck: Work Session
for Turtleback Road Subdivision
with Larry Graham, DPW, Board
- 8:00 p.m. PUBLIC HEARING: SCOT'S WAY
LOT 1
- 8:30 p.m. Christian Paylor: Byrnes Bros.
Discussion only of zoning

**TOWN OF ESSEX - PLANNING BOARD
MINUTES
WEDNESDAY, OCTOBER 15, 1997**

The meeting began at 7:10p.m. and was held at the Essex Elem. School on Story St.
Attendees: S.Pennoyer, Chairman, P.Dunn, D.Jones, B.Feener, J.Ginn, W.Burnham and Gil Guerin

MOTION: DAVE JONES MOVES TO APPROVE THE OCTOBER 1, 1997 MINUTES AS WRITTEN. SECONDED BY PAT DUNN. VOTING TO APPROVE THE MOTION WERE: P.DUNN, D.JONES, S.PENNOYER, B.FEENER. W.BURNHAM VOTES PRESENT. THE MOTION PASSES.
Note: Joe Ginn, Gil Guerin absent during the vote.

BUILDING INSPECTOR, BOB NELSON:

TOM AND MARK SHEA, of Shea Brothers, John Wise Avenue. A 30x40 building will replace the 28x40 bldg., adding two office spaces. Mr. Nelson asked the board several questions regarding decreasing the nonconformity of the present building with the new proposed structure - The Board recommended that the parking be check for adequacy of spaces, and that the new building be within the same footprint before issuing a building permit.

JASON HEATH: Came to Board asking for a building permit for a lot at Hunter's Circle Subdivision which has frontage on Wood Drive. The permit must be approved by the BOH, proving potable water on the property. The property can now access a well on an adjacent property, and Jason questioned whether this could be done to service the lot in question. Westley Burnham would look into the matter and get back to Jason Heath.

(Joe Ginn and Gil Guerin Enter.)

STAN COLLINSON: ANR - LOT CHANGE ONLY - 89 Choate Street, Change of lot lines for previous plan of land, Map 16, Parcel 9A, Cert.No. 54964. Formerly known as Lots 7&8, will now be Lots 10 and 11. Stanley will forward a copy of the final plans (LINEN COPY) to the Board for appropriate signatures. This plan was brought into the Board with the changes that would be drawn on the Linen copy, as this is registered land. The Board acknowledged this, and made the following motion:

MOTION: GIL GUERIN MOVES TO APPROVE THE ANR PLAN OF LAND FOR STANLEY E. COLLINSON, 111, TRUSTEE FOR COLLINSON REALTY TRUST, 89 CHOATE STREET, ESSEX, MA. ANR APPROVAL IS FOR A LOT LINE CHANGE ONLY, FORMERLY KNOWN AS LOTS 7 & 8, NEW CONFIGURATION OF LOTS 10 & 11, SHOWN ON LAND COURT PLAN 39176C, PREPARED BY STEPHEN T. LAMONICA ON OCT.8, 1997. EXISTING BARN WITHIN THE 20' SIDE YARD TO BE DEMOLISHED. THE PLAN MEETS THE MINIMUM REQUIREMENTS FOR AN ANR FOR THE TOWN OF ESSEX. SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION: S.PENNOYER, W.BURNHAM, P.DUNN, BRIAN FEENER, DAVE JONES AND GIL GUERIN. JOE GINN VOTES PRESENT ON THE MOTION. THE MOTION PASSES.

(Brian Feener leaves for another scheduled meeting - appeals board)

Page Two of the October 15, 1997 Minutes, cont'd...

PETER VANWYCK - TURTLEBACK ROAD: Sheldon addressed the public and board with the background of previous discussions - Peter wants the release of two lots so that he can come up with the money to build the road - He wants the road to be divided into two portions; the first portion that leads up to the two lots (22,23), and then use funds from the sale of the lots to build the rest of the road.

Peter VanWyck stated that the Agreement read in Paragraph 3, "Prior to the completion of the work set forth in Paragraph 2 (see Agreement), the parties agree that the PB will release two lots (22,23), provided that the utilities are installed and the road, with at least a binder coat, servicing Lots 22,23 is completed. An issue of a performance guarantee was brought to Peter's attention several times during the meeting. Westley Burnham noted that the first section of the road was not finished - if Peter put up a cash performance guarantee for the entire road, and treat the entire road as a single phase, there may be a way to get the first two lots released. The value of the entire road has not been established. Was Peter willing to get a cash bond on the entire road. Mr. VanWyck could not comply with the financial costs of this proposal. Westley also reminded that Peter was obligated by the Subdivision Rules and Regulations, to meet all criteria, before approval could be given on any work done.

Joe Ginn asked for the status of DEP and the drainage issues. Larry Graham will be working on the conditions as part of the process of the review of the road. Peter commented that he had a verbal approval of the plans from DEP. Also, the DPW would be submitting their recommendations to the Board.

The Board was uncomfortable with treating the road as two different sections. Sheldon suggested that Peter's engineer and Larry agree to get a cost for the whole road, and then perhaps a waiver of the two lots be given to release them, as long as a bond was in place for the entire road. Peter repeated that he could not come up with the finances for this proposal.

Sheldon noted that Larry Graham did not have a final report of the project, but he did note some items that would be addressed during a work meeting. By November 5th, Larry would have the time to complete his proposals and recommendations for the Board. A work meeting will be announced for a time next week, where all parties could meet for further discussion.

NOTE: A TENTATIVE DATE FOR WED.OCT.22,1997 FOR THE WORK MEETING WAS AGREED UPON.

(Brian Feener enters)

(Joe Ginn removes himself from the Board during this next discussion)

PUBLIC HEARING OF SCOT'S WAY, LOT #1 - (Note: This hearing was taped. Copies given upon request.) The Application is for the construction of a 6,000 s.f. building with required parking, drainage system and all associated grading. Location is at Lot#1, Scot's Way, off Western Avenue.

Attorney for PMC Realty Trust, Paul Shea, addressed the Board with a letter dated October 15, 1997, which gives an overview of the proposed use of the building to be constructed, and the Special Permit under the Water Resource Protection District. A "Notice of Intent" with the Conservation Commission for the project resulted in a "Negative Determination", where the Coughlins are appealing to the Mass. Dept. of Environmental Protection to obtain a superseding "Order of Conditions" from the DEP.

Due to this, a modified plan was submitted to address the concerns expressed by the Conserv. Comm. and the residents abutting the property. A meeting is scheduled for Oct. 21, 1997 with the Conserv. Comm.

The proposed plan this evening was explained with the following comments:

1. All loading docks on the proposed building have been eliminated.
2. The proposed building footprint has been reduced by approximately 900 s.f. or 13%.
3. The dumpster area has been eliminated from the site.
4. All paving has been eliminated from the northerly and westerly sides of the proposed building opposite the resource area.
5. The building location/layout has been moved southerly from 32' from the lot line to 47' from the lot line with a commensurate offset from the resource area.
6. An earthen berm has been proposed along all improved areas opposite the resource area without going throughout the detention system.
7. The original trapezoidal weir has been increased in size from 10' to 20' and a second trapezoidal weir/basin (8' by 5") has been added to the northerly side of the proposed building.
8. The majority of the existing grades on the northerly and westerly side of the proposed building have been retained.

Attorney Shea noted that there was much concern by the commission and the neighbors that the building was allegedly to be used as a septic transfer stations. The only consideration entertained by the owner had been the storage of septic handling trucks by the Woodman family. Therefore, in view of the concerns, the following special conditions were being made a part of any favorable site plan review and special permit from the Board as follows:

The property is only to be used for the following uses:

1. Light manufacturing.
2. Office space.
3. Research and development
4. Storage/warehouse* (excluding storage of any septic handling trucks, equipment or for the storage of any hazardous waste.)

After Atty. Shea's submission, Atlantic Engineering gave detailed information relating to drainage calculations, showing by a map displayed, the water flow area, and answered questions from the public relating to safety issues of the wetlands areas, detention/retention basins, and several questions regarding the Wetlands Protection District.

The public also had concerns about the use of the building, and what their rights were. Not only were they concerned about ground water, they were also concerned about emissions from the building, and its future use (i.e., light manufacturing, research and development, etc). What would happen if the building had a change in ownership/use. Who would "police" these changes, and protect the rights of the public.

The Board gave the public a chance to speak, ask questions, and gave answers relating to concerns of the Water Res. Prot. District and the future uses of the building, and how to regulate this use. It was also noted by a resident that the 100 year/floods, storms calculations are, in fact, not realistic since now there are studies showing the need for 500yr. protection guarantees of drainage/water flow systems. It was noted that the Boards could only require what was in place in the state/federal requirements, even if statistics prove otherwise.

An extensive discussion relative to the "process" of the Special Permit ensued, as well as the Water Resource Protection District relative to resident/business use and their differences. (Please note comments and questions on the tape.)

It was clear to both the Board and the Public that this Special Permit raises many more questions and comments from all other Boards would be necessary. The BOH issues were noted, as the Septic Plan would be addressed in relation to the size of the building vs. The septic plan in place at this time. The Conservation Comm. would respond to the Board with their October 21, 1997 recommendations.

The Board was confident that the issues at hand had been discussed, and voted to close the Public Hearing.

MOTION: GIL GUERIN MOVES TO CLOSE THE PUBLIC HEARING AT 9:10 P.M. SECONDED BY PAT DUNN. MEMBERS VOTING TO APPROVE THE MOTION WERE: PAT DUNN, SHELDON PENNOYER, WESTLEY BURNHAM, BRIAN FEENER, GIL GUERIN, DAVE JONES. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

CHRISTIAN PEYLA - BYRNES BROS. WESTERN AVENUE: Mr. Peyla came to the Board with his questions regarding and addition of a "sun room" and a new bathroom facility for his home occupation/dwelling. The Board recommended that he present a site plan showing the proposed work and apply to the building inspector. He would then be given steps for meeting with the other boards for this application.

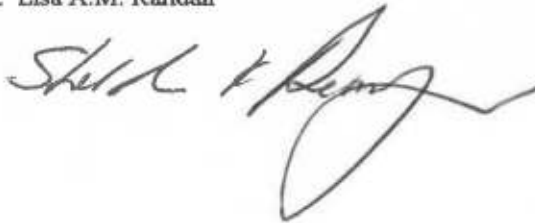
PAT DUNN: REQUEST FOR LIGHTING AT THE ENTRANCE OF THE ELEMENTARY AND MIDDLE SCHOOL ROADS. Pat Dunn got the Board's approval to have a request for the Selectmen to have the lights on for the front entrances of the road leading up to the school. A letter will be given to the Selectmen for this request.

JOHN HEATH - HUNTER'S PLACE SUBDIVISION - The Board will send Mr. Heath a letter requesting a copy of the approved definitive subdivision plan, as he stated he would. The Town Clerk has the plan on file, but the Planning Board did not receive a copy as yet.

MOTION: BRIAN FEENER MOVES TO CLOSE THE MEETING AT 10:00 P.M. SECONDED BY PAT DUNN. ALL MEMBERS VOTE TO APPROVE THE MOTION. THE MOTION PASSES.

Presented by: Lisa A.M. Randall

Attested to:



File-Town.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX - PLANNING BOARD AGENDA

WEDNESDAY, OCTOBER 1, 1997

- | | |
|-----------|---|
| 7:00 P.M. | Minutes of September 17, 1997 |
| 7:15 P.M. | Building Inspector |
| 7:30 P.M. | Marlene Hyde - ANR |
| 7:45 P.M. | Robie Dolan - Turtleback Extension, Discussion |
| 8:00 P.M. | Peter VanWyck - Revolving Account for Turtleback Road |
| 8:15 P.M. | Other Planning Board Business
Mail |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, OCTOBER 1, 1997**

The meeting was held at the Essex Elementary School on Story Street, and began at 7:15 p.m.
Attendees: Sheldon Pennoyer, Dave Jones, Brian Feener, Gil Guerin, Joe Ginn
Absent: Pat Dunn, Westley Burnham

BUILDING INSPECTOR: Bob Nelson came to the Board with several questions relating to issues in the Zoning By-Laws: criteria for set-backs, the 6-4.2 finding, accessory structures, etc. The Board answered his questions and it was also decided that Mr. Nelson will provide the Board with an update of each building permit granted by bringing in the "hard cards" for the Boards' benefit.

MARLENE HYDE: ANR - APPROVAL NOT REQUIRED. School Street/Southern Avenue. One piece of land will be shifted from one lot to another. Lot #2 on School Street = 19,589 s.f., Lot #1 on the corner of Southern Ave. = 17,776 s.f. Both lots were and will be nonconforming, this will be a change of the lot lines only; no additional buildable lots are being created.

MOTION: GIL GUERIN MOVES TO APPROVE THE ANR PLAN SUBMITTED BY MARLENE M. HYDE OF 10 SCHOOL STREET, DEED OF PROPERTY RECORDED AS BOOK 5602, PAGE 508 AND BOOK 9908, PAGE 145. THE PLAN DOES NOT CONSTITUTE A SUBDIVISION AS NO ADDITIONAL BUILDABLE LOTS ARE BEING CREATED. THIS PLAN SHOWS ONLY A LOT LINE CHANGE. LOT # 1 SHOWS 17,776 S.F., AND LOT #2 SHOWS 19,589 S.F., AS SHOWN ON PLAN OF LAND DATED SEPTEMBER 30, 1997 BY NORTH SHORE SURVEY CORPORATION, SALEM, MA. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: S. PENNOYER, JOE GINN, DAVE JONES, BRIAN FEENER AND GIL GUERIN. THE MOTION PASSES.

MOTION: JOE GINN MOVES TO APPROVE THE SEPTEMBER 17, 1997 MINUTES WITH THE ADDITION OF PARAGRAPH FOUR OF THE TURTLEBACK ROAD NOTATION, "SHELDON STATED HERE 'THAT THE SUBDIVISION ROAD AS REQUIRED BY THE AGREEMENT, WAS NOT IN PLACE AT THIS TIME.'" SECONDED BY DAVE JONES. ALL MEMBERS VOTED IN FAVOR OF THE APPROVAL WITH THE ADDITIONAL COMMENT. THE MOTION PASSES. (NOTE: THE ADDITION WILL BE LOCATED ON THE LAST PAGE OF THE 9/17/97 MINUTES.)

ROBIE DOLAN: TURTLEBACK ROAD EXTENSION DISCUSSION. Mr. Dolan came to the Board requesting the present status of the subdivision road and approximate completion date. He had previously provided a down payment for property at Lot 22 with the understanding and stipulation that there would be a subdivision road by August 15th. Specifically, he wanted to know when the Road would be finished, and was Lot 22 in the process of being released. Mr. VanWyck has built a home on the Lot, and it is believed that an occupancy permit for the dwelling has been granted. Sheldon explained that the building code requirements for the home did not coincide with the Town's Agreement with Peter VanWyck regarding the lot. They were two separate issues. Sheldon recanted the year of past discussions/actions and explained

Page Two of October 1, 1997 Minutes, Continued....

that the Lot in question (LOT 22) would not be released by the Town until the requirements of the Agreement were met. (see below discussion) Mr. Dolan left with his attorney; both were satisfied that their questions were answered.

PETER VANWYCK/TURTLEBACK ROAD SUBDIVISION: Mr. VanWyck came to the Board to inform them that the Revolving Account for the Review work of Larry Graham is in place at this time. Also, Larry has requested that the Engineer working on the project prior to SFC Engineer's revisions, provide him with some information relating to past work. This is supposedly in the process as well. Peter was asking the Board to consider the Bond be for the second half of the road and not include the first portion. Sheldon felt that the Bond was to be for the cost of the whole road, not just the second portion. The Board could not agree to this request, and felt that Town Counsel should be notified before any decision be given. Peter said that he would request this in writing to the Board, Sheldon would converse with Town Counsel and get back to Peter. Peter also requested that the Bond be granted by a "lending institution". This too would have to be requested in writing by Peter, which he agreed to do. In conclusion, Mr. VanWyck was aware of the requirements of the Agreement concerning the binder coat and noted that he would satisfy that requirement. A work meeting will be scheduled for October 15, 1997 at 7:30 p.m. with Larry Graham, the DPW, the Board.

HUNTER'S PLACE: The Planning Board dictated a letter to go to the applicants reminding them of the requirements of the Decision of July 16, 1997. Specifically, the approval of the final subdivision plans would occur only after a performance guarantee was in place, and a "clerk of the works" has been designated.

MAIL: Brian Feener's hearing for a variance will be on October 15, 1997. He will be at the public hearing of Scot's Way that evening also.

Stephen Woodman's variance was granted for an addition to a single family residence.

MOTION: DAVE JONES VOTED TO ADJOURN THE MEETING AT
9:15 P.M. SECONDED BY BRIAN FEENER. ALL MEMBERS
APPROVED THE MOTION TO ADJOURN. THE MOTION PASSES.

Presented by: Lisa Randall

Attested to:

A handwritten signature in cursive script, appearing to read "Lisa Randall, Clerk". The signature is written in dark ink and is positioned to the right of the "Attested to:" text.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street, Essex, Massachusetts 01929 - 1219

AGENDA

TOWN OF ESSEX PLANNING BOARD

WEDNESDAY, SEPTEMBER 17, 1997

- | | |
|-----------|--|
| 7:00 P.M. | Minutes of August 20, 1997 |
| 7:15 P.M. | Building Inspector/Building Applications <i>John Rajunas</i> |
| 7:30 P.M. | Marlene Hyde/ ANR - CANCELLED <i>- Jason Heath</i> |
| 7:35 P.M. | Request from Sheldon Pennoyer for nomination
for Open Space Committee |
| 7:45 P.M. | Gary Murch - Re: Discussion of Cross Island Estate |
| 8:00 P.M. | Public Hearing on Scot's Way, Lot #1
POSTPONED - new date to be set |
| 8:15 P.M. | Charlie Bachini: Follow up on Agreement
of Spring Street |
| 8:30 P.M. | Peter VanWyck: Discussion |

TOWN OF ESSEX - PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 17, 1997

The meeting was held at the Essex Elementary School and began at approximately 7:00p.m.
Attendees: S.Pennoyer, Chairman, Pat Dunn, Brian Feener, Joe Ginn, Dave Jones, Westley Burnham and Gil Guerin.

BUILDING INSPECTOR: Bob Nelson was introduced to the Board as the newly appointed Building Inspector. The Board also wished Dick Carter well; he has served as the Town's Building Inspector for more than ten years.

**MOTION: DAVE JONES MOVES TO APPROVE THE AUGUST 20, 1997
MINUTES AS WRITTEN. SECONDED BY BRIAN FEENER. VOTING
TO APPROVE THE MOTION WAS: DAVE JONES, BRIAN FEENER,
SHELDON PENNOYER. PAT DUNN VOTES PRESENT. THE MOTION
CARRIES.**

(Joe Ginn and Gil Guerin enter. Joe will not take part in the following discussion/action.)

JOHN RAJUNAS: Mr. Rajunas, of Landing Road came to the Board for a request to have his Building Permit changed from a single family to a two-family dwelling. The house was built and approved for a five bedroom dwelling and has the Board of Health approval for such. The Board was not clear whether Mr. Rajunas would have to go to the BOH to have this change approved. Bob Nelson suggested that Mr. Rajunas have the basement inspected for the proper Massachusetts Codes, and then have the paperwork document the final criteria as a two family dwelling.

TURTLEBACK ROAD - Bob Nelson wanted the Board to note that he had gone to the House on this property and felt that the road had reasonable access for emergency issues. No action was taken by the board at this time. ***Note: Please see additional comments from 10/01/97 meeting minutes pg. 3.

(MARLENE HYDE/ANR: CANCELLED)

HUNTER'S CIRCLE: Jason Heath came to the Board for signatures of the Final Plans for the Subdivision of Hunter's Circle, siting that there were no appeals outstanding. The Board signed the Plans; the Plans will be forwarded to the Town Clerk.

(Westley Burnham enters.)

OPEN SPACE COMMITTEE: Dave Jones nominates SHELDON PENNOYER as the appointed member of the Town's Open Space Committee. Seconded by Pat Dunn. All members voted in favor of the nomination.

SUBDIVISION RULES AND REGULATIONS: The Board agreed that the Secretary shall type the Subdivision Rules and Regulations with all recent updates, and have the information on disc for requests of copies.

8:00 HEARING OF SCOT'S WAY SPECIAL PERMIT IS POSTPONED FOR THIS EVENING:

SPECIAL PERMIT - SCOT'S WAY: John Coughlin of PMC Realty Trust has withdrawn his application for a special permit for the building at Scot's Way. He is requesting that the Board accept another Special Permit application for a 6,000 s.f. building in its place, and hold the hearing at a later date.

MOTION: SHELDON PENNOYER MOVES TO ACCEPT THE WITHDRAWAL OF THE SPECIAL PERMIT APPLICATION OF PMC REALTY THAT WAS TO BE HELD AT 8:00 P.M. THIS EVENING. FURTHER, THE BOARD WILL ACCEPT THE NEW APPLICATION FOR SPECIAL HEARING UNDER THE TOWN OF ESSEX BY-LAW, 6-13.7 OF THE WATER RESOURCE PROTECTION DISTRICT. THE NEW HEARING TO BE SCHEDULED FOR WEDNESDAY, OCTOBER 15, 1997 AT 8:00 P.M. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION: SHELDON PENNOYER, PAT DUNN, GIL GUERIN, BRIAN FEENER, WESTLEY BURNHAM, DAVE JONES. VOTING PRESENT: JOE GINN. THE MOTION PASSES.

GARY MURCH: Mr. Murch is a real estate appraiser and came to the Board with questions regarding the Cross Island Estate. The island has approximately 35 acres of upland. There are nine dwellings, one is a converted trailer. The seasonal "cottages" have electricity and are serviced by a rain water system. Mr. Murch asked the Board several questions regarding the future of this property and its allowable uses. It was discussed that if the number of dwellings remains the same (nine, in all), and if they were kept as dwellings of origination, this could be allowable under the Town's regulations. Since the access was a challenge during the year, a subdivision was not feasible. Board of Health issues would be a concern, as would the Rivers Act. In conclusion, Mr. Murch left with information that would help him determine the appraised value and use of the Island. No action was taken.

CHARLIE BACHINI: Came to the Board asking that the Board enforce an Agreement between homeowners off Spring Street, Charlie Bachini, A. Taliadoros, T. Prentiss, Town of Essex Planning Board. He was concerned that the issues regarding on-site drainage and other adequate safeguards, i.e. erosion control were not being met. There was also discussion that a pond may be receiving run off from the construction on Rear Spring Street. The Board felt that this was an issue between the two parties in this suit, and the Agreement was signed, which meant that the parties were culpable to each other in this matter. There were monies in escrow for planting of trees; this had not been done, and Mr. Bachini wanted the Board to handle the enforcement of the Agreement. The Board recommended that communications between the parties begin, and the Conservation Commission be made aware of any issues relating to drainage problems caused by any new construction in that area. Mr. Bachini will notify the Conservation Commission, and meet with the landscaper responsible for the planting of trees.

PETER VANWYCK, TURTLEBACK ROAD: Peter came to the Board to discuss the Estimates for the Technical/Planning Review only. It was understood that the Subdivision Inspection (Clerk of Works) would incur additional fees, subsequent to the Board's final action on the Definitive Plan. Mr. VanWyck accepted the Fee and would forward the amount requested to the Treasurer. The Town Accountant would then establish the revolving account. Sheldon requested also that a Bond be in place immediately, to be assured that the road will be completed. Peter acknowledged that he would be responsible for this request as soon as possible. Damon Boutchie of the DPW was present at the meeting and explained the water main situation at the subdivision. He requested that he be given a complete set of plans with the easements on the road before any work is to be done. He wanted an "as-built" plan of the road. Damon explained his points of frustration and the problems which have occurred - Wetlands were an issue, the DEP conditions, the road is out of the right-of-way, grading was a problem, and the road does not conform to the plan.

Page Three of the September 17, 1997 Minutes, continued....

In conclusion, Damon would receive a complete set of plans and give the Board his comments in writing, and a future work session including Larry Graham would take place when the revolving account has been established.

NOTE: THE PLANNING BOARD IS OFFICIALLY ON THE REGULAR MEETING SCHEDULE OF THE FIRST AND THIRD WEDNESDAY OF EACH MONTH.

MOTION: PAT DUNN MOVES TO AJOURN THE MEETING AT 9:15 P.M. SECONDED BY DAVE JONES. ALL MEMBERS APPROVED THE MOTION TO CLOSE.

Presented by: Lisa A. M. Randall

Attested to:

J. B. Jones Clerk

***NOTE: DURING THE OCTOBER 1, 1997 MEETING, SHELDON PENNOYER ADDED THAT HE HAD STATED "THAT THE SUBDIVISION ROAD AS REQUIRED BY THE AGREEMENT, WAS NOT IN PLACE AT THIS TIME".

Please see the October 1, 1997 Minutes for this approved Motion.

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ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, AUGUST 20, 1997

This meeting is scheduled to be held at the Council of Aging/Scout House on Pickering Street.

- | | |
|-----------|--|
| 7:00 P.M. | Minutes of 6/18/97,7/16/97 |
| 7:15 P.M. | Building Inspector:
Building Applications |
| 7:30 P.M. | Peter VanWyck: Turtleback Road
Subdivision |
| 8:00 P.M. | Jan Addison: Addressing Scot's Way,
Re: Special Permit for PMC Realty Trust |
| 8:15 P.M. | Cellular One Cell Tower Discussion |
| | Mail, and Other Business |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 20, 1997**

The meeting was held at the Council of Aging/Scout House on Pickering Street, and began at approximately 7:00p.m.

Attendees were: Sheldon Pennoyer, Chairman, Westley Burnham, Gil Guerin, Dave Jones, Joe Ginn, Brian Feener. Absent: Pat Dunn

Building Inspector's Report:

Ivan Muise - 137 Eastern Avenue, second story addition to relocate two bedrooms from first floor to second floor. Approved by BOH, Conserv. Comm., Wetlands. Map 39, Lot 37, 8,700 s.f. No increase in footprint.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR IVAN MUISE OF 137 EASTERN AVE., FOR THE SECOND LEVEL ADDITION FOR RELOCATION OF TWO BEDROOMS, FINDING APPROVAL FROM BOARD OF HEALTH, CONSERVATION COMMISSION, AND WETLANDS ARE NOT APPLICABLE, AND FINDING THAT THE PROPOSED CHANGES UNDER 6-4.2 BY-LAW WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. SECONDED BY DAVE JONES. IN FAVOR WERE: S.PENNOYER, GIL GUERIN, B.FEENER, DAVE JONES, JOE GINN, W.BURNHAM.

Minutes of June 18, 1997:

MOTION: SHELDON PENNOYER MOVES TO APPROVE THE JUNE 18, 1997 MINUTES AS WRITTEN. SECONDED BY GIL GUERIN. ALL IN FAVOR; THE MOTION PASSES.

Minutes of July 18, 1997:

MOTION: JOE GINN MOVES TO APPROVE THE JULY 18, 1997 MINUTES AS WRITTEN. SECONDED BY GIL GUERIN. ALL IN FAVOR; THE MOTION PASSES.

PETER VANWYCK/TURTLEBACK ROAD EXTENSION: Peter came to the Board with plans of the Turtleback Road Extension, dated August 15, and 18, 1997, by SFC Engineering Partnership, Inc., 389 Main Street, Salem, NH 03079, and 105 Loudon Road, Concord, NH 03301. The plans included seven sheets, detailing the Property Line Plan - Tax Map 9, Lot 5, 5A, 8, 9 & 11, Existing Conditions of Lot 5, 5A, 8, 9 & 11, Drainage Plan of same lots, Plan and Profile Stations, and details. The Board did not have the DPW's acceptance of the waterline, and further, the Board felt that Mr. VanWyck must stay within the 44 foot easement - the centerline - of the road, and the Technical Review Agent must review the Plans given for the Estimated Costs of monitoring this project. Mr. VanWyck was reminded that the building of this Road must remain in compliance with the Agreement, the subdivision control laws, and the DEP conditions. The Board wanted to know the status of the DEP conditions. In conclusion of the discussion the Board was not open to releasing the Lots to Peter VanWyck until the road is approved. Larry Graham, the Technical Review Agent will be given a copy of this plan for an estimated cost of planning reviews and subdivision inspection. A performance guarantee must be installed, and a meeting between the DPW, Conserv. Comm., and Mr. Graham will take place at a later date for discussion.

Page two of the August 20, 1997 minutes, continued...

LOT #1, SCOT'S WAY DISCUSSION: Regarding a Public Hearing on September 17, 1997 on the application by PMC Realty Trust for a Special Permit for construction of a 6,960 s.f. building with required parking, drainage system and all associated grading. Jan Addison, owner of Jan's Encore Restaurant, Western Avenue, came to the Board along with other concerned public asking questions of the proposed building at Lot #1, Scot's Way, 239 Western Avenue which will render the building over the fifteen percent lot coverage under the Water Resource Protection District, 6-13 By-Law. She read the Board excerpts of her letter that was distributed to the Town over concerns of the **use** of the proposed building. It was discussed that the Building may be used for a future septic transfer station. The Board made the public aware that the application was for the *proposed building construction only* and not the *use*. The Board also assured the public that the Board of Health and the Conservation Commission has been asked for their input regarding the building. The use of the building will be an issue for the Board, and will be taken into consideration, as will the actions being taken by the Conservation Commission. It was noted that the input of the public is important, and they were urged to come to the Public Hearing for further input. No action was taken.

DECISION OF SPECIAL PERMIT FOR CELLULAR ONE: Westley Burnham discussed with the Board the MGL provision for allowing Dave Jones, (not present at the public hearing of the cell tower special permit application), and Joe Ginn (abutter) to vote their decision for the application of the special permit. The Board is presently a seven member board, and Pat Dunn is absent this evening for the vote. Under the Special Permit Rules, a two-thirds vote is needed:

MOTION: WESTLEY BURNHAM MOVES TO APPROVE DAVID JONES AND JOE GINN IN THE DECISION PROCESS FOR THE SPECIAL PERMIT REGARDING INSTALLATION OF THE CELLULAR TOWER ON LAND OWNED BY STUART AND ELIZABETH PRATT AT 16 TREE HILL ROAD, FINDING THAT THE MEMBERS ARE VOTING FOR NON DISQUALIFICATION. JOE GINN AND DAVID JONES VOTE DOES NOT INCLUDE ANY FINANCIAL OR PERSONAL GAIN. SECONDED: GIL GUERIN. IN FAVOR OF THE MOTION: W.BURNHAM, S.PENNOYER, BRIAN FEENER. VOTING PRESENT: DAVE JONES AND JOE GINN. THE MOTION IS APPROVED.

Both Sheldon and Westley submitted approvals of the Special Permit with modifications. Sheldon's motion granted approval for tower, modifying the tower height to 85 feet, based on his calculations of tree heights and the structure height. He felt that the applicant showed in their charts at the public hearing that the height could be lowered to 85 feet and not effect the range going toward Ipswich. Westley's motion kept the 150 foot height, since it was asked for, and approved in the by-laws. It is in a fully wooded area, and would perhaps be potentially the only tower in town, and felt that the visual impacts would be minimal. Sheldon disagreed about the visual impact in this area. He felt that approving with the height change would be allowable. Joe Ginn noted that he felt the visual impact was an issue, yet if the tower was lowered in height, he felt that the service would be impaired. Brian Feener did not like the visual impact, but understood the need and the by-law requirements. David Jones noted that the applicant fell within the guidelines of the by-law, and a modification on the height would not be advisable, as it meets the criteria. After a long discussion of the height issue, a **Motion to Approve with Modification** was read for a vote:

MOTION: WESTLEY BURNHAM MOVES ^{TO} APPROVE THE APPLICATION FOR FOR A SPECIAL PERMIT SUBMITTED BY CELLULAR ONE, 100 LOWDER BROOK DRIVE, WESTWOOD, MA 02090. PROPERTY OWNER OF RECORD ELIZABETH F. PRATT, TRUSTEE OF 15 TREE HILL REAL ESTATE TRUST, 16 TREE HILL, ESSEX, MA 01929. THIS SPECIAL PERMIT IS BEING APPROVED IN PART ON THE FOLLOWING:

Page Three of August 20, 1997, Minutes, Continued...

The proposed construction of a communications tower and support structures as presented and shown on the site plan dated May 20, 1997 by Tutela Engineering Associates, Inc. meets or exceeds the minimum requirements of the **Essex By-law 6-6.9e "Radio Telecommunications, Cellular and Television Facilities, including Free Standing Tower Type Structures."**

The following conditions shall apply:

1. The tower and all antennae authorized to occupy the tower shall comply with all applicable State and Federal guidelines concerning radio frequency emissions.
2. Fencing shall be provided to control access to the facility, a key(s) to the facility shall be made available to the Fire Chief of the Town of Essex to allow emergency access.
3. The existing on-site vegetation shall be preserved to the maximum extent practicable.
4. Night lighting of the facility shall be prohibited except that required for emergencies and maintenance.
5. Any proposed extension of height, addition of cells, antennas, construction or reconstruction of any portion of this facility shall be subject to application for an amendment to this special permit.
6. Signs shall be limited to announcement, no trespassing, and shall include the phone number of a responsible party available on a twenty-four (24) hour a day basis.
7. This Special Permit and all subsequent amendments shall expire on September 30, 2007. At that time a new Permit may be issued based on the continuing need for such a facility. Renewal of this Permit shall be conducted in accordance with all applicable rules in effect at that time.
8. A copy of the Federal Communications Commission license to operate this facility is submitted to be included as an attachment to this Permit.

The Planning Board, acting as the Special Permit Granting Authority, finds the applicant adequately substantiated the following propositions in accordance with Appendix B Special Permit Issuance Rules:

1. The proposed use will be in harmony with the general purpose and intent of the Zoning By-Law.
2. That the specific site is an appropriate location for such use.
3. That the proposed use as developed will not adversely affect the neighborhood.

Our finding is based on the testimony received at the public hearing held on July 17, 1997 and our own determination that the site chosen for a structure of this nature is appropriate and in keeping with the intent of the Telecommunications Act of 1996, Section 704.

The area in question is surrounded by several hundred acres of land which is controlled and maintained in a state which enhances the scenic views for this area. It is our belief that the visual impact of this project will be minimal, and will not be overly intrusive to the nature and purpose of the properties being maintained in their natural site.

This Special Permit is not in effect until the applicant has filed a certified copy of the **Decision** with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this **Decision** will be available at the Essex Town Clerk's Office and from the Essex Planning Board within ten (10) days of the date of this **Decision**.

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Appeals shall be made pursuant to Section 17 of Chapter 40A MGL, and shall be filed within twenty (20) days after the date of filing this **Decision** with the Essex Town Clerk.

MOTION SECONDED BY GIL GUERIN.

VOTING ON THE MOTION:

SHELDON PENNOYER	VOTING IN FAVOR
WESTLEY BURNHAM	VOTING IN FAVOR
DAVE JONES	VOTING IN FAVOR
BRIAN FEENER	VOTING IN FAVOR
JOE GINN	VOTING IN FAVOR

THE MOTION TO APPROVE THE SPECIAL PERMIT IS GRANTED.

Andover Equity Developers, Andover, MA: Lot #3, Apple Street. 1.422 Acres, for a wood frame, single family dwelling. Meets setbacks, has easement for driveway access. The Board would only allow approval for the foundation only, as the BOH issues have not been cleared for the permit (access to water, re: well).

MOTION: WESTLEY BURNHAM MOVES TO APPROVE A BUILDING PERMIT FOR A FOUNDATION ONLY FOR ANDOVER EQUITY DEVELOPERS OF ANDOVER, MA., FOR A SINGLE FAMILY DWELLING ON LOT 3 AS SHOWN ON A PLAN BY GATEWAY CONSULTANTS DATED 4/11/97 THE LOCATION OF THE DRIVEWAY NOTED, FINDING THAT THE PROPOSED LOCATION MEETS THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX. THE RESIDENTIAL STRUCTURE WILL BE APPROVED AFTER ADEQUATE QUALITY OF POTABLE WATER IS PROVIDED AND APPROVED BY THE BOARD OF HEALTH. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: JOE GINN, DAVE JONES, GIL GUERIN, WESTLEY BURNHAM, BRIAN FEENER. SHELDON PENNOYER VOTES PRESENT. THE MOTION PASSES.

MOTION: GIL GUERIN MOVES TO CLOSE THE MEETING. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO AJOURN THE MEETING. MOTION APPROVED.

Presented by: Lisa A. M. Randall

Attested to: 

Town's Copy



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA WEDNESDAY, JULY 16, 1997

- | | |
|-----------|---|
| 7:00 P.M. | MINUTES OF JUNE 18, 1997 |
| 7:15 P.M. | DICK CARTER/BUILDING INSPECTOR |
| 7:30 P.M. | JOHN STAVROS - POND STREET
BLDG. NEW HOME |
| 7:45 P.M. | PMC REALTY TRUST - SCOT'S WAY |
| 8:00 P.M. | PMC REALTY TRUST - SO. ESSEX VILLAGE |
| 8:30 P.M. | PUBLIC HEARING OF CELLULAR ONE
TOWER OFF BELCHER STREET |
| 9:00 P.M. | DISCUSSION ONLY, OF TURTLEBACK
ROAD SUBDIVISION |
| 9:15 P.M. | OTHER PLANNING BOARD BUSINESS/
POSSIBLE DECISION OF HUNTER'S
CIRCLE SUBDIVISION |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JULY 16, 1997

The meeting was held at the Council of Aging/Scout House on Pickering St., and began at 7:00 P.M.
Attendees: S.Pennoyer, B.Feener, Joe Ginn, W.Burnham, P.Dunn, G.Guerin

DICK CARTER/BUILDING INSPECTOR:

RICHARD AND BETH CAIRNS - 35 Martin St. for construction to extend to rear of building, 12x20 addition to existing kitchen to include a full bath, second floor to combine two bedrooms into one large bedroom. 11,000 s.f., reducing from four to three bedrooms, BOH approved, no setback issues.

MOTION: W.BURNHAM MOVES TO APPROVE THE 12X20 ADDITION OF RICHARD AND BETH CARINS OF 35 MARTIN ST. FOR A 12X20 ADDITION TO EXISTING KITCHEN, INCLUDING A FULL BATH, WITH SECOND FLOOR TO COMBINE TWO BEDROOMS INTO ONE LARGE BEDROOM. FINDING THAT UNDER THE 6-4.2 EXISTING NONCONFORMING USE BY LAW THAT THE PROPOSED EXTENSION IS NOT SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN THE EXISTING NONCONFORMING USE. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: W.BURNHAM, S.PENNOYER, JOE GINN AND B.FEENER. THE MOTION PASSES.

(Gil Guerin enters.)

DEXTER TINDLEY - 10 Wood Dr., Map 4, Lot 81, Lot size 41,238 s.f., BOH, Conserv. Comm. and Wetlands approved, for a two-story addition to be attached to an existing 16x20 garage. Four letters from abutters included with the application, showing no objections to the addition.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR DEXTER TINDLEY OF 10 WOOD DR., FOR A TWO-STORY STORAGE BARN TO BE CONSTRUCTED AS SHOWN ON PLAN, WHICH IS TO BE ATTACHED TO THE EXISTING SHED. NOTING THAT NO PLUMBING OR HEATING WILL BE INSTALLED. FINDING THAT THE PROPOSED EXTENSION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING USE TO THE NEIGHBORHOOD. SECONDED BY JOE GINN. IN FAVOR WERE: S.PENNOYER, W.BURNHAM, JOE GINN, GIL GUERIN AND BRIAN FEENER. THE MOTION PASSES.

JAMES AND NORRIE STAVROS - 80 Pond St., Map 5, Lot 4, 3.2 acres, for new single family dwelling with three bedrooms. BOH, Conserv. Comm. approved. DPW has not signed off as yet for a driveway, but Mr. Stavros will serve the Board with the approval later this evening. The wetlands area was discussed, and the Board found that the property has met all of the criteria for the Water Res. District and the setbacks have been met.

MOTION: JOE GINN MOVES TO APPROVE THE BUILDING APPLICATION FOR JAMES AND NORRIE STAVROS OF 80 POND STREET, MAP 5, LOT 4, CONSISTING OF 3.2 ACRES, FOR A 32X38 SINGLE FAMILY DWELLING, NOTING THAT THE APPLICANT MEETS THE MINIMUM REQUIREMENT FOR THE SETBACKS. B.O.H., CONSERVATION COMMISSION AND WETLANDS APPROVED. SITE PLAN SHOWS MORE THAN 150 FOOT DISTANCE FROM WETLANDS. THIS

page two of July 16, 1997 Minutes, cont'd.

APPLICATION IS PENDING THE APPROVAL FROM THE DPW FOR A CURB CUT THAT IS ALREADY IN PLACE. SECONDED BY W.BURNHAM. IN FAVOR WERE GIL GUERIN, W.BURNHAM, S.PENNOYER, JOE GINN AND B.FEENER. THE MOTION PASSES.

Note: James Stavros came to the Board later in the evening with the documents showing DPW granting the driveway for the property.

JOHN AND MARY STAVROS - 60 Pond St., Map 5, Lot 2, for 50x34x24 single family dwelling. BOH, Conserv. Comm. Wetlands and DPW approval. Five acres, three bedrooms, and the setbacks are acceptable.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR JOHN AND MARY STAVROS OF 60 POND STREET, MAP 5, LOT 2, FOR A THREE BEDROOM SINGLE FAMILY DWELLING AS SHOWN ON THE SITE PLAN PRESENTED. THE APPLICATION MEETS ALL OF THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BY-LAWS AND IS APPROVED BY THE BOH, CONSERV. COMM., WETLANDS AND DPW. SECONDED BY GIL GUERIN. IN FAVOR OF THE MOTION WERE: BRIAN FEENER, GIL GUERIN, W.BURNHAM, S.PENNOYER, JOE GINN. THE MOTION PASSES.

STEVEN SCAILDONE - 81 Choate St., for a single family dwelling being 3,800 s.f. Lot area of nine acres. BOH, Conserv. Comm, approved, and has no Wetlands. A driveway permit has been approved, as a garage/barn was previously granted by the Board on this property.

W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR STEVEN SCAILDONE OF 81 CHOATE ST., FOR A 3,800 S.F. SINGLE FAMILY DWELLING AS SHOWN ON THE SITE PLAN PROVIDED. THE APPLICATION MEETS ALL OF THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BY-LAWS. SECONDED BY JOE GINN. IN FAVOR WERE: W.BURNHAM, S.PENNOYER, GIL GUERIN, JOE GINN AND B.FEENER. THE MOTION PASSES.

(Note: Pat Dunn enters.)

(NOTE: JOE GINN REMOVES HIMSELF FROM THE TABLE FOR THIS APPLICATION)

STUART PRATT - 15 Tree Hill Road, off Belcher St., for a four bedroom, single family dwelling. 32 Acres, No wetlands, Approved by the BOH as stated in a letter dated July 8, 1997. Dimensions: 113x37x32. Demolishing existing home and rebuilding new single family dwelling at the same site.

MOTION: B.FEENER MOVES TO APPROVE THE BUILDING PERMIT APPLICATION FOR POWDER HOUSE REALTY TRUST OF 15 TREE HILL ROAD. SITING IS TO BE BUILT WHERE EXISTING DWELLING IS BEING DEMOLISHED. FINDING THAT THE BOARD OF HEALTH HAS APPROVED ALL OF THE SEPTIC ISSUES AS STATED IN A JULY 8, 1997 LETTER. APPLICATION IS CONTINGENT UPON CONSERVATION COMMISSION APPROVAL. SECONDED BY PAT DUNN. IN FAVOR WERE: BRIAN FEENER, S.PENNOYER, P.DUNN, GIL GUERIN, W.BURNHAM. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

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(Note: Joe Ginn returns to the table)

CLIFF AGELOFF - 44 Addison St., Map 34, Lot 25, 13,000 s.f., No changes in the footprint. Application requesting to strip, re-shingle roof, add attic space, ventilation, "bump out" 4.5 feet to add ceiling height above tub.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR CLIFF AGELOFF OF 44 ADDISON ST., MAP 34, LOT 25, 13,000 S.F., TO CONSTRUCT A SKYLIGHT AND DORMER OVER AN EXISTING BATHROOM. FINDING UNDER THE 6-4.2 BY-LAW THAT THE PROPOSED CHANGES WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. SECONDED BY JOE GINN. IN FAVOR WERE: P.DUNN, GIL GUERIN, JOE GINN, B.FEENER, W.BURNHAM AND S.PENNOYER. THE MOTION PASSES.

(Note: Joe Ginn removes himself from the table for the next application.)

ANDREW AND EDITH MESSERSMITH - 17 Apple St., Map 32, Lot 25, Lot Size of 27,875 s.f., for addition of 27x16 basement foundation and family room with a second bath, and storage (attic space) 40x40.

Approved by BOH, Conserv., Comm., Wetlands.

W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR ANDREW AND EDITH MESSERSMITH OF 17 APPLE ST., MAP 32, LOT 25, LOT SIZE OF 27,875 F.F. FOR AN ADDITION OF 27X16 BASEMENT FOUNDATION AND FAMILY ROOM WITH SECOND BATHROOM, SECOND STORY OF UNFINISHED SPACE OVER AND EXISTING BEDROOM AND BATHROOM (ATTIC SPACE) OF 40X40. APPROVAL MET FROM BOH, CONSERV. COMM. AND WETLANDS. FINDING THAT THE PROPOSED USE IS NOT SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING USE TO THE NEIGHBORHOOD. SECONDED BY PAT DUNN. IN FAVOR WERE: W.BURNHAM, S.PENNOYER, GIL GUERIN, B.FEENER AND PAT DUNN. JOE GINN ABSTAINS FROM VOTING ON THIS APPLICATION. THE MOTION PASSES.

(Note: Joe Ginn removes himself from the table for this next application.)

PMC REALTY TRUST - ESSEX VILLAGE: Eastern Avenue, for Approval Not Required, Form A. Applicant shows approval for lot changes from the David Burnham Trust. Signature denotes the approval. Book No. 10239, Page 99-95, and Book No. 9902, Page 111. Located on Assessor Map 38, Parcel 55B, 54, 53, 52. The plan is a division of Lot B, Lot C and Lot A. Parcels A-2, B-2 and C-2 are not to be considered as individual legal building lots. Parcel A-2 is currently owned by the David G. Burnham Trust. Parcel B-2 is currently owned by John T. Coughlin, Parcel C-2 is currently owned by John T. Coughlin, Parcel A-2 is to be conveyed to John T. Coughlin and is to become part of Land shown as Lot A-1 containing a total area of 20.54 acres. Parcel B-2 is to be conveyed to the David G. Burnham Trust and is to become part of land shown as Lot B-1 containing a total area of 18,952 s.f. Parcel C-2 is to be combined with Parcel C-1 to form One Lot as shown as Lot C-1 containing a total Area of 105,987 s.f. Lot A-3 is to be combined with A-1 to form one lot with a total lot area of 20.93 acres. Proposed changes meet the minimum frontage and building coverage percentages allowed. Also has required upland area. Several residents were present and wanted to know what the changes were for, what the large portion of land

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would be used for. The Board reminded the public that the only issue here was for the Form A, Approval Not Required.

MOTION: W.BURNHAM MOVED TO APPROVE THE FORM A APPLICATION FOR APPROVAL NOT REQUIRED FOR PMC REALTY TRUST FOR THE PARCELS LOCATED AT 69 EASTERN AVE., FINDING THE REDRAWN CONFIGURATION MEETS OR EXCEEDS ALL OF THE MINIMUM REQUIREMENTS FOR THE TOWN OF ESSEX BY-LAWS. SECONDED BY P.DUNN. IN FAVOR OF THE MOTION: W.BURNHAM, S.PENNOYER, P.DUNN, GIL GUERIN, B.FEENER. JOE GINN ABSTAINS FROM VOTING ON THIS APPLICATION. THE MOTION PASSES.

(Note: Joe Ginn is removed from the following application.)

PMC REALTY TRUST: PIPER LANE, Lot 7, Lot 4, 5, 3, Shea's Ct., Form A - Approval not Required, Book No. 9522, 9898, Page No. 328, 337 Parcels "A", "B" and "C" are not to be considered as individual building lots. They are to be combined with former Lot 7 to form one (1) building lot called "Lot 7A" containing a total area of 186,062 s.f. Lots 3A, 4A, 5A & 7A are a re-division of Lots 4, 5 & 7 as recorded in Plan Book 306, Plan 66. Frontage will remain the same; uplands ratio is adequate. W.Burnham noted that since there will be a two-family dwelling on Lot 7A, the lot required uplands for two dwelling units, which was found to have adequate footage, being 186,062 s.f.

MOTION: W.BURNHAM MOVES TO APPROVE THE APPLICATION OF A FORM A FOR APPROVAL NOT REQUIRED FOR PMC REALTY TRUST, 239 WESTERN AVENUE - THE SUBDIVISION KNOWN AS GATEWAY SUBDIVISION, FOR PLAN OF LAND AT SHEA'S COURT, OFF WESTERN AVENUE. THE LOT HAS ADEQUATE FRONTAGE ON AN EXSISTING, APPROVED R.O.W. AND THE RECONFIGURATION MEETS THE MINIMUM STANDARDS OF THE TOWN OF ESSEX BY-LAWS. SECONDED BY PAT DUNN. IN FAVOR WERE: W.BURNHAM, PAT DUNN, S.PENNOYER, GIL GUERIN AND B.FEENER. JOE GINN ABSTAINS FROM VOTING ON THIS APPLICATION. THE MOTION PASSES.

(Note: Joe Ginn is removed from the table during the Public Hearing - Mr. Ginn is an abutter.)

The hearing was recorded and is available for copies upon request.

PUBLIC HEARING: 8:30 P.M. SPECIAL PERMIT OF CELLULAR ONE, at 16 Tree Hill Road, off Belcher Street. The land is titled with Elizabeth F. Pratt, Trustee of 15 Tree Hill Rd. The application asks for proposed construction to consist of a free standing monopole and associated equipment shelter. The advertised notice was read. Atty. Louis Levine for Cellular One gave the Board and approximately twenty interested residents a detailed account of what the proposal would entail: Exhibit "1" shows the distances of location in relation to any existing properties, and it was explained that the proposed monopole would have a concrete foundation for transmitting, a 12x28x10 shelter to house computer equipment, 4x8 concrete pad, chain link fence 15x80 with barbed-wire, an electrical monitoring alarm facility. Traffic to and from would be minimal for maintenance. There would be a generator in case of electrical problems, which would be for controlling the air-conditioning and operation of the wireless communication operations.

Atty. Levine discussed the Telecommunications By-Law and explained that the applicant has met the guidelines established. There would be no guyed wires, no other towers would be located within 2 miles of

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this, the monopole would be 150 ft., the setbacks exceed the minimum of 200 ft., and no lighting of the tower would be present. A submission of FAA requirements concerning the lighting is presently awaiting the authorization of this fact, but the CellularOne representative, Tony Miller stated that the application is being submitted on the pretenses that the tower will not be lit. The tower is not within the Wetlands District. It is located more than 500 ft. of any site, one access, and the tower is located more than 200ft. from any property line. Lighting will be placed solely on the equipment shelter, for security reasons only. The monopole is within an established wooded area. The applicants felt that given the above criteria that was met for the By-Law, they were within the guidelines for the Special Permit.

Tony Miller, representative for CellularOne, shows on Exhibit "2" a graph depicting the "before" and "after" effects that the monopole will provide. The colored graph indicated shaded areas that would benefit from having the tower placed in this particular spot.

Exhibit "3" is a letter from the Comm. of Mass., Exec. Office of Heal and Human Serv., Dept. of Public Health, Radiation Control Program. Approval under the provisions of 105 CMR 122.021 had been granted to maintain the wireless communication cellsite facility location. Mr. Miller explained that this letter was an approval for the safety factor of the tower.

Exhibit "4", "5", and "6", were distributed by CellularOne to the Police Department, the Fire Department, and the DPW, respectively, offering the use of the structure to the Town for communication needs, providing space on the structure and interior space for equipment, at no charge to the Town.

Exhibit "7" shows the elevations view of the tower and reference drawings with explanations of the monopole, the panels on the platform at the 150' level (the platform is a triangular-shaped, 15' ft. dia. and is used to mount antennas), and the 4 ft. dish antenna at the 135 ft. elev.

Exhibit "8" was a letter read to the public by Peter Kellerman and Maria Benotti of Alprilla Farm, 94 John Wise Ave. The letter explained that in their opinion, the tower would mar a piece of scenic beauty that defines the character and charm of Essex. The tower would be only 200 ft. from their border. They felt that a restriction was being placed on their land, namely that they could not build within 300 feet of their own border, given the telecommunications by-law requirements voted by the Town. They asked that the Board restrict the height to 100 or 75 feet, and that the site be relocated more than 500 feet from the border.

Atty. Levine's rebuttal was that the application was within the guidelines stated in the By-law, and a change in the height would "emasculate" the by-law, causing more than one tower to be placed.

Nancy Marculewicz of 1 Essex Reach Dr. asked when this type of tower would become obsolete. She felt it would be sooner, than later, and that the tower was a "visual pollutant". W. Burnham commented on the removal of all towers as stated in sec.11 of the 6.6-9e by-law.

Other comments were raised as to placing the tower in a different site. It was stated to the public that the permit could not be denied because of other potential sites. W. Burnham noted that after six months and many meetings, including those with other communities, this by-law was acted on to protect the Town as best could be, given the fact that it was unlawful to deny the towers, if they meet all of the minimum requirements of the Special Permit guidelines.

Roland Adams of Belcher St. commented on Ex. "7" and the dimensions of the panels of the platform. How many carriers could be placed on this monopole? W. Burnham explained that each carrier would have to come through the Special Permit process for this.

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Other comments ranged from concerns of the height, and the amount of carriers on the monopole, to the question of whether or not the Town benefited from the towers.

Ed Neal of 15 Belcher St., reminded the Town that "... a vote by the majority over-ruled the aspect of using a site of Town-owned property for a tower. Any tower would be seen from somewhere - they can't build them in a valley....and if an applicant complies with the by-law, they have a right to use their property...."

In conclusion, It was discussed that if the tower were to be less than 150 feet, then more than one tower would have to be placed in Town. The applicant has requested the 150 ft., as towers work on "line of sight". The Public Hearing was closed at approximately 9:50p.m.

MOTION: W.BURNHAM MOVES TO CLOSE THE PUBLIC HEARING.
SECONDED BY GIL GUERIN. IN FAVOR OF THE MOTION WERE:
W.BURNHAM, PAT DUNN, GIL GUERIN, S.PENNOYER, AND
BRIAN FEENER. JOE GINN ABSTAINS FROM VOTING. THE
MOTION PASSES.

No action was taken by the Board at this time, however, a discussion of the application may be addressed at the next scheduled meeting, which is August 20, 1997 at 7:00 P.M., at the Scout House on Pickering St.

(Note: Joe Ginn removes himself from the table for this next discussion.)

PMC REALTY TRUST - PIPER LANE - Map 000800, Lot No. 06867, Lot Size 30,436, to relocate existing two-family house from 239 Western Avenue to Lot 7A on Piper Lane. (Requires new Foundation).

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR A TWO-FAMILY DWELLING OF ONE BEDROOM PER DWELLING, FOR A TOTAL OF TWO BEDROOMS, TO BE LOCATED AS SHOWN ON CONSTRUCTION PLAN "A" DATED 1-27-97, REV.2, LOT 7A, TOTAL S.F. OF 186,000, TO BE LOCATED AS SHOWN ON ANR PLAN APPROVED ON 7-16-97. 121,000 S.F. BEING UPLAND AREA, PROPERTY OF TWO-FAMILY DWELLING EXCEEDS THE MINIMUM OF 40,00 FOR EACH DWELLING AS REQUIRED IN SEC. 6-13 OF THE TOWN OF ESSEX BY-LAWS. BUILDING PERMIT ISSUED CONTINGENT OF VERIFICATION OF PREVIOUS BOH APPROVAL FOR SEPTIC DISPOSAL SYSTEM. SECONDED BY BRIAN FEENER. IN FAVOR OF THE MOTION WERE: W.BURNHAM, S.PENNOYER, B.FEENER, PAT DUNN AND GIL GUERIN. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

Note: The Building Permit copy is located in the file, and shows BOH approval for the septic systems. Also located in the file is a construction plan showing proposed subsurface sewage disposal system.

Note: Joe Ginn returns to the table for the next discussion.

PETER VANWYCK - TURTLEBACK ROAD SUBDIVISION: Atty. John Guerin has come to the Board on behalf of Mr. VanWyck. He is not representing Peter, yet wanted to help with the process of Mr. VanWyck's Subdivision issues. Clay Morin, who is now the Engineer for the project is going to provide the Board with construction plans within the next week. Mr. VanWyck has agreed to secure H.L. Graham Associates, the Technical Review Agent. The Plan will then be given to Larry Graham for an estimate. According to John Guerin, Easements for the water main will be given by the DPW to satisfy the Land

Court. This process will move the Subdivision forward so that after the Approved Plan, with the Road lay-out, the performance guarantee is in place, the Two Lots can be approved. The Board expressed their frustration with Peter VanWyck, and Clay Morin assured the Board that the entire road lay-out, profiles, storm water management, drainage, utilities, water main, telephone cable, would all be addressed. John Guerin also assured the Board that all of the past issues would be dealt with to move forward. The Board did not feel that all of these requirements could be met within the month, but Peter VanWyck would be placed on the August 20, 1997 agenda for a 7:30 P.M. appointment.

Note: Joe Ginn removes himself for the next action.

PMC REALTY TRUST - 239 Western Avenue, Application for Special Permit under G.L., Ch. 40A, Section 9, Lot #1, Scot's Way.

MOTION: BRIAN FEENER MOVES TO ACCEPT THE APPLICATION OF JOHN AND PRISCILLA COUGHLIN, PMC REALTY TRUST, 239 WESTERN AVENUE, ESSEX, MA, FOR LOT #1, SCOT'S WAY, 229 WESTERN AVE., ESSEX, MA. SPECIAL PERMIT FOR CONSTRUCTION OF A 6,690 S.F. BUILDING WITH REQUIRED PARKING, DRAINAGE SYSTEM AND ALL ASSOCIATED GRADING. A PUBLIC HEARING WILL BE SCHEDULED FOR WEDNESDAY, SEPTEMBER 17, 1997 AT 8:00 P.M. SECONDED BY W.BURNHAM. IN FAVOR OF THE MOTION WERE: P.DUNN, S.PENNOYER, W.BURNHAM, B.FEENER AND GIL GUERIN. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

Note: Joe Ginn returns to the table for the remainder of the meeting.

HUNTER'S PLACE SUBDIVISION: W.Burnham noted that a site walk did take place on July 13, 1997 at 8:00a.m. Engineer John Judd was present to answer questions.

The Essex Planning Board voted to approve the Definitive Subdivision plan known as Hunters Place located at 65 Wood Drive, Essex based on the following information and conditions:

The following waivers from The Essex Planning Board Subdivision regulations are approved:

1. Relief from the requirement of 7.04(1) Water System and 7.01(10) Utilities: private wells will be provided as potable water supply. Wells must be in place and certified by the Board of Health prior to any building permit application filings.
2. Relief from the 7.01 (10) requirement of underground utilities: The small size of the project and lack of similar construction method in the area deems this excessive.
3. Relief from the requirements of 7.02 (2j) and 7.02 (4c3), the proposed 80 foot radius and "T" turnaround is deemed adequate to meet the intent of accommodating emergency type vehicles.
4. Pavement width will be 16 feet in lieu of the requirements of 7.02 4a. 16 feet exceeds the minimum requirements of 3.05 (2) 'Standards of Adequacy.'
5. In accordance with 7.02 4h grassed swales are approved for the length of the roadway and meet the intent for controlled ground water recharge.
6. Sidewalks are deemed not required as allowed under 7.02 4b.

The following conditions are to be attached to this plan as part of the approval.

1. All septic systems shall conform to the requirements of the Essex Board of Health, and shall be approved prior to issuance of any building construction permits.
2. Tree removal in accordance with 7.01 (7) Protection of Natural Features shall also include the 100 foot buffer zone from Chebacco Lake.

3. No construction of any kind is allowed in the areas delineated by the 'Ratheon' maps described in Town of Essex bylaw 6.10 Wetlands District.
4. This plan was reviewed with the minimum requirements of 'Single Family Dwellings' being met. Whereas this project is located within the Water Resource Protection District any other use may or may not conform to the requirements and will be held to the requirements 6-13 of the Essex Zoning bylaws.
5. Three separate water supply lines shall be installed and maintained available to supply potable water to the three lots, whose frontage is being obtained from the new road.

Endorsement of the approval will occur after the following has occurred:

1. A Performance Guarantee is in place and agreed to by both the Applicant and the Essex Planning Board. Said agreement having been reviewed by Town Counsel if the board deems necessary.
2. An individual to act as 'Clerk of the Works' has been designated and agreed to by the Board. This individual will answer to the Board and will monitor construction IAW the approved plan. A written agreement to fund this individual is submitted to the Board by the applicant.
3. Written confirmation that no appeals have been filed with the Town Clerk within the statutory 20 day appeal period. The date for start of this time period will be when this decision is filed with the Town Clerk.

MOTION: W.BURNHAM MOVES TO APPROVE THE DEFINITIVE SUBDIVISION PLAN CALLED HUNTER'S PLACE, WITH THE WAIVERS REQUESTED. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: JOE GINN, W.BURNHAM, P.DUNN, GIL GUERIN, BRIAN FEENER. S.PENNOYER ABSTAINS FROM VOTING ON THE MOTION. THE MOTION PASSES.

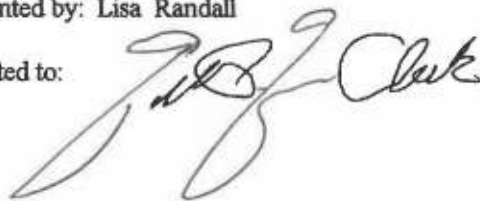
A letter of support will be given to Atty. John Guerin, who is applying for several grants for the development behind the former Wedgwood Pharmacy. Currently, there are plans for a public parking lot behind the pharmacy. The Grants will aide in the building of the lot, and consists of ECON Development and the EOTC grants (CATA).

Note: Gil Guerin will be responsible for next month's meeting minutes (8/20/97 at the Scout House.)

MOTION: PAT DUNN MOVES TO ADJOURN THE MEETING AT 11:00 P.M. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO APPROVE THE MOTION TO ADJOURN.

Presented by: Lisa Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, JUNE 18, 1997

- | | |
|-----------|---|
| 7:00 P.M. | Dick Carter/Building Inspector |
| 7:30 P.M. | Atlantic Engineering for PMC Realty Trust:
Piper Lane/ANR
Scot's Way, Lot#1
Essex Village - ANR |
| 8:00 P.M. | Public Hearing for Hunter's Circle Subdivision
on Wood Drive |
| 9:00 P.M. | Scott Boches: Sketch of proposed subdivision
of five Lots off Martin Street |
| 9:15 P.M. | Planning Board Business
<i>Read U.S. Task force info. on Towers.</i>
<i>Show Salzburg's info. on Book Store - Southern Ave.</i> |

Extra copy for anyone at 8:30 mtg.
Town's COPY
99

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JUNE 18, 1997

The meeting was held at the Essex Elem. School on Story St., and began at 7:10 p.m.
Attendees: S.Pennoyer, P.Dunn, W.Burnham, D.Jones, B.Feener, J.Ginn and Gil Guerin

DICK CARTER/BUILDING INSPECTOR: JOHN AND CAROL RAJUNAS, Lot 16 on Landing Road, Map 33, 72,246 ft. Applicant returns with a site plan showing adequate frontage (see 6/4/97 minutes), for excavation, footing and foundation, and construction of 44x28 two-story colonial home with landscape. BOH, Conserv. Comm. Approval.

MOTION: P.DUNN MOVES TO APPROVE THE BUILDING PERMIT FOR JOHN AND CAROL RAJUNAS, LOT 16 ON LANDING RD., MAP 33, LOT SIZE 72,246 FT, FOR A SINGLE FAMILY, TWO-STORY COLONIAL, EXCAVATION, FOOTING, FOUNDATION. BUILDING SIZE TO BE 28X44. SEEING THAT THE APPLICATION MEETS BOH, CONSERV. COMM., DPW APPROVAL, AND THAT THE LOT MEETS ALL THE MINIMUM SETBACKS, INCLUDING THE FRONTAGE REQUIREMENTS. SECONDED BY D.JONES. IN FAVOR WERE: B.FEENER, S.PENNOYER, P.DUNN AND D.JONES. THE MOTION PASSES.

ART CARTER AND SUE C. HALL, 4 Soginese Creek Rd., for single family, four bedroom dwelling with two-car garage. 32x72x26ht. Approved by BOH, Conserv. Comm., Wetlands and DPW. Map 14, Lot 24, a total of 3.1758 acres.

MOTION: DAVE JONES MOVES TO APPROVE THE APPLICATION FOR A BUILDING PERMIT FOR ART CARTER AND SUE C. HALL OF FOUR SOGINESE CREEK RD., LOT 24, MAP 14, 3.1758 ACRES, FOR A SINGLE FAMILY DWELLING CONSISTING OF FOUR BEDROOMS AND A TWO-CAR GARAGE, SEEING THAT ALL MINIMUM REQUIREMENTS AND SETBACKS OF THE TOWN OF ESSEX ZONING BY-LAWS HAVE BEEN MET. SECONDED BY PAT DUNN. IN FAVOR WERE: B.FEENER, PAT DUNN, S.PENNOYER, D.JONES. THE MOTION PASSES.

(Joe Ginn enters.)

GEORGE AND EVELYN STAVROS: John Wise Ave., adding new lot area of 4.20 acres by adding 35,400 s.f. to original plan. Book 6367, Page 160. The payment of \$100.00 has been met for the fee for "Approval Not Required" (Form A).

MOTION: S.PENNOYER MOVES TO APPROVE THE ANR (APPROVAL NOT REQUIRED) OF GEORGE AND EVELYN STAVROS, 132 JOHN WISE AVENUE, FOR THE COMBINING OF A PARCEL OF LAND 35,400 S.F., TO THE ORIGINAL LOT AT 132 JOHN WISE AVENUE AS SHOWN ON DRAWING PROVIDED, SEEING THAT THE LOT MEETS ALL REQUIREMENTS OF THE TOWN OF ESSEX BY-LAWS. SECONDED BY JOE GINN. IN FAVOR WERE: S.PENNOYER, JOE GINN, PAT DUNN, D.JONES, BRIAN FEENER. THE MOTION PASSES.

(W.Burnham enters.)

Page two of June 18, 1997 minutes, cont'd.

GARCIA KIMBALL: For Scott Boches, LOT 34, Maple Street., Map 36, Lot 34,34A,34B, Lot Size of 14,000 s.f., to build a 24x36 single family colonial dwelling with walk-up third floor. Install septic system per plan. Approved by BOH, Conserv., Comm., DPW.

MOTION: W.BURNHAM MOVES TO APPROVE THE HOUSE SITING FOR GARCIA KIMBALL/SCOTT BOCHES, FOR A 24X36 COLONIAL STYLE SINGLE FAMILY DWELLING, LOCATED ON LOT 34 - MAPLE STREET, AS SHOWN ON SITE PLAN PROVIDED. THIS APPROVAL IS BEING GRANTED IN ACCORDANCE WITH A LETTER DATED MAY 8, 1996, (ATTACHED HERETO) BY TOWN COUNSEL. SECONDED BY JOE GINN. IN FAVOR WERE: S.PENNOYER, W.BURNHAM, D.JONES, B.FEENER AND JOE GINN. PAT DUNN VOTES PRESENT. THE MOTION PASSES.

RICHARD SALZBURG: 165 Main Street. Mr. Salzburg came to the Board showing documents that the building he wants to use for antiques/sales, existed as a separate property. Pat Dunn questioned whether or not the building was used in the past two years, and had been abandoned for more than that time period. She felt that the documents did not prove this issue, but she was not against the proposal. The letters and pictures submitted did not give specific dates during the past two years. Parking was an issue that Pat brought up, as well. There was no parking plan given to the Board. W.Burnham agreed that it was questionable to whether or not there were at least six parking slots in that area, but he mentioned the fact that Richard was asked to prove that the building was used within the past two years, and was not asked to provide a parking plan. B. Feener asked whether or not the building is operating a business now. Richard answered, "yes". Mr. Coviello, an antique shop owner, added that he had bought several items and books out of the building in question, and that he has offered parking at Joshua's Corner, for the business, which is called "Simply Vermont". S.Pennoyer felt that parking wasn't much of a problem in light of the fact that there are already other businesses operating there and parking is shared by most. Pat Dunn mentioned that the Richdale Store located across the street does pose parking problems by the traffic coming and going there. She asked that her comments be mentioned in the Minutes. No action was taken by the Board on this matter; it was understood that business/sales are being conducted at this property, effective presently.

PETER VANWYCK: Although Mr. VanWyck was not on the agenda to be heard, he wanted to present the Board with plans on the Road at Turtle Back Road Subdivision for approval from the Board. Sheldon Pennoyer was firm and direct as he informed Mr. Vanwyck that the Board "... would not accept this Road Plan, as the procedures taken by Mr. Vanwyck were out of realm for this project...". Sheldon informed Mr. Vanwyck to contact his attorney, get on track, and follow the Agreement for Judgment. No action was taken by the Board, and the Board agreed to make comment after the last order of business. Mr. Vanwyck left the plans with the Board.

(note: Gil Guerin enters)

(Joe Ginn removes himself from the table for the next discussion..)

PMC REALTY, EASTERN AVENUE, Property located at South Essex Village. Atlantic Engineering and Survey Consultants brought to the Board a plan for Approval Not Required. However, a Form A was not provided at this time. The Plan is a division of Lot B (Map 38, Parcel 54), Lot C (Map 38, Parcel 53) and Lot A (Map 38, Parcel 55B). Parcels A-2, B-2 and C-2 are not to be considered as individual legal building Lots. Parcel A-2 is currently owned by the David G. Burnham Trust. Parcel B-2 is currently owned by John T. Coughlin, Parcel C-2 is currently owned by John T. Coughlin, Parcel A-2 is to be conveyed to John T. Coughlin and is to become part of land shown as Lot A-1 containing a total area of 20.54 acres. Parcel B-2 is to be conveyed to the David G. Burnham

Page three of June 18, 1997 minutes, cont'd.

Trust and is to become part of land shown as Lot B-1 containing a total area of 18,952 s.f. Parcel C-2 is to be combined with Parcel C-1 to form 1 Lot shown as Lot C-1 containing a total area of 105,987 s.f. Lot A-3 is to be combined with Lot A-1 to form one Lot with a total area of 20.93 acres.

There were several questions that the public had, which included what the change of lot area was for, and Mr. Coughlin stated that he did not have final plans as yet, and agreed to meet with the members at Essex Reach (there is a right of way access to the property through the Essex Reach Road). The Planning Board addressed the total square footage of the existing buildings, specifically the 6.6-5 By-Law, Business Land Use. The applicant also required the permission of the David G. Burnham Trust on the Form A. Atlantic Engineering would return to the Board on July 16, 1997 with corrections, a Form A, a revised plan, and the requirements met for the Zoning By-laws. A Letter of Withdrawal of this Application is on file.

(Note: Joe Ginn returns to the table.)

8:00 P.M., PUBLIC HEARING FOR HUNTER'S CIRCLE SUBDIVISION OPENED. The legal notice was read and the Engineer for the Heath's explained the proposal for four lots, which has an existing dwelling on one lot, proposing road way of 200 feet with "T" turnaround. Soil tests were done, and wells will exist on each property. They were asking for several waivers: Relief from 3.04 of Subdiv. Rules, to allow for private wells as Town water is not available. Wants overhead utilities instead of subsurface utilities. Looking for a "T" turnaround. Wants the 16ft. wide paved road waived. Also an open drainage system. A total of eleven members of the public were in attendance. W.Burnham noted for the record that all of the paper work procedures have been met. The existing access is to be joined to the subdivision road. The length of the existing house to Wood Dr. was approximately 300 ft. S.Pennoyer was asking of the tree line. Everything is wooded except for the existing house site. S.Pennoyer wanted minimal tree cutting, and would consider a restriction on cutting. The previous discussions noted that there was a discrepancy in the lot lines with an abutter. The abutter was present and agreed that the situation was clear of any discrepancy to this date. Conforming to the fifteen percent impervious area was discussed with the engineer and applicants, explaining the water resource protection district. Joe Ginn felt that an asphalt driveway would be an advantageous avenue to take, to eliminate erosion and continual maintenance and siltation to the sensitive area. An option was discussed as to putting crushed stone, or pea stone to accomplish the concerns of packed sedimentation. No work is proposed within a 100ft. buffer zone, so the conservation commission will not be involved with this process. Comments from other Town Boards: Board of Health, 5/16/97, No Comments. DPW: Article #19 was noted, for the extension of the water main down Pond Street to include Wood Dr. Pay a share of the total cost even if they choose to have a well as their water supply... a betterment under Chapter 40 Section 42K. The applicants were made aware of this situation, given that they were asking for a waiver. In conclusion, a site walk for planned for July 13, 1997 at 8:00 A.M.

MOTION: JOE GINN MOVES TO CLOSE THE PUBLIC HEARING FOR THE HUNTER CIRCLE SUBDIVISION. SECONDED BY PAT DUNN. IN FAVOR OF CLOSING THE PUBLIC HEARING WERE: JOE GINN, W.BURNHAM, S.PENNOYER, GIL GUERIN, B.FEENER, D.JONES AND PAT DUNN. THE MOTION PASSES.

(Note: Joe Ginn removes himself from the table for the next two discussions.)

LOT 7, PIPER LANE - Proposed Approval Not Required, Form A, Lot 7, Piper Lane, Lots 4 & 5 Shea's Court. Book 9522,9898, Page 328,337. There is a two-family house in front of Quinn Bros., that John Coughlin wants to move to Lot 7A at Gateway Subdivision, Piper Lane. Notes on the Plan of Land dated April 30, 1997 state that, "Parcels "A" & "B" are not to be considered as individual building lots. They are

Page four of June 18, 1997 minutes, cont'd.

to be combined with former Lot 7 to form one (1) building lot called "Lot 7A" containing a total area of 165,620 s.f. Lots 4A, 5A and 7A are a redivision of Lots 4, 5 & 7 as recorded in Plan Book 306, Plan 66. The wetland issues were discussed, as they were not delineated on the proposed plan. The Plan was not acted upon by the Board, a Letter of Withdrawal for the Form A was presented and Atlantic Engineering will return to the Board on July 16, 1997.

SCOT'S WAY: The engineer for PMC Realty, Atlantic Engineering, was proposing a building with parking area. The Board listed the 6-13 Sec. B. of the Water Resource Protection District. A Special Permit was required before any building permit could be granted. The application was withdrawn, as a filing for a Special Permit would be necessary. No action was taken.

(Note: Joe Ginn returns to the table.)

91 MARTIN STREET: Discussion only of a proposal for five lots off 91 Martin Street. The Board read a letter from the Board of Appeals, a Decision dated March 29, 1989. The Petitioner was John W. Story, where a Variance was granted with Conditions. The applicant was given a copy of this Record of Proceedings, which was investigated by Pat Dunn.

CELLULAR ONE - SPECIAL PERMIT FOR PROPOSED CONSTRUCTION TO CONSIST OF A FREE STANDING MONOPOLE AND ASSOCIATED EQUIPMENT SHELTER. The Board accepted the application, the fee has been paid.

MOTION: W.BURNHAM MOVES TO ACCEPT THE APPLICATION OF CELLULAR ONE FOR THE SITTING OF A MONOPOLE CELLULAR TOWER LOCATED AT 16 TREE HILL/BELCHER STREET, FINDING THE MINIMUM FILING REQUIREMENTS HAVE BEEN MET. SECONDED BY JOE GINN. ALL MEMBERS VOTED TO ACCEPT THE APPLICATION. THE MOTION CARRIED.

MOTION: W.BURNHAM MOVES TO HOLD A PUBLIC HEARING AS REQUIRED UNDER THE SPECIAL PERMIT PROCESS OF 6-6.9E BYLAW, ON WEDNESDAY, JULY 16, 1997 AT 8:30 P.M. TO BE HELD AT THE SCOUT HOUSE ON PICKERING STREET, FOR THE CONSTRUCTION OF A CELL TOWER ON 16 TREE HILL ROAD/BELCHER STREET. SECONDED BY JOE GINN. ALL MEMBERS VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

PETER VANWYCK: TURTLE BACK ROAD SUBDIVISION. It was agreed that letters would go out to Peter VanWyck, the Selectmen, Town Counsel, and the Building Inspector, regarding the situation with Mr. Vanwyck. Sheldon reviewed a letter that he had drafted, and the Board agreed that the Agreement for Judgment was not being adhered to by Peter, and the Board was at a loss as to what should be done, given the legal situation. The DPW was asked to submit a written chronicle of their situation with Peter, as well.

MOTION: S.PENNOYER MOVED TO APPROVE THE JUNE 4, 1997 MINUTES WITH THE FOLLOWING CORRECTION: DURING THE MOTION OF CHARLES A. HAY AND JOANNE CRERAND FOR 84 APPLE STREET, JOE GINN DID NOT VOTE ON THIS BUILDING APPLICATION. SECONDED BY: BRIAN FEENER. ALL MEMBERS VOTED TO APPROVE THE MINUTES WITH

Page five of the June 18, 1997 minutes, cont'd.

THE CORRECTION. THE MOTION PASSES.

MOTION: W.BURNHAM MOVES TO CLOSE THE MEETING
AT 10:00 P.M. SECONDED BY BRIAN FEENER. ALL
MEMBERS VOTED TO APPROVE THE MOTION. THE
MOTION PASSES.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in cursive script, appearing to read "J.J. Chet". The signature is written in dark ink and is positioned to the right of the "Attested to:" label.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

April 22, 1996

Brian P. Cassidy, Esquire
Essex Town Counsel
Ronan, Segal & Harrington
59 Federal Street
Salem, MA 01970

Re: Garcia Kimball
Lot 34/Maple Street
Essex, MA 01929

Dear Attorney Cassidy:

Garcia Kimball has filed a building permit application dated April 29, 1995. During the April 17, 1996 meeting with the Planning Board, attorney Mark Glovsky represented Garcia Kimball requesting that the board issue the building permit. Your office was contacted by letter dated April 16, 1996 concerning this matter. Please answer for us the following:

1. Is Lot 1 buildable? Is this lot grandfathered and thereby exempt from today's standards?
2. If you add to a grandfathered lot (parcel 2 & 3), does it affect grandfather status?
3. What are the zoning requirements for this grandfathered lot with respect to other zoning requirements?

A plan of land is attached to this letter, and Attorney Glovsky has agreed to discuss this case with you so that this matter can be finalized as soon as possible.

Also, the board would like to be notified of the status of the Hendersen Appeal, as we have not heard from you of the Summons from John Henderson.

Thank you for your prompt response to our questions.

Sincerely,

Frances A. Dunn,
Chairperson,
Planning Board

EAJ:lar
Enclosure

RONAN, SEGAL & HARRINGTON

ATTORNEYS AT LAW

FIFTY-NINE FEDERAL STREET
SALEM, MASSACHUSETTS 01970-3470

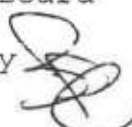
(508) 744-0350

FAX (508) 744-7493

JAMES T. RONAN (1922-1987)
JACOB S. SEGAL
MARY PIERMONTE HARRINGTON
GEORGE W. ATKINS, III
BRIAN P. CASSIDY

E160.7B
FILE NO. _____

May 8, 1996

TO: Essex Planning Board
FROM: Brian P. Cassidy 
Town Counsel
RE: Garcia Kimball, Lot 34 Maple Street

By memorandum dated April 22, 1996, you requested that I respond to certain questions relating to three lots of land located on Maple Street and designated as Lots 34, 34A and 34B on Essex Assessors Map 38. These lots are presently owned by Garcia Kimball. All three lots were created before the adoption of a zoning by-law in the Town of Essex.

The matter is presently before the Planning Board pursuant to Section 6-7.2 a. of the Essex Zoning By-laws.¹ In preparing this opinion I have reviewed the prior correspondence from Attorney Kroesser and Town Counsel John Tierney, minutes of the 1993 Planning Boards meeting, the 1959 Town Meeting vote, correspondence from Attorneys Mark Glovsky and Kevin Dalton and various deeds supplied by them. For purposes of this memorandum I am accepting the representation that the three lots were held in common ownership in 1959 and 1975.

¹ "No building or structure shall be erected, added to, moved or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the site plans showing the buildings to be placed thereon and the proposed use there for [sic], except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provisions of Chapter 40A Massachusetts General Laws."

QUESTION 1: Is Lot 1 buildable? Is this Lot grandfathered and thereby exempt from today's standards?

ANSWER: Yes.

REASONS:

There are two provisions of the Zoning Enabling Act that relate to preexisting lots.² The first requirement of Section 6 of G.L. c. 40A provides that:

"any increase in area, frontage, width, yard or depth of a zoning ordinance or by law **shall not apply** to a lot for single or two family residential use which at the time of recording or endorsement was not held in common ownership with any adjoining land, conformed to the existing requirements and had less than the proposed requirements but at least five thousand [5,000] square feet of area and fifty [50] feet of frontage.

At a Special Town Meeting held on July 1, 1959, the Town approved a zoning by-law establishing a minimum lot area of 30,000 square feet and minimum frontage on a way of 150 feet for all areas of the Town except Conomo Point.

To determine the exempt status of the lots you must examine the ownership and dimensions before the change in the zoning. Sieber v. Zoning Board of Appeals of Wellfleet, 16 Mass.App.Ct. 985 (1983); see, Massachusetts Zoning Manual, § 7.35, Vol. 1, p. 7-38 (1995 Rev.Ed.). The 1959 By-law rendered all three of the Kimball lots nonconforming. Of the three, only Lot 34 met the 5,000 square foot, 50 feet of frontage requirement. Neither Lot 34A (4,084 s.f.) and Lot 34B (4,656 s.f.) met the minimum area requirement and neither had frontage on a way. Standing alone lots 34A and 34B are not buildable lots. However, since the lots were held in common

² The second provision of G.L. c. 40A, § 6, does not apply to lots in existence on January 1, 1976 that did not comply with the existing zoning requirement on that date. Ferzoco v. Board of Appeals of Falmouth, 29 Mass.App.Ct. 986 (1990); See, Massachusetts Zoning Manual, § 7-35, p. 7-39. Since these lots were non-conforming after the enactment of the 1959 Bylaw, the second provision does not apply.

ownership, combining them would reduce the nonconformity in the lot area requirement of Lot 34.

Attorney Glovsky indicated that in 1992, Ms. Kimball transferred Lot 34A (2) to Attorney James Kroesser's secretary. The secretary then conveyed Lot 34A (2) to Ms. Kimball's daughter, who ultimately reconveyed the property back to Ms. Kimball. This attempt at "checkerboarding", conveying adjoining lots to avoid having to combining the lots for zoning purposes, cannot and did not defeat the fact that for zoning purpose the lots are merged. Where the underlying beneficial ownership and control of the lots remain in common ownership it is likely to be held ineffectual. Lee v. Board of Appeals of Harwich, 11 Mass.App.Ct. 148, 151 n. 4 (1981). The Court looks at who controls the lot rather than the name on the deed.

QUESTION 2 If you add to a grandfathered lot (parcel 2 & 3), does it affect the grandfathered status?

ANSWER: No.

REASONS:

As I stated in response to Question 1, Lots 2 (34A) and 3 (34B) must be combined with Lot 34 for zoning purposes in order to reduce the nonconformity.³

The Massachusetts Appeal Court has held that "a landowner will not be permitted to create a dimensional nonconformity if he could have used his adjoining land to avoid or diminish the nonconformity." (emphasis added). Planning Board of Norwell v. Serena, 27 Mass.App.Ct. 689, 690 (1989) *aff'd*. 406 Mass. 1008 (1990). The owner of adjoining parcels cannot avail himself of this preexisting nonconforming lot exception unless he includes adjoining lots held in common ownership to minimize the nonconformity. Sorenti v. Board of Appeals of Wellesley, 345 Mass. 348, 353 (1963).

³ This does not require the deeds to be changed to create one lot. The land can be described as three separate lots in the deeds but they are considered one lot for zoning purposes.

QUESTION 3 What are the zoning requirements for this grandfathered lot with respect to other zoning requirements?

ANSWER: By this I assume you mean that in addition to the 5,000 square feet of area and 50 foot frontage on a way, whether any other dimensional requirements may apply. It appears that the answer to that question is no.

REASONS:

The exemption in G.L. c. 40A, § 6 protects a lot from any increase in area, frontage, width, yard or depth of a zoning ordinance. The issue of how side yard setbacks should be treated in relation to grandfathered residential lots was raised, but not decided, in Priore v. Sawyer, 30 Mass.App.Ct. 943 (1991). In the Priore case an abutter argued that current side yard set backs should apply to a preexisting nonconforming lot if they could be met. The Appeals Court avoided that issue and decided the case on other grounds.

A recent Land Court decision held that a grandfathered lot meeting the statutory requirements minimum frontage and lot area was not required to meet setbacks. Mscisz v. Town of Middleton Zoning Board of Appeals, 4 Land Ct.Rptr. 10 (1996). Judge Kilborn wrote: "I find plaintiff need not show his structure cannot comply with existing yard requirements. Section 6 states that the current requirements 'shall not apply' and there are no conditions or reservations in the statute." Mscisz v. Town of Middleton Zoning Board of Appeals, 4 Land Ct.Rptr. at 11.

CONCLUSIONS

Lots 34, 34A and 34B are merged to form one building lot for zoning purposes. Under G.L. c. 40A, § 6, the merged lot is protected from any increase in area, frontage, width, yard or depth of a zoning. No current set back requirements apply to the proposed building location on the lot.

cc Essex Board of Selectmen
 Essex Zoning Board of Appeals
 Essex Building Inspector

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JUNE 4, 1997

The meeting began at 7:10p.m. and was held at the Essex Elementary School on Story Street.
Present: S.Pennoyer, P.Dunn, D.Jones, B.Feener and Joe Ginn. Absent: W.Burnham and Gil Guerin

DICK CARTER/BUILDING INSPECTOR: For Carol and John Rajunas, Lot 16 - Landing Road. Map 33, 72,246 s.f., for Excavation, footing and foundation, construction of 44x28 two-story colonial home and landscape. BOH, Conserv. Comm. Approval. The plans submitted were drawn for a septic by Morin Engineers, dated 12/28/95 and revised on 5/12/97. The plan showed that there was not enough frontage for the approval.

MOTION: PAT DUNN MOVED TO DENY THE BUILDING APPLICATION OF JOHN AND CAROL RAJUNAS FOR LOT 16 ON LANDING ROAD. THE MAP PRESENTED SHOWS INSUFFICIENT FRONTAGE. THE TOWN OF ESSEX BYLAWS REQUIRE A MINIMUM OF 150 FEET OF FRONTAGE. SECONDED BY DAVE JONES. IN FAVOR OF THE DENIAL: P.DUNN, S.PENNOYER, D.JONES, JOE GINN AND B.FEENER. THE MOTION TO DENY PASSES.

STEPHEN GRIMES of 44 Pond Street returns with the plans for demolition of a house, construction of a 48x48 new home and garage. Map 9, Lot 1, 1.36 acres. The garage being built is 30x30. Located in the Water Resource Prot. District, the applicant has sufficient land coverage.

MOTION: DAVE JONES MOVES TO APPROVE THE BUILDING APPLICATION OF STEPHEN GRIMES OF 44 POND STREET, MAP 9, LOT 1, 1.36 ACRES, FOR CONSTRUCTION OF NEW SINGLE RESIDENCE, 48X48, SEEING THAT IT MEETS ALL OF THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS. NOTING THAT THE PRESENT DWELLING WILL BE DEMOLISHED NINETY DAYS AFTER THE CERTIFICATE OF OCCUPANCY HAS BEEN RECEIVED. SECONDED BY: PAT DUNN. IN FAVOR OF THE MOTION WERE: S.PENNOYER, P.DUNN, B.FEENER, D.JONES AND JOE GINN. THE MOTION PASSES.

MOTION: DAVE JONES MOVES TO APPROVE THE APPLICATION FOR A 30X30 GARAGE/BARN FOR STEPHEN GRIMES, OF 44 POND ST., MAP 9, LOT 1, 1.36 ACRES, SEEING THAT THE PLAN MEETS THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WERE: S.PENNOYER, P.DUNN, B.FEENER, D.JONES AND JOE GINN. THE MOTION PASSES.

CHARLES A. HAY AND JOANNE CRERAND: 84 Apple Street, for a 39x69 single family residence, consisting of four bedrooms, 4.4 acres, Map 10, Lot 2B. Also consisting of an out-building and landscaping.

MOTION: SHELDON PENNOYER MOVES TO APPROVE THE BUILDING PERMIT FOR CHARLES A. HAY AND JOANNE CRERAND FOR LAND OFF APPLE STREET, LOT 2B, MAP 10, FOR CONSTRUCTION OF NEW FOUR BEDROOM DWELLING/HOUSE AND OUT-BUILDING, SEEING THAT IT MEETS ALL THE REQUIRED SETBACKS AND LOT AREA

page two of June 4, 1997 minutes, cont'd.

*Change Made during
June 18, 1997 minutes
for.*

AS SHOWN ON MAP DATED MAY 30, 1997 BY HANCOCK SURVEYORS.
SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION WERE:
PAT DUNN, S.PENNOYER, DAVE JONES AND BRIAN FEENER.
JOE GINN ~~VOTES PRESENT~~. THE MOTION PASSES.
~~ABSTAINUS.~~

HELEN STUART - Maple Street, Lot 35. Ms. Stuart came to the Board to find out if the land she has in her possession is a buildable lot. The Board discussed the past history of this lot, going back to 1982 and 1983. According to the records, the Minutes showed that the Board denied a building permit for the lot, and an appeal was set for an October 25, 1983 date. Records then show that the Board of Appeals had a request from Samuel Stuart to continue the hearing for another date. The records at the Town Clerk's office show that no continuation occurred. The Planning Board then advised Helen Stuart to refer to the Board of Appeals for any challenges that she may have. No action was taken this evening by the Board and the Board agreed to maintain the same opinion of the previous Board's decision to deny the building permit for the lot. The information that the Board referred to will be forwarded to the Board of Appeals.

MOTION: JOE GINN MOVES TO APPROVE THE MAY 21, 1997 MINUTES
AS WRITTEN. SECONDED BY D.JONES. ALL MEMBERS VOTED TO
APPROVE THE MOTION. THE MOTION PASSES.

TURTLEBACK ROAD SUBDIVISION: Joe Ginn brought to the Board, several concerns relating to the Subdivision: It was believed that underground utilities are being installed for the house that Peter has built on one of the Lots. Also, it looks as if another home is being started. Joe Ginn questioned why this work was being done when there is no building permit. The Agreement stated that the lots would not be approved until the road was finished, and this included the road up to the lots in question. The Technical Review Agent has not been notified yet, as Peter has not given the Board the proper documents - the Definitive Subdivision Plan that was requested. A letter was typed by Sheldon and will be forwarded to the Building Inspector, Town Counsel, and Peter. Also, the DPW will be contacted in order to get in writing, the various situations frustrating the Department in relation to the water lines, etc. It is the Planning Board's opinion that no work should be done until the Technical Review Agent has been officially contracted. Discussion will continue after the information from the DPW has been received.

NOMINATIONS OF THE BOARD: Pat Dunn nominates Sheldon Pennoyer as Chairman. Seconded by Dave Jones. Voting in favor of the nomination were: Pat Dunn, Dave Jones, Brian Feener and Joe Ginn. Pat Dunn nominates Westley Burnham as alternate Chairman. Seconded by Dave Jones. Voting in favor of the nomination were: Pat Dunn, Sheldon Pennoyer, Dave Jones, Brian Feener and Joe Ginn. Pat Dunn nominates Gil Guerin as Clerk of the Board. Seconded by Dave Jones. Voting in favor of the nomination were: Pat Dunn, Sheldon Pennoyer, Dave Jones, Brian Feener and Joe Ginn. All nominations for Chairs were passed unanimously.

MOTION: DAVE JONES MOVES TO CLOSE THE MEETING AT 9:00P.M.
BRAIN FEENER SECONDS THE MOTION. ALL MEMBERS VOTED TO
APPROVE THE MOTION. THE MOTION PASSES.

Note: Next scheduled meeting: June 18, 1997.

Presented by: Lisa A. M. Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, JUNE 4, 1997

- | | |
|-----------|--|
| 7:00 P.M. | DISCUSSION OF HELEN STUART PROPERTY
ON MAPLE STREET |
| 7:15 P.M. | DICK CARTER/BUILDING INSPECTOR |
| 7:30 P.M. | HELEN STUART, FOR PROPERTY ON
MAPLE STREET |
| 8:00 P.M. | PLANNING BOARD
BUSINESS/MAIL
MINUTES OF 5/21/97 |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 21, 1997

The meeting was held at the Essex Elementary School on Story Street and began at 7:00p.m.
Attendees: W.Burnham, S.Pennoyer, D.Jones, B.Feener, Gil Guerin, and Joe Ginn.

The board formally welcomed Brian Feener as a new member, voted by the Town on the May 12, 1997 elections. Note: W.Burnham holds chair for the following items on the agenda. S.Pennoyer and Gil Guerin and Pat Dunn are not present at this time.

DICK CARTER/BUILDING INSPECTOR: for Richard Salzburg, 165 Main Str., Map 38, Lot 6, Lot Size of 9,953 s.f. approved by BOH and Conservation Commission for restoration of sills/corner posts, add fire exit, add/restore windows, replace clap boards, resurface a section of floor, fix roof, upgrade heat and electrical. No action was taken by the board on this application.

STEPHEN GRIMES: 44 Pond Street, approved by Conservation Commission. The Board of Health has the plot plan. 1.36 acres, Map 9, Lot 1 for demolition of a house on the property and to build a new dwelling with 30x30 garage/barn. The home to be demolished will be occupied until the new home is finished. The Board acknowledged this issue; no formal action was taken.

STEPHEN WOODMAN: 125 Rear Main Street, 19,000 s.f. lot, Lot 48A, Map 0037, 17x10 - two story addition: Pantry, 1st floor, enlargement of master bedroom and master bathroom, 3rd floor storage area. The Board denies the permit as the addition creates a nonconforming sideline.

MOTION: DAVE JONES MOVES TO DENY THE APPLICATION FOR STEPHEN WOODMAN OF 125 REAR MAIN STREET. UNDER THE ESSEX ZONING BYLAWS, A REQUIREMENT OF A TWENTY FOOT SIDELINE SETBACK IS NECESSARY. THE PROPOSED ADDITION CREATES A 17.6 FT. SIDELINE SETBACK. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: W.BURNHAM, JOE GINN, DAVE JONES AND BRIAN FEENER. THE MOTION PASSES.

The Board will forward a letter to Stephen Woodman and the Board of Appeals regarding the above Motion to Deny.

Note: Sheldon Pennoyer and Gil Guerin enter.

WOODMAN'S FUNCTION HALL: 121 Main St., 23,500 s.f., Map 37, Lot 48, for two items: Addition for roof to keep customers from the elements as they come into the hall, 24x24. Also wish to enclose an area 16x24 with a floor and rubber roofing to make additional office space. The Board agreed that Woodman's could not increase the nonconformity. They would require a variance for both requests - The building coverage was in excess of twenty-five percent of total lot area. No action was taken by the Board.

RICHARD SALZBURG: (see notes above for this discussion, for work being done on this building) Mr. Salzburg wanted to amend his discussion from the last meeting he had with the Board on December 18, 1996. He wanted to reinstate his position and use the building as a place where things could be sold. When



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MAY 21, 1997

7:00 P.M.	MINUTES OF MAY 7, 1997
7:15 P.M.	DICK CARTER/BUILDING INSPECTOR
7:30 P.M.	RICHARD SALZBURG/DISCUSSION OF PROPERTY AND THE BUILDING AT CORNER OF SOUTHERN AND MAIN
7:45 P.M.	MARK GLOVSKY/LOT CHANGE ON APPLE STREET
8:00 P.M.	GARY HAMILTON/HANCOCK SURV. FOR ANR, 54 MARTIN STREET
8:15 P.M.	PLANNING BOARD BUSINESS: SUMMER SCHEDULE HUNTER'S CIRCLE
OTHER:	DISCUSSION OF SUMMER SCHEDULE



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD
MAY 7, 1997 AGENDA

- 7:00 p.m. Minutes of March 19 and April 23, 1997
- 7:15 p.m. Dick Carter/Building Inspector - *ABSENT.*
- 7:30 p.m. John Judd, Gateway Subdivision Consultants,
Wood Drive Subdivision
- 7:45 p.m. Atty. Charles Clark for Peter Vanwyck,
Turtleback Road Subdivision
proposed meeting with clerk of the works,
and engineer.
- 8:30 p.m. Dan Rice: Gregory Island Road, proposed building of storage shed on 5,000 s.f. lot - *NOT Enough info. Applicant MUST COME IN*
- 8:45 p.m. Fortune Palace: Close in Deck
- Other Business: Discussion of Choate Street ANR for Sherman D. Jones - *NOT Enough info.*
- Review of Garcia Kimball file, requested by concerned citizen

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 7, 1997

The meeting began at 7:05p.m. in the Home Ec. Room at the Essex Elem. School.

Attendees: P.Dunn, W.Burnham, D.Jones and Joe Ginn. Absent: Gil Guerin and S.Pennoyer. W.Burnham holds the chair for this evening.

MOTION: JOE GINN MOVES TO APPROVE THE MARCH 19, 1997 MINUTES AS WRITTEN. THE MINUTES OF MARCH 19, 1997 ARE REPRESENTATIVE SEPARATELY: 3/19/97 PUBLIC HEARING, AND 3/19/97 PUBLIC HEARING OF GEORGE STAVROS. HOWEVER, THE TWO DOCUMENTS ARE FILED TOGETHER IN THE TOWN FILE. SECONDED BY P.DUNN. IN FAVOR OF THE MOTION: P.DUNN, D.JONES, W.BURNHAM AND JOE GINN.

MOTION: JOE GINN MOVES TO APPROVE THE APRIL 23, 1997 MINUTES AS CORRECTED. SECONDED BY P.DUNN. ALL MEMBERS VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

DICK CARTER/BUILDING INSPECTOR: Mr. Carter was absent for the meeting, however, P.Dunn brought forth an application for a building permit for Susan and Leo McGuire of 128 Eastern Ave. for construction of an accessory building on the property. 30,000 s.f., 100ft. frontage, book 23692, page 1000, map 31, 20ft. sideline setback, 18x30 single story building. The building is for a future home occupation.

MOTION: JOE GINN MOVES THAT SUSAN AND LEO MCGUIRE OF 128 EASTERN AVENUE UNDER 6-4.2, A BUILDING BE ALLOWED TO BE CONSTRUCTED SHOWING 20FT. SIDELINE SETBACK, 18X30 FT. SINGLE STORY TO BE USED AS A HOME OCCUPATION IN THE FUTURE, FINDING THAT IT MEETS ALL SETBACK REQUIREMENTS AS NEEDED. THE APPLICANT IS FULLY AWARE OF THE RULES & REGULATIONS FOR CONFORMANCE OF THE HOME OCCUPANCY USE. THIS APPLICATION MUST BE SIGNED OFF BY THE CONSERV. COMM. AND THE BOH BEFORE THE BUILDING INSPECTOR AGREES TO SIGN FOR A PERMIT. SECONDED BY PAT DUNN. IN FAVOR WERE: D.JONES, JOE GINN, P.DUNN AND W. BURNHAM. THE MOTION PASSES.

STEPHEN WOODMAN, Rear Main Street, for an addition. The planning board could not approve a building permit for the addition, as it creates a more nonconforming lot. Discussion only, no action was taken; the applicant was not present and therefore no advice was given at this time.

SUBDIVISION OF HUNTER'S PLACE - JOHN & MARILYN HEATH OF 83 Western Ave., JOHN JUDD OF GATEWAY CONSULTANTS came to the Board on behalf of the Heaths. The subdivision is adjacent to Chebacco Lake on Wood Drive. Approx. 4.1 acres with an existing dwelling: Proposing three more homes, each consisting of 40,000 s.f. There would be some variances needed: Looking for relief on the roadway, and other waivers that were listed with the presentation materials given. The property was in the Wetlands Prot. District and has gone before the Conservation Comm. To verify the boundaries. This Definitive Subdivision Plan was formally given to the Board. Larry Graham, the Town's choice for all Technical Reviews will be contacted.

Page two of the May 7, 1997 minutes..

MOTION: JOE GINN MOVES TO SCHEDULE A PUBLIC HEARING ON JUNE 18, 1997 AT 8:00P.M. AT THE ESSEX ELEMENTARY SCHOOL ON STORY STREET FOR THE PROPOSED SUBDIVISION FOR JOHN AND MARILYN HEATH OF 83 WESTERN AVENUE, FOR DEFINITIVE SUBDIVISION OF "HUNTER'S CIRCLE", LOCATED AT 65 WOOD DRIVE. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION: J.GINN, W.BURNHAM, P.DUNN AND D.JONES. THE MOTION PASSES.

Note: Tony Periton, who has property at 59 Wood Drive, which abuts the Heath's feels that the lot lines are in question. He was advised to refer to an attorney and a separate surveying company.

TURTLEBACK ROAD SUBDIVISION: SCOTT PATROWICZ, representing Mr. VanWyck concerning the road accessing the lots at Turtleback Road Subdivision: Apparently, the original Klopotoski Drawings showing the Road was submitted to the DEP for the Consent Order against Mr. VanWyck. However, the Water Line and Road that is presently being worked upon is a deviation to the Definitive Plan submitted. Mr. VanWyck was coming to the Board for a waiver on the Road. He also noted that there is a home on one of the Lots that he would like to sell next month, and was looking to have the two lots, 22 and 23 signed off by the Board.

The Board was firm with the facts to Mr. VanWyck. The Agreement must be adhered to, and the legal issues regarding a waiver, and signing off of the Lots could not be answered at this meeting. The board advised Mr. Vanwyck to come to the Board with the appropriate changes in a Plan, meet the requirements of the Agreement concerning the Lots, and the Board would then discuss the matter with Town Counsel.

Also, the signed Plans were still not produced at the meeting. Mr. Patrowicz, however, will give a copy of the definitive plans he is working with, to the Board.

LARRY GRAHAM, GRAHAM ASSOCIATES, INC. Was present during the entire meeting this evening and advised the Board of procedures relating to his services. The Board will draft a letter to both the Heath's and Peter VanWyck, stating that the procedure for a TECHNICAL REVIEW AGENT will be instituted for these subdivision applications. Mr. Graham will then receive a request from the Planning Board to study the information relating to each case, and give an opinion of the cost relating to each project. The estimated costs for the projects will then be given to the applicant, who then forwards the estimated amount to the Town to be placed in a Revolving Account which has been set up specifically for this purposes. Larry's invoices then go to the Board, who in turn gives the invoice to the Accounting Department for payment. This is standard procedure in other communities, and the Board agreed that this will be a part of the subdivision process for every applicant in the future.

FORTUNE PALACE RESTURANT: The applicant wants to add a sun room over an existing deck, plus four feet, which increases the nonconformity. Approval has been given by BOH and the Conserv. Comm. However, the building application needed to be seen, and the applicant will return at the next scheduled meeting, May 21, with Dick Carter.

DAN RICE: Gregory Island Road, wants to purchase 5,000 s.f. lot and build a 750 s.f., two-story workshop (approx. 20x40). The Board had a plan, but no site plan. Questions were raised: Has the property been in ownership with any adjoining property since 1959, does it have the applicable setbacks? The applicant was not present for the discussion: The Board would need more information for advice to Mr. Rice. No action was taken.

Page three of the May 7, 1997 minutes, cont'd.

SHERMAN D. JONES: CHOATE STREET: P.Dunn received a mylar showing existing lots. More information was needed to assist the Board of what Mr. Jones was requesting. No action was taken.

GARCIA KIMBALL: Maple Street. Mr. Jay Havighurst requested that a question be answered regarding a letter from his attorney dated June 17, 1996. The parcels 2 and 3 abuts "... land to the northeast, being labeled on the attached plan as "N/F Frederick Richardson III" and "N/F Elizabeth and Raymond Butler", respectively..... For purposes of MGL Ch.40A, Section 6 analysis, then, the land to be considered was not just the three parcels that Ms. Kimball wants to put a single-family house on, but also must include the above-described two lots to the northeast...." Further, "In 1966, George Mears conveyed out to the two abutting northeasterly parcels by deed at Essex south district Reg. Of Deeds... What was left over, and what is proposed now for the new house, this seems not to have conformed to then existing requirements (of 30,000 s.f. and 150 ft. in frontage)...."

Westley Burnham concluded that Lots 2 & 3 had no bearing on the decision of a home on Lot 1. The lots surrounding Lots 2 & 3 were not considered as a requirement for the above in this matter. The home is on Lot 1, the septic is on one of the other lots, which are now joined as one lot.

MOTION: DAVID JONES MOVES TO ADJOURN THE MEETING AT
9:15 P.M. PAT DUNN SECONDED THE MOTION. ALL MEMBERS
VOTED IN FAVOR OF THE MOTION.

NOTE: Next scheduled meeting is May 21, 1997.

Presented by: Lisa A. M. Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, APRIL 23, 1997

THIS IS A WORK SESSION, TO BE HELD AT THE COUNCIL OF AGING BUILDING, (OR SCOUT HOUSE) LOCATED AT PICKERING STREET, ESSEX..

THE MEETING IS SCHEDULED TO START AT 7:00P.M.

DISCUSSION: CONOMO POINT ISSUES REGARDING THE ARTICLE PLACED ON THE 1997 TOWN WARRANT BY THE COMMITTEE FOR A FAIR SOLUTION AT CONOMO POINT AND ROBBINS ISLAND.

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, APRIL 23, 1997

This special work session was held at the Council of Aging House , Pickering Street, and started at 7:10p.m.
Attendees: P.Dunn, S.Pennoyer, W.Burnham, D.Jones, J.Ginn , and Gil Guerin

MOTION: DAVE JONES MOVES TO APPROVE THE MINUTES
OF APRIL 16, 1997, WITH THE FOLLOWING CORRECTION:
PAGE FIVE, PARAGRAPH THREE WILL NOW READ, "THE
MOTION TO DENY A SPECIAL PERMIT IS APPROVED."
SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION
WERE: P.DUNN, GIL GUERIN, DAVE JONES, S.PENNOYER.
W.BURNHAM VOTES PRESENT. THE MOTION PASSES.

(note: Joe Ginn enters.)

CONOMO POINT ISSUES: The work session was to discuss various concerns that the Planning Board had with regard to the two meetings with the Committee for a Fair Solution at Conomo Point and Robbins Island.

The Board complemented the group for its efforts, but the six week period for a decision to sell the leased land was a concern. The Board discussed issues, such as exactly how many residents would actually become year 'round property owners - this figure was not substantiated. W.Burnham felt that not all of the property should be liquidated, such as the outer portion of the point, and perhaps selling from clammer's beach ~~and toward town.~~ ^{and toward town.} ~~beyond.~~ Would the lots be sold singularly, or by an entity. The septic issues were the main topic, since the Order of Consent was against the Town, and what would the factual scenario be, if the houses were sold to the tenants. Who would actually be liable for the septic issues there. Planning issues such as subdivision costs, road maintenance, and control of the financial gains was discussed at length. S.Pennoyer wanted to get real offers from the tenants before deciding.

The Board decided to recommend that a Motion be agreed to indefinitely postpone the proposal at the May 5, 1997 Town Meeting, citing:

1. Recommending that the Town appoint seven members to investigate the process further, for reasons:
2. The uncertainty of the definite numbers of sales for the leased
3. The costs of the treatment plant
4. The suitable location of the Plant and lack of approval for it
5. Public Access to the waterfront was not clear
6. The infrastructure i.e., police, school, etc. Its impact is still not clear, (estimates from school comm., and the D.P.W., needed more financial facts)
7. Town water, and the costs to place the line to residents there - who would pay.

The Board concluded that they were all in agreement to approve the Cell Tower by-law Proposal to the Town. The Board would stand as a whole to support the amendment.

MOTION: D.JONES MOVED TO CLOSE THE MEETING AT 9:00P.M.
SECONDED BY: J.GINN. ALL MEMBERS VOTED TO APPROVE
THE MOTION.

Presented by: *Lisa M. Randall*

Attested to: *[Signature]*

Next scheduled meeting is May 7, 1997



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, APRIL 16, 1997

The meeting is scheduled to be held at the Essex Elementary School on Story Street at 7:00p.m.

7:00 p.m.	Minutes of March 19, 31, and April 9
7:15 p.m.	Dick Carter/Building Inspector
7:30 p.m.	Peter Clark: Conomo Point Issues
8:00 p.m.	Charles Clark, Atty. For Peter Vanwyck Turtle Back Road Subdivision
8:30 p.m.	Christian Peyla: Byrnes Bros. - informational only
8:45 p.m.	Tom Guertner: Periwinkles - deck addition
9:00 p.m.	Bruce Fortier - discussion of Conomo Point Issues
Other:	Discussion or possible Decision of Stavros Special Permit

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, APRIL 16, 1997

The meeting was held at the Essex Elementary School on Story Street and began at 7:00p.m.
Attendees: S.Pennoyer, P.Dunn, J.Ginn, D.Jones, Gil Guerin, W.Burnham(9:00p.m. entrance)

MOTION: PAT DUNN MOVES TO APPROVE THE MARCH 31, 1997 MINUTES AS WRITTEN. SECONDED BY GIL GUERIN. APPROVING THE MINUTES WERE: GIL GUERIN, PAT DUNN, AND S.PENNOYER. D.JONES AND J.GINN VOTE PRESENT. THE MOTION PASSES.

MOTION: JOE GINN MOVES TO APPROVE THE APRIL 9, 1997 MINUTES AS WRITTEN. SECONDED BY PAT DUNN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

Gil Guerin discussed the seminar that he and W.Burnham attended last week. It was mentioned that the proposed 6.6-9e Telecommunications amendment was very similar to others in the State. The seminar was informative and beneficial for future planning issues.

A discussion about the 500 foot setback listed in the proposed 6.6-9e: It was mentioned that perhaps a 300 foot setback may have been the avenue to have taken, yet a change was not feasible now. An amendment to the amendment on town floor was a possible solution, if it was to be discussed for changes to the residents. No further action was taken.

COMMITTEE FOR A FAIR SOLUTION AT CONOMO POINT AND ROBBINS ISLAND: BOB MUCERI conducted a continuation of last week's meeting regarding the Article on the Warrant relating to the sale of land at leased lots at Conomo Point Road, etc. (Please see the April 9, 1997 minutes.) The presentation was directed to residents who were present to hear the proposed resolution. (Note: Upon request, the files are located at the Town for the financial summary and supporting documentation.) A public meeting will be held at Woodman's Hall on April 22, 1997, hosted by the Committee.

TURTLE BACK ROAD EXTENSION: ATTORNEY CHARLES CLARK for Peter Vanwyck came to the Board for an update of the Subdivision. He wanted the Board to be clear on the fact that the plans that Peter Vanwyck presented to the Board in March, were not Definitive Plans. Plans for the Subdivision have already been approved by the Board, and were drawn by engineer Klopotoski. Patrowicz Engineering now has the Plans. Clark pointed out that Mr. Vanwyck would not submit Definitive Plans because of the previous approval. S.Pennoyer understood Clark's position but was not confident that the Board possessed a final copy of signed, approved plans for this Subdivision, showing the layout of the Road. The Board wanted a copy of the Plans. Mr. Clark stated that Mr. Vanwyck would provide the Plans to the Board. A meeting would then be held to have Patrowicz show the layout of the Road. Larry Graham, of H.L. Graham Assoc. (the Board's choice of Clerk of the Works for this project and others, for the Town.) would also be present. This technical review would inform the Board and Mr. Graham. A documented contract of the requirements would be drawn, and Mr. Vanwyck would be given the estimated costs for the job of Clerk of the Works. S.Pennoyer concluded that until the Board has a copy of the Plans, a proposal could not be drawn. This technical review was scheduled for May 7, 1997 at 7:45p.m., provided all parties could attend.

Page two of April 16, 1997 minutes, cont'd.

Kimberely Jermain of Apple Street wanted to know the status of the Low Land Farms. Apparently, there is work being done on that property. Details cannot be discussed by the Board pending litigation issues. Mrs. Jermain has permission to address the issues with Town Counsel, by written request.

CHRISTOPHER GOLDEN/CHRISTIAN PEYLA: BYRNES BROS. PROPERTY: 234 Western Avenue. Mr. Golden and Co. have been operating the Business Designs Electric Control Co. They design battery powered vehicles such as industrial trucks, scissor lifts, boom lifts. No production, no industrial work. They design and contract out only. The business exists with three employees only, one which lives on the property in the house. The presentation was for informational purposes only, as the company wishes to buy the property from Brynes Brothers, and add an office building on an existing footprint already having a foundation. The 1-1/2 story office structure will have minimum impact with no large work force, adequate parking, and will be upgraded to be maintained as a residential land use property. The Home Occupation Bylaws were read by Gil Guerin, and a copy was distributed to Mr. Golden. S.Pennoyer's concern was that the 85x40 ft. foundation seemed excessive. If the property was later sold, could it then become a business use? J.Ginn noted that if the building was scaled down, its aesthetics would be problematic. No action was taken, the Water Resource Protection District was discussed, and Mr. Golden left with several facts that he would consider before his proposed June decision to purchase would be made.

PERIWINKLES RESTURANT: Owner, Tom Guertner explained that he was looking for approval for a proposed deck attached to the restaurant. He showed a plan with twenty-six parking spaces, enough to accommodate the restaurant and seating of the deck. This met the requirements of twenty-two spaces. However, building the deck would create a more non-conforming plan. Mr. Guertner would have to go before the Board of Appeals, requesting a variance from the setback on the addition of the deck. The applicant has a signature of approval from the Board of Health, as well as approval from the Conservation Commission. S.Pennoyer questioned whether or not the Rivers Act would apply to this permit. No action was taken by the Board, and the approved minutes of this evening's discussion would be forwarded to Mr. Guertner for submission to the Board of Appeals.

(note: W.Burnham enters, 9:00p.m.)

BRUCE FORTIER FOR REBUTTAL OF CONOMO POINT WARRANT: Mr. Fortier, of Southern Avenue raised several concerns by min regarding the potential \$13,000,000 sale of leased land at Conomo Point and the area surrounding. He felt that given the ramifications of such a decision to sell the leased property, not one of this Town's Boards has given leadership in defense of the residents. He felt that the three requests of the Article, "... discontinuing the leases, giving life tenancy, and giving the Selectmen the authority to sell the leases, was unfair, given the fact that the leases have a full fourteen years to expire..." Mr. Fortier was explicit in his request that the Planning Board recommend that the Article be **INDEFINITELY POSTPONED**. He felt that six weeks was an unfair time limit for the Conomo Pt. Committee to "force" the Town to decide the fate of the property. He went on to say that the proposal gave no **FACTS**. The townspeople would be certain to pay the price for the decision to sell. He also added that no other residents, other than the people that want to buy this property, have come forward. Mr. Fortier explained that in his opinion, "... real true fact was that the money realized in this deal would not benefit the Town. Capital projects would be financed, but the Town's overhead would be increased, and the DEP Consent Order was against the Town and the State, not the buyer of the land..." This vote at the Town meeting required only a fifty percent vote to sell the land - Valuable Town land. In conclusion, Mr. Fortier raised important financial issues relating to the restrictions of the money for the sale of the land that could be used. The septic issue at hand, and the point that the Consent Order already has the agreement that a treatment plant will have to be built if the land is sold. A cost that would be incurred by the Townspeople,

page three of April 16, 1997 minutes, cont'd.

as holding tanks at Conomo Point is not a long range solution. The present lease is only a cost of one percent of the assessed value of the property for the leasees. There were no facts to prove that this decision would benefit the Town, in his opinion. He requested that the Board take the time to think about indefinitely postponing the Article to sell the property.

It was also discussed that this issue is within the Planning Board's purview. If a proposed Subdivision would be established here, the potential costs to the Town for this would have to be studied. The impact of the land and its future would have serious implications, and giving the townspeople a mere total of six weeks to decide its fate was a concern for the Board.

After Mr. Fortier's presentation to the Board, it was clear that a work session would be planned for Wednesday, April 23, 1997 at 7:00p.m. The location is to be at the Scout House on Pickering Street.

GEORGE STAVROS FOR GEORGE STAVROS REALTY TRUST, SPECIAL PERMIT DECISION:

The Board was questioning why Town Counsel, after given a request by the Board, did not respond in time to give legal opinion of the draft of the Decision to Deny the Special Permit of above. The Decision is as follows:

MOTION: W.BURNHAM MOVES TO ACT ON THE FOLLOWING DECISION REGARDING THE SPECIAL PERMIT SUBMISSION BY GEORGE STAVROS:

The Essex Planning Board acting as the Special Permit Granting Authority hereby denies the application for a Special Permit submitted by George Stavros, Trustee of the Stavros John Wise Avenue Nominee Trust.

This Special Permit is being denied based in part on the following:

Three non-conformities with the proposed amendment to the Essex By-laws being presented at the May 5, 1997 annual Town meeting. This amendment having been advertised and presented for public comment prior to this decision is binding on this application in accordance with M.G.L. Chapter 40A Section 6.

Areas of non-conformity:

1. The original application tower design was not of the "monopole" type, during the public hearing of March 19, 1997 the applicant submitted a statement amending the design to conform with the requirements of 6-6.9 e 2. (proposed).
2. The location designated for construction does not meet the minimum setback of 125% of the tower height from the front, side and rear sidelines. For the proposed 150 foot tower a minimum of 187.5 feet of setback is required by 6-6.9 e 5. (proposed)
3. The location designated for construction does not meet the minimum setback of 500 feet from the nearest residential structure as required by 6-6.9 e 7. (proposed)

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4. The location designated for construction does not meet 6-6.9 e 10 (proposed) in that the plans do not locate the tower within an established wooded area. It is recognized that there is no established wooded areas located on the parcel of land proposed for this use.

In addition to the above, The Planning Board, acting as the Special Permit Granting Authority, finds the applicant failed to substantiate the following propositions in accordance with Appendix B Special Permit Issuance Rules.

1. That the proposed use will be in harmony with the general purpose and intent of the Zoning By-law.
2. That the specific site is an appropriate location for such use.
3. That the proposed use as developed will not adversely affect the neighborhood.

Our finding is based on the testimony received at the public hearing held on March 19, 1997 and our own determination that the site chosen for a structure of such magnitude as proposed will have a serious and long lasting effect on the neighborhood scenic vistas and property values in that area.

The area in question is surrounded by several hundred acres of land which is controlled and maintained in a state which enhances the scenic views for this stretch of roadway. It is inappropriate that in the middle of this conserved and protected property a structure be allowed which would be overly intrusive to the nature and purpose of the properties being maintained in their natural state.

Therefore this application is denied.

This Special Permit having been acted upon unfavorably, reapplication may not be allowed within two (2) years except by:

1. First requesting the Board's consent to such action;
2. Having the Board, before voting on whether to give such consent, notify all "parties of interest" of the time and place when the question of such consent will be considered;
3. Having the Board, by a 2/3 vote, make findings of specific and material changes in the conditions upon which previous unfavorable action was based, describing such changes in the record of its proceedings; and
4. Receive the consent of all or all but one of the members of the Board.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. and shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

MOTION SECONDED BY PAT DUNN. A VOTE ON THE DECISION TO DENY WAS POLLED. VOTING IN FAVOR OF THE DENIAL:

JOE GINN: VOTES IN FAVOR TO DENY THE APPLICATION FOR ALL OF THE REASONS STATED IN THE ABOVE MOTION.

PAT DUNN: VOTES IN FAVOR TO DENY THE APPLICATION FOR ALL OF THE REASONS STATED IN THE ABOVE MOTION.

DAVE JONES: VOTES IN FAVOR TO DENY THE APPLICATION FOR ALL OF THE REASONS STATED IN THE ABOVE MOTION.

WESTLEY BURNHAM: VOTES IN FAVOR TO DENY THE APPLICATION FOR ALL OF THE REASONS STATED IN THE ABOVE MOTION.

GIL GUERIN: VOTES IN FAVOR TO DENY THE APPLICATION FOR ALL OF THE

page five of the April 16, 1997 minutes, cont'd.

REASONS STATED IN THE ABOVE MOTION, AND FAVORING THE LAST SECTION, APPENDIX B, OF THE MOTION.

SHELDON PENNOYER, CHAIRMAN: VOTES IN FAVOR TO DENY THE APPLICATION OF ALL OF THE REASONS STATED IN THE ABOVE MOTION AND SPECIFICALLY NUMBERS ONE AND TWO OF APPENDIX B OF THE SPECIAL PERMIT ISSUANCE RULES STATED IN THE ABOVE MOTION.

THE MOTION TO ^{Deny} ~~ISSUE~~ A SPECIAL PERMIT IS ~~DENIED~~ APPROVED. *Pat. J.J.*

MOTION: D.JONES MOVED TO ADJOURN THE MEETING AT 10:10P.M. P.DUNN SECONDED THE MOTION. ALL MEMBERS PRESENTS VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED.

Note: There will be a work session scheduled for April 23, 1997 at 7:00 p.m. at the Scout House. The next regularly scheduled meeting will be Wed. May 7, 1997 at 7:00 p.m. at the Essex Elem. School

Presented by: Lisa A. M. Randall

Attested to:

A large, stylized handwritten signature in black ink, appearing to be "Pat. J.J.", written over the "Attested to:" line.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, APRIL 9, 1997

- 7:00 P.M. Minutes
- 7:30 P.M. Peter Clark, Conomo Point issues
- 8:00 P.M. Discussion of George Stavros, Special Permit

Phil Burnham/Maple St. - No show
Dick Carter/resp

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, APRIL 9, 1997

The meeting was held at the Essex Elementary School on Story Street, and began at 7:10p.m.
Attendees: S.Pennoyer, W.Burnham, Pat Dunn, D.Jones, J.Ginn and Gil Guerin

DICK CARTER/BUILDING INSPECTOR: For CARL COOSE, informational only. 75 Wood Drive, Map 4, Lot 115, for removal and replace roof on house, and install deck. The Board noted that there was no site plan, and requested that the applicant return with the plot plan. Plans to remove and replace the roof and installation of the deck made the property no more non-conforming, and estimated calculations seemed to show the property remaining under the fifteen percent coverage, under the Water Resource Prot. District. No action was taken; the Building Inspector brought the plans in for recommendation and comments only.

LEO AND SUSAN MCGUIRE - 128 Eastern Avenue, Map 39, Lot 30, Lot Size 30,000 s.f. Coming to Board with a request to build an accessory building on the property. Estimated size of 24x30. The applicant had no site plan, but wanted the opinion of the Board of her possible plans to use the accessory building for a later home occupation. Joe Ginn questioned whether or not there would be sufficient parking for this proposed use. It was not officially calculated, but the applicant felt she could add to the existing driveway, allowing for additional turning and parking. The size of the building was an issue, also. The Board recommended that that applicant map out the actual footage, with setbacks, and possibly scale down the size of the accessory building. No action was taken.

CONOMO POINT: BOB MUCERI AND JAMIE DONOVAN, COMMITTEE FOR A FAIR SOLUTION AT CONOMO POINT AND ROBBINS ISLAND: A Booklet entitled, "A Win-Win Proposal" for the Resolution of the Current Leases and Sewage Abatement at Conomo Point and Robbins Island was given to all Board members and residents present who requested the booklet. The Proposal Presentation began by discussing the Fair Solution Article in the Town Meeting Warrant. The Article, if passed, would "... authorize the Selectmen to sell and convey to the present lessees of currently leased lots at Conomo Pt., Conomo Pt. Rd., Conomo Lane, Robbins Island Road, Town Farm Rd., Cogswell Road, Middle Road, Sumac Dr., Beach Circle, and Ellis Dr., ... for fair market value...." Their concern was the continued "uncertainty" that exists for the lease holders, i.e., decline of property values, declining tax revenue, loss of homeowner equity and potential law suits.

The DEP order against the Town was discussed at length, also. The Final Judgment of the DEP is summarized in Section 6 of this booklet. The timeline for commencement of work at Conomo Point from May 1, 1996 to December 31, 2011 was summarized. It states that "December 31, 2011 - If the Town's proposed use involves the transfer of some or all of the Conomo Point property, the Town shall provide that the transferee shall within one year bring all sewer disposal systems on the transferred property into full compliance."

Additionally, Mr. Muceri and Donovan read from the booklet, "Selling the land to the current lease holders will increase property values, tax revenues and provide an additional revenue stream from the annual interest income generated from the net proceeds of the sale of the land." Detailed graphs were shown and explained in the booklet. Pros and Cons about the decision to sell the land to the current lease holders are listed and were explained: Revenue creation that all Essex residents would benefit from, maximizing return on Town assets, increasing property values over time, resolving Title V requirements. The only Con listed was the "Perception of loss of control of the waterfront." Pros and Cons of Leasing beyond 2001 were discussed: Pro: Stems the depreciation of property values and tax revenue, Protects homeowner equity, Eliminates uncertainty. Con: Does not resolve the sewage problem at the Point, and Does not maximize the return on Town assets. Deciding now Not to Renew the Leases after 2011: Pro: Eliminates the need for meeting Title V beyond 2011, Perception of improved access to the waterfront. Cons: Increase uncertainty and lawsuits, forces interim Title V solution on the Town, Accelerates the depreciation of

page two of April 9, 1997 Minutes, cont'd.

property values and loss of tax revenue. Wipes out homeowners' equity. Potential cost of demolition borne by the Town (\$696K-\$858K).

The Board listened to other financial facts, but was mostly concerned of zoning issues. On Page 18, the Cost of Subdividing property for sale to the current lease holders was included (estimate of engineering and legal fees for preparation only). This led to several questions: Could the lots be subdivided? It was printed on page 21 that "Most of the lots were subdivided by the Town some time ago. The subdivision was never registered...."

A letter from Town Counsel regarding whether the lots could be grandfathered was mentioned and will be given to the Board for their files. Supposedly the lots can be grandfathered because the land was subdivided prior to the Town adopting the current subdivision bylaw.

A letter from Rep. Tarr's Committee concerning exemption of State Law 30B (requires the Town's to solicit bids for the sale of Town owned land. An exemption must be sought from the General Court) will be made available to the Board.

The impact on Schools and other Town resources was refuted by ^{some of} the Board, who disagreed that selling the properties would not impact the Town as a whole. Even though it was mentioned that most of the lessees would remain as seasonal occupants, the Board still had to assume that the impact of the sale would be for year-round residents. W. Burnham mentioned fire apparatus, snow plowing, possible additional buses for school children, etc. would definitely be issues to reckon with.

In conclusion, S. Pennoyer finished with the comments that "...this Committee is coming in with a Big Idea. He wanted the Board to think of the Big Picture..." The Board would read through the Booklet and was apprised of an April 22, meeting at Woodman's Hall starting at 7:00p.m. for all interested residents, concerning the Conomo Point Leases and Sewage Abatement.

A continuation of discussion is scheduled for April 16, 1997 for the Committee for a Fair Solution at Conomo Point and Robbins Island.

NOTE: PAT DUNN wanted it noted in the Minutes that she would like permission to destroy plans that have been stored in the attic at the Town Hall. The plans have no signatures denoting any kind of significance. The board acknowledged the involved hours spent sifting through the paperwork and appreciated her efforts. Pat felt that destroying the prints by burning them was the best solution. It was noted that the Board was given permission by the State to destroy such records.

GEORGE STAVROS - SPECIAL PERMIT: Discussion only. The Board read an April 4, 1997 letter from the Stavros' attorney requesting that more information be allowed to be presented, and that the Board hold onto their decision until the Town Meeting's vote of the 6.6-9e proposed by-law amendments. The Board felt that additional information could not be presented, given that the Public Hearing was already closed. They also felt that the decision of the application should be voted upon by April 16. Town Counsel will advise the Board on the legal language of their decision, before making it part of the record. Sheldon gave the Board his viewpoint on what he felt must be a denial. The decision would probably be based upon the proposed 6.6-9 by-law, beginning with Number 2. "Only free standing monopole towers (hereinafter referred to as "Towers") shall be allowed...

Number 5. Towers shall be set back from the front, rear and side property lines a distance equal to at least one hundred and twenty five (125) percent of the height of the Tower. Number 7. All Towers shall be located a minimum of five hundred (500) feet from the nearest residential structure. This paragraph shall

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not apply to radio, telecommunications, cellular, PCS and television facilities, located inside an existing structure. Also stated in the Denial would be, and APPENDIX "K" of the SPECIAL PERMIT ISSUANCE RULES in the Town of Essex bylaws: "It is recommended that every applicant appear at the hearing prepared to substantiate the following propositions:

1. That the proposed use will be in harmony with the general purpose and intent of the Zoning by-law;
2. That the specific site is an appropriate location for such use.
4. That the proposed use as developed will not adversely affect the neighborhood.
5. That there will not be a nuisance or serious hazard to vehicles or pedestrians presented or caused by the proposed use."

W.Burnham and S.Pennoyer will work together to draft a Decision and give to Town Counsel for legal advice. A possible decision will be slated for the April 16 meeting.

Joe Ginn asked whether or not a petition had been drafted for a telecommunication tower to be placed at the water tower location. It was not known if this had been officially placed on the Warrant. However, the proposed by-law amendment would fit in with a proposed tower on Town property.

MOTION: W.BURNHAM MOVES TO CLOSE THE MEETING
AT 9:15P.M. SECONDED BY GIL GUERIN. ALL MEMBERS
VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

Presented by: Lisa M. Randall

Attested to:

A handwritten signature in black ink, appearing to be "Lisa M. Randall", written over a faint, illegible stamp or text.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA
WEDNESDAY, APRIL 2, 1997

7:00 P.M.	Minutes of March 19, 1997
7:15 P.M.	Dick Carter/Building Inspector
7:30 P.M.	Peter Clark
8:00 P.M.	Christian Peyla for Byrnes Bros. Property
8:15 P.M.	Periwinkles: Deck Addition
8:30 P.M.	Discussion of Stavros Special Permit

NOTE: DUE TO INCLEMENT WEATHER, THIS MEETING HAS
BEEN CANCELLED. PLEASE SEE MINUTES OF
APRIL 9, AND APRIL 16TH, 1997



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA MONDAY, MARCH 31, 1997

The Planning Board will be scheduling a work session on the above date, to be held at the Essex Elementary School on Story Street. Meeting will begin at 7:00 p.m.

7:00 P.M.

Work Session for the Telecommunications By-Law, final proposed changes to be drafted and forwarded for voting during the Town Meeting in May. Deadline for Warrant is March 31.

Note: Next regularly scheduled meeting will be April 2, 1997.

ESSEX PLANNING BOARD MINUTES
MONDAY, MARCH 31, 1997

This Special Work Meeting was held at the Essex Elementary School on Story Street and began at approximately 7:10 p.m.

Attendees: S.Pennoyer, Chairman, Pat Dunn, Westley Burnham, Gil Guerin

The meeting was held in order to finalize the By-Law 6.6-9 e. Radio, Telecommunications, Cellular and Television facilities, Including Free Standing Tower Type Structures. Final deadline for this proposed zoning amendment to be placed on the Warrant is March 31, 1997. The Town Meeting will be scheduled to be held in May.

Town Counsel has edited the draft presented at the public hearing and the Board present at this meeting read the March 27, 1997 letter. In his letter, he states, ".....I have modified paragraph 1, I have added a sentence indicating that if any of the excluded uses were changed, a special permit would be required.... that a change from an excluded use to an included use would require a special permit..."

A modification of Paragraph 10 to make locating Towers in the woods preferable, but not mandatory. Requiring a Tower to be located in a wooded area the size of a football field, coupled with the other set back requirements (para. 3, 5, 6, and 7) would probably make the By-law invalid, re: Fed. Tele. Act Of 1996.

Town Counsel noted that "...you cannot zone through regulations. You cannot impose substantive zoning requirements through regulations. To add the requirements mentioned at the public hearing will require another by-law change."

After discussion and agreement by the Board on the legal direction and language, a Motion was entered.

MOTION: W.BURNHAM VOTED TO ACCEPT THE DRAFT AS REWRITTEN BY TOWN COUNSEL, TO BE PRESENTED TO THE SELECTMEN TO BE PLACED IN THE WARRANT FOR THE 1997 TOWN MEETING. SECONDED BY PAT DUNN. MEMBERS IN FAVOR WERE: S.PENNOYER, GIL GUERIN, PAT DUNN AND WESTLEY BURNHAM. THE MOTION PASSED.

MOTION: W.BURNHAM MOVES TO CLOSE THE MEETING AT 8:00P.M. SECONDED BY PAT DUNN. ALL MEMBERS PRESENTED APPROVED THE MOTION. THE MOTION PASSED.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in black ink, appearing to be "Lisa A. M. Randall", written over a horizontal line.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, MARCH 19, 1997

The meeting is scheduled to take place at the Essex Elementary School on Story Street, and will begin at 7:00p.m.

- | | |
|-----------|--|
| 7:00p.m. | Minutes of March 5, 1997 |
| 7:15p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | John Henderson - Proposed change of siting of home off Southern Avenue |
| 7:45 p.m. | Scott Patrowicz - Discussion of subdividing Henderson property. Abuts Pitman Property- Southern Avenue |
| 8:00 p.m. | Public Hearing: Telecommunications |
| 9:00 p.m. | Public Hearing: Stavros Application for Special Permit - Telecommunication Tower |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MARCH 19, 1997

The meeting was held at the Essex Elementary School and opened at 7:00p.m. Members attending: Pat Dunn, Dave Jones, Sheldon Pennoyer, W.Burnham, Joe Ginn and Gil Guerin

(Note: Joe Ginn removes himself from the table during the below discussion.)

DICK CARTER/BUILDING INSPECTOR: For PMC Realty Realty Trust, Western Avenue, concerning Map 80, Lot#2, to relocate a two-family home from Quinn Bros. To Piper Lane. Discussion included the 6-13 Water Resource Prot. District by-law regarding area of uplands. The Board had no information to refer to as to the delineation of wetlands.

MOTION: W.BURNHAM MOVES TO DENY THE APPLICATION FOR PMC REALTY 239 WESTERN AVENUE FOR PROPOSED TWO-FAMILY RELOCATION OF AN EXISTING HOUSE FROM 239 WESTERN AVENUE LOT #2, TO PIPER LANE BASED ON INSUFFICIENT DETAIL AS TO WHETHER THEY MEET THE MINIMUM REQUIREMENTS UNDER 6-13.3 PARAGRAPH A, SENTENCE 13 REGARDING THE LOT AREA OF 40,000 S.F. EXCLUDING WETLANDS FOR EACH DWELLING UNIT. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WAS: W.BURNHAM, P.DUNN, S.PENNOYER, GIL GUERIN, DAVID JONES. JOE GINN VOTES PRESENT. THE MOTION PASSES.

(Note: Joe Ginn removes himself from the table during the following discussion.)

DICK CARTER/BUILDING INSPECTOR: PMC REALTY TRUST, Property at 6-10 Martin Street, regarding the addition to the Post Office. The recent request for a variance by the Board of Appeals has been granted. Dick Carter read a June 5, 1996 letter from the BOA on this application to build for the handicap accessibility of the building there. The relief was for the May 15th decision to deny from the Board, which was read by S.Pennoyer.

MOTION: W.BURNHAM MOVES TO APPROVE THE APPLICATION FOR PMC REALTY TRUST FOR PROPERTY AT 6-10 MARTING STREET, FOR CONSTRUCTION OF AN APPROXIMATE 8X30 ADDITION AND ENCLOSURE OF AN EXISTING PORCH AND CONSTRUCTION OF A SECOND FLOOR ADDITION, BASED ON THE ESSEX BOARD OF APPEALS APPROVAL OF A VARIANCE, APPROVAL DATED OCTOBER 17, 1996. FINDING ALL OTHER REQUIREMENTS OF THE ESSEX BYLAWS HAVE BEEN MET. ALSO FINDING UNDER 6-4.2, THE PROPOSED USE WILL NOT BE MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE. SECONDED BY P.DUNN. IN FAVOR OF THE MOTION: W.BURNHAM, D.JONES, GIL GUERIN, S.PENNOYER AND P.DUNN. VOTING PRESENT WAS J.GINN. THE MOTION PASSES.

Note: Joe Ginn returns to the table.

Dick Carter mentioned that as of April 1, 1997, a building application was no longer necessary for 10x12 storage sheds.

Page two of the March 19, 1997 minutes, cont'd.

MOTION: W.BURNHAM MOVES TO APPROVE THE MARCH 5, 1997 MINUTES, BY ADDING A NOTATION THAT JOE GINN RECEIVED A TELEPHONE CALL FROM A RESIDENT WHO WAS CONCERNED THAT LOTS 2,3, AND 5 OF THE APPLE STREET PROPERTY RECENTLY DIVIDED, BE SERVICED BY THE SAME DRIVEWAY. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: P.DUNN, JOE GINN, W.BURNHAM, S.PENNOYER, GIL GUERIN AND DAVE JONES. THE MOTION PASSES.

Note: Sheldon Pennoyer removes himself from the table during the following. W.Burnham holds the chairman's position.

JOHN HENDERSON: Southern Ave., returns to the Board with plans showing an easement, right of way, and site of a home which was moved from one site to this revised plan. He came to the Board previously, asking what was needed to have this Form A approved. The Road has been signed off, and shifting the site from Parcel A to Parcel B was reasonable to the Board; he had the minimum requirements for the approval, with the frontage, the 20ft. easement and the private subdivision road.

MOTION: J.GINN MOVES TO APPROVE THE ANR FOR JOHN AND VALERIE HENDERSON OF 187 SOUTHERN AVENUE, FOR THE CREATION OF LOT, PARCEL B, CONSISTING OF 1.19 ACRES, FOR THE PURPOSE OF BUILDING A HOME, WHICH SHOWS ADEQUATE FRONTAGE OF AN EXISTING RIGHT OF WAY ROAD. SECONDED BY PAT DUNN. ALL IN FAVOR WERE W.BURNHAM, P.DUNN, J.GINN, D.JONES AND GIL GUERIN. S.PENNOYER ABSTAINS FROM VOTING. THE MOTION PASSES.

(Note: S.Pennoyer is again off the board for the following. W.Burnham holds the chairman's position.)

SCOTT PATROWICZ: Patrowicz Engineering for Blair Hodge, looking to buy some land off Southern Ave., next to the Pitman property. He shows two lots outlined on a site plan, Map 2, Lot 26A, and Map 3, lot 6A. And he also shows a plan that he is not sure if its registered at the Reg. Of Deeds. It shows a 3.1 acre parcel and a 6.0 acre parcel and then adjacent to Southern Avenue, is the parking. There's a dirt road, gravel, which services two lots: Pitmans. The gravel road crosses the lots in question. He wanted to know if the road was adequate to service these two lots for two homes, one on each of the two lots. The Coolidge Trust was an issue, as well as the upgrade of the road, but there needed to be proof that a right of way was there for that road. A variance would probably be needed, and the BOH issues would pose the situation given that no potable water existed there. No action was taken, the land was not surveyed as yet, and Mr. Patrowicz left with the information to advise his client.

(Note: Sheldon returns to the table to chair the meeting.)

page three of the March 19, 1997 minutes, con't.

PUBLIC HEARING FOR THE TELECOMMUNICATIONS BYLAW PROPOSAL OPENED AT 8:00 P.M. THE NOTICE WAS READ.

THE TAPE IS AVAILABLE TO THE PUBLIC FOR REVIEW, PER REQUEST.

Copies of the Bylaw were given to the public, and a letter from Mr. And Mrs. Fawcett of Apple Street was read aloud to the public.

W.BURNHAM began the meeting explaining the November 1996 Town Meeting when the Selectmen proposed renting the Water Tower for telecommunication companies. The decision to do so was opposed by the public, and the Board went to work with many pieces of information given to them. The FCC proposed the Telecommunication Act of 1996, prohibiting the banning of such cell towers. The Board then is coming to the Town with what it believes, is the best avenue for a baseline minimum requirements, for the best interest of the Town. The 6-6.9e By-laws would be absolute. It was noted that this bylaw was to be for all towers, not just the cell tower explicitly. The Special Permit Granting Authority (Appendix B), was discussed also. The Board could not ban the cell towers, but could work with each applicant to waive certain aspects of the end product.

The Board felt that it would make more sense to read each item, and discuss it as questions were raised by the audience:

Some of the questions and comments were as follows:

MORITORIUM: This was felt by the Board that it would stall the inevitable. Some communities were not allowed this avenue by the State.

ADEQUATE LOCATION: The question was that if the public felt that the location of a tower was not desirable, what was the avenue to take - S.Pennoyer noted that the subjectivity of a location could be addressed through the Special Permit process. Town Counsel addressed the facts regarding to the denying of a permit, adherence to the bylaws, and appeals.

- 1) Exceptions to the provision of 6-6.9e bylaw included Citizen Band, VHF, or Ham radio installations for private use.
- 2) Monopoles only would be less obtrusive.
- 3) No tower closer than two mile to any such tower, preventing a whole series of towers located in one area.
- 4) 150 ft. max. ht. On tower, to preventing lighting.
- 5) Setbacks: Safety issue, preventing tower toppling onto abutter's property.
- 6) Setback: Conservative to Wetlands, it is 50ft. greater than Conserv. Comm. Requirements, a Notice of Intent would be an issue for the applicant.
- 7) Minimum distance of the tower from all existing structures designed for human occupancy shall be at least 500ft. Except when concealed within or camouflage within an existing structure.

Brian Cassidy noted that within the placement of antennas and buildings when in or on a building, you are eliminating the tower. Maybe separate towers vs. Antennas in buildings.

John Guerin, Belcher Street: Change the word to "residents".

Jane Adams, Belcher Street: Was present for all meetings of the telecommunications. She felt that the buildings that are at base of these towers, emit noises. She did not want to be within 500ft. of one of these towers, as an abutter.

Page four of the March 19, 1997 minutes, cont.'d

- 8) The accessory buildings regulations came from several other proposed regulations and state bylaws that the Board had for reference. The maximum of ten structures allowed each company to have their own equipment storage unit. S.Pennoyer felt that if the building was incorporated into one unit, it would then become bigger and higher.
- 9) Lighting, subdued, to minimize impact.
- 10) Towers located within an established wooded area posed several comments. Town Counsel felt that this could be a legal issue: Subject to an established wooded area may not hold up in Court.

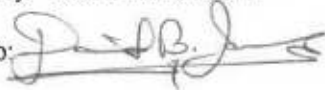
In conclusion, the Board listened to residents' opinions, noting however, that the regulations were in place for the towers, and waiving certain requirements would give the Town the opportunity to work with each applicant, evaluating each project as it came to the Board. The Board noted that there were areas in Town that would be appropriate for the towers, but it was not possible to be so specific that it singles out any one application. Health issues cannot be addressed, as the Federal Govt. regulates. W. Burnham concluded that the Regulation Portion of this issue will be far more extensive. This bylaw proposal is for the minimum requirements, and the Board was confident that this proposal would be for the benefit of the Town.

MOTION: W.BURNHAM MOVED TO CLOSE THE PUBLIC HEARING REGARDING THE PROPOSED 6.6-9 E BYLAW. SECONDED BY DAVE JONES. ALL MEMBERS VOTED IN FAVOR TO CLOSE THE PUBLIC HEARING AT 9:20P.M. THE MOTION PASSED.

Note: The complete tape, and materials for the above Hearing is available at the Town Hall for review.

Presented by: Lisa A. M. Randall

Attested to:



Proposal to amend 6-6.9e of the Essex By-laws: (2/19/96) WCB

6-6.9e Radio, Telecommunications, Cellular, Television facilities, including free standing tower type structures. Installation of this type of facilities shall be permitted subject to at least the following requirements which shall in no way limit the right of the Special Permit Granting Authority to impose stricter requirements and/or conditions to the full extent of the law:

- 1) Exceptions to this provision include Citizen Band, VHF or Ham radio installations for private use.
- 2) All towers shall be monopole types, no guyed towers shall be permitted.
- 3) In no event shall any tower be located closer than two (2) miles to any other such tower.
- 4) Maximum height shall be 150 feet or 10 feet below the FAA height which requires permanent lighting whichever is lower.
- 5) The setbacks from all property lines shall be a minimum of a distance at least equal to one hundred and twenty-five percent (125%) the height of the tower.
- 6) The setback of any tower from designated wetlands, water bodies, or any area designated under 6-10.2 Wetland District Delineation, shall be one hundred and fifty (150) feet.
- 7) The minimum distance of the tower from all existing structures designed for human occupancy shall be at least five hundred (500) feet. Except when concealed within or camouflage within existing structure.
- 8) Accessory buildings associated with the tower shall maintain a setback from all property lines of fifty (50) feet, and shall be of a common design and color. A maximum of ten (10) structures no to exceed four hundred (400) square feet in area each and a maximum height of ten (10) feet will be permitted per tower, multiple structures shall be connected by a common wall.
- 9) Lighting shall be limited to that needed for maintenance and emergencies.
- 10) Towers shall be located within an established wooded area, minimum radius of heavy growth to be at least one hundred and fifty (150'), except when concealed or camouflaged within an existing or proposed building.
- 11) Any tower and associated accessory buildings shall be removed within ninety (90) days of the discontinuance of the permitted use. The Land owner of record shall be held responsible to insure this dismantling occurs in a timely manner.
- 12) Severability: Each provision of this By-law shall be construed as separate to the end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of this section shall continue in full force and effect.

ESSEX PLANNING BOARD
WEDNESDAY, MARCH 19, 1997
MINUTES OF PUBLIC HEARING
GEORGE STAVROS, TRUST
SPECIAL PERMIT

"D"
(1-14)
D1

The Public Hearing for George Stavros was opened at 9:24 p.m. on March 19, 1997 at the Essex Elementary School on Story Street. Members attending: S. Pennoyer, Chairman, Westley Burnham, Gil Guerin, Clerk, Frances Dunn, Dave Jones and Joseph Ginn.

The Public Hearing Notice printed in the Gloucester Daily Times on March 3rd and 10th was read aloud to the public by Gil Guerin, Clerk.

ERNEST PIPER, ATTORNEY for George Stavros, as Trustee of Stavros Family Trust: Attorney Piper gave a brief statement of the laws of the Telecommunications Act, including the fact that the telecommunications towers cannot be completely banned. "...The purpose of the tower for the Stavros' was for a commercial venture. Mr. Stavros is restricted to a nine-hole golf course only, in lieu of the constrictions surrounding the course, he faces increasing competition, and if he wants to stay in business and be profitable, he's got to be creative, and this tower would provide a vehicle for this situation. The fixed tower would hold far more carriers, instead of having two or three monopole type towers about. However, the if the Town is against this, the applicant would accept the monopole type tower. Provided, that the Town would address some other issues..." Some restrictions gave him a great deal of concern. The 500' distance from a dwelling. Felt that this regulation would not stand up to judicial scrutiny by the U.S. District Court. Also, the "cluster of trees": He commented that this would violate the Telecommunications Act of 1996. He strongly suggested that the Town look at these two submissions of the by-law and refer to the Section 704 (7) (B) (I) of the Act. The 125% set back, to "keep it out of someone's back yard". The Stavros' agree that any tower erected would be engineered to be toppled only on to itself. If the Town feels strongly that it is only going to allow monopoles, the Stavros would accept the monopole type tower. Mr. Piper felt that if this restriction was going to allow only mono pole type towers in Essex, it may not stand up in a court of law. He would like the residents to rethink the regulations proposed. He then entered two statements for the record (on file per request). One was a statement submitted under pending application for special permit for telecommunications tower, and one was a statement submitted for an agreement to the conditions of tower height and design.

Several letters written by concerned citizens were read by Sheldon Pennoyer, Chairman. Copies of the letters are on file, available upon request. The letters were as follows: A letter from Mr. And Mrs. Fawcett of Apple Street, Joanne M. Guminski, Re/Max Conerstone of 21 Market Street, Ipswich, MA, David and Virginia Trask, 15 Island Road, Essex, Forbes Pollock and Sheena Pollock of 189 John Wise Avenue, Essex, Charles M. Storey, 143 John Wise Avenue, Essex, Peter Kellerman and Maria Benotti, Alprilla Farm, 94 John Wise Avenue, Essex.

At this point, Attorney for the Town, Brian Cassidy explained how the proposed by-law affects the special permit application. The Board had asked two questions: 1. Which section of G.L. c. 40A, sec. 5 or sec. 6, applies to applications pending before the Board for a special permit to construct a cellular or PCS tower? And, 2. Is the Planning Board obligated to apply the proposed by-law to pending applications. He explained that both sections apply. Section 5 established the effective date of a zoning by-law as the date it is approved by Town Meeting. G.L.c.40, sec.5. Section 6, applies to a more narrow circumstances. It "freezes" the zoning for certain structures and uses for a period of time. Specifically, it freezes the zoning: (a) for structure and uses (1) lawfully in existence, or (2) lawfully begun; or (b) to a (1) building permit or (2) to a special permit "issued before the first publication of notice of the public hearing on such ordinance or by-law required by section five, but shall apply to ... a building or special permit issued after the first notice of said public hearing..." Town counsel concluded that, "...assuming that

page two of the March 19, 1997 Public Hearing for Special Permit of George Stavros, Trust

the proposed amendment is approved at Town Meeting, the amendment will apply to all applications for special permits currently before the Planning Board and not acted upon before March 3, 1997...."

EDWARD O. BECKER, Executive Director of the Essex County Greenbelt Association, 82 Eastern Avenue, Essex, MA, submitted a letter (on file, per request) that conveyed the opposition to the special permit application. The Greenbelt, a nonprofit, member-supported land trust for over 35 years, helps protect significant examples of the region's open space. The letter explained that the proposed tower is in the area of one of the most significant scenic landscaped in Essex County, and one of the few remaining open farm landscaped in the region is in the same area of the proposed 150 foot tower. The letter stated that the proposed tower would irreparably harm the substantial public benefits that the landscaped currently provides. Factual basis of Greenbelt's opposition to the special permit application is attached, prepared by Bowditch & Dewey, LLP Attorneys (on file, per request). Mr. Becker mentioned the tourism factor of the Town, and felt that this was the wrong site for the tower, and felt that the Board should strongly consider the character and "the principle gateway" to our region.

MARY HICKEY - Belcher Street, Felt that the tower was not a bad idea, and contrary to other opinions, you could not see the proposed tower at Crane's Beach, Ipswich. The Greenbelt has a Tower. She did not see the impact on the Stavros property.

BRIAN C. LEVEY, Esq., Counsel to Essex County Greenbelt Assoc.: The Greenbelt uses the existing state fire tower. He felt that the board had the authority to deny the special permit. The letter stated that "For acres in all directions, various forms of recorded restrictions approved both by the Town of Essex and the Secretary of Environmental affairs preclude precisely the type of development the Trust seeks to accomplish here." Attorney Levey gave his opinions and facts according to his submission of the memorandum. In conclusion, he stated that the board "could zone for aesthetics "...Property values will decrease, and tourism would be affected... these were very valid reasons for denial...."

R.J.LYMAN, Western Avenue: Raised a question as to why Mr. Stavros would come to the Board? He comes with a gratuitous critique only, and the Board must have substantial evidence to deny, but the Board also has no evidence to why this is good under the existing criteria. He felt that this alone, would be grounds for denial.

MARIA BENOTTI, Alprilla Farm, John Wise Avenue: The letters from appraisers agreed that property values would go down, this is a down side for the Town...

CHARLIE WYMAN, for The Trustees of Reservations, agreed that this proposal would have a severe negative impact. A letter from him and a map of protected lands near the proposed telecommunications tower, and an insert from Handbook of Massachusetts Land Use and Planning Law, Mark Bobrowski, 1993 was given to the Board for submission (on file, per request). He felt that this special permit should be looked at on a larger scale, that Rte. 133 opens the "front door" of the community.

JAY HAVIGHURST, 10 Winthrop Street, Essex: He is against the tower, and feels that it would take the value of the landscape away from the citizens.

ALAN GIMINSKI, John Wise Avenue: "...Why this place, of all places....?"

ATTY. PIPER: "...Mr. Stavros was granted a recreational easement to family members at the golf course, and to preserve that as open land, ... other land has been transferred to the Trustees of Reservation, and he has now, this commercial site. This is the only site, unless the Trustees wanted to grant another site. He can only put it there...."

Page three of March 19, 1997 Minutes of George Stavros Public Hearing for Special Permit, cont'd.

KAREN GERTSCH, Haskell Ct., Essex: "...What is the personal gain of this for the many people that would be affected....?"

ATTY. PIPER: "...You are assuming certain facts to be true... The man is in business... He has to compete in the modern world, trying to make a living with a nine hole golf course...competition is fierce...the purpose of this tower is to make it more economical for his family...."

GEORGE STAVROS, John Wise Avenue, Essex: "...in defense of my actions, I am not a greedy person... a new golf course in LaSalette, Ipswich, a golf course in Newbury... with every new golf course, I lose customers, in the summer time, I lose customers with mosquitoes, I lose customers with the green heads. In the Spring, last year, we didn't open up until May. Another year, we closed up at the end of October.. My taxes have to be paid, my mortgages have to be paid...Economic security... I'm not going to get rich... We've had this place for seventy years...It's self preservation, that's all it is...."

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING AT 10:25 P.M. SECONDED BY DAVID JONES. MEMBERS VOTING TO CLOSE THE PUBLIC HEARING WERE: S.PENNOYER, CHAIRMAN, W.BURNHAM, FRANCES DUNN, DAVID JONES, JOE GINN, AND GIL GUERIN. THE MOTION TO CLOSE THE PUBLIC HEARING PASSES.

Note: After the Public Hearing, Attorney Ernest Piper submitted a Preliminary Design for a self-supporting tower by PiRod, Inc., and a letter by Full Spectrum Consulting, re: electromagnetic energy. The submission relates to discussion made during the Public Hearing regarding monopole type towers.

MOTION: WESTLEY BURNHAM MOVES TO ADJOURN THE MARCH 19, 1997 PLANNING BOARD HEARING. SECONDED BY FRANCES DUNN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

Presented by: Lisa M. Randall, Secretary -

Attested to:



NOT APPROVED - JAK

TO BE APPROVED

MAY 7, 97





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, MARCH 5, 1997

- | | | |
|------------------|-------------------|--|
| | 7:00 p.m. | Minutes of 2/12/97 and 2/19/97 |
| | 7:15 p.m. | Dick Carter/Building Inspector |
| <i>Cancelled</i> | 7:30 p.m. | Scott Patrowicz, Eng./10 acres of land off Pond Street |
| <i>Cancelled</i> | 8:00 p.m. | Scott Patrowicz, Eng./Henderson property Southern Avenue |
| <i>Cancelled</i> | 8:15 p.m. | Susan McGuire/Eastern Avenue re: request to build for home occupation |
| | 8:30 p.m. | John Henderson/Change of location of house on approved subdivision off Southern Avenue |
| | 8:45 p.m. | Tom Guertner/Periwinkles: building of deck |
| | 9:00 p.m. | Mark Glovsky, Atty./ANR plan formerly Shades, Apple Street |
| | Planning Business | Motion to place the 6.6.9e by-law amendment on Warrant for Town Meeting. |

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MARCH 5, 1997

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:05p.m.

Attendees: S.Pennoyer, D.Jones, Joe Ginn, Gil Guerin, W.Burnham, and Pat Dunn at 7:33p.m.

NOTE: Three Cancellations: 7:30:Patrowicz, 8:00:Patrowicz, and 8:15:Susan McGuire. Atty. Glovsky for ANR on Apple Street was contacted early this evening to come before the board at 7:30p.m.

MOTION: W.BURNHAM MOVES TO APPROVE THE FEBRUARY 12, 1997 MINUTES AS WRITTEN. SECONDED BY DAVE JONES. VOTING TO APPROVE THE MOTION: W.BURNHAM, D.JONES, GIL GUERIN, S.PENNOYER AND JOE GINN. THE MOTION PASSES.

MOTION: W.BURNHAM MOVES TO APPROVE THE FEBRUARY 19, 1997 MINUTES AS AMENDED, BY ATTACHING A COPY OF THE FILIAS REALTY TRUST DECISION TO THESE MINUTES. SECONDED BY GIL GUERIN. VOTING TO APPROVE THE MINUTES WERE: W.BURNHAM, S.PENNOYER, GIL GUERIN AND JOE GINN. D.JONES VOTES PRESENT. THE MOTION PASSES.

Note: Sheldon Pennoyer steps away from the table during the following discussion/business. W.Burnham serves as Chairman to the discussion/business.

DICK CARTER/BUILDING INSPECTOR: TOM AND RUTH MCCLAIN, 168 Southern Ave., for construction of a new residence of 2,000 sq.ft. with 580 sq.ft. in-law apartment over garage, and a horse barn. 87 x 72 x 28, Map 6, Lot 5C, eight acres. Approved by BOH, Conserv., DPW, Wetlands. Lot has adequate frontage.

MOTION: GIL GUERIN MOVES TO APPROVE THE APPLICATION OF A BUILDING PERMIT FOR TOM AND RUTH MCCLAIN OF 168 SOUTHERN AVE., ESSEX FOR A TWO-FAMILY RESIDENCE, MAP 6, LOT 5C, EIGHT ACRES. APPROVAL FOR CONSTRUCTION OF A NEW RESIDENCE OF 2,000 S.F., WITH 580 S.F. IN-LAW APARTMENT OVER GARAGE, AND A HORSE BARN. FINDING THAT THIS APPLICATION MEETS ALL OF THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BY-LAWS. SECONDED BY JOE GINN. IN FAVOR WERE: D.JONES, J.GINN, W.BURNHAM. S.PENNOYER ABSTAINS FROM VOTING. THE MOTION PASSES.

Note: Sheldon Pennoyer returns to the table and resumes as Chairperson. Pat Dunn enters.

BOB AND CINDY CAMERON: George Fuller House, 148 Main Str., Coming to Board for finding on the change of an existing three car garage in back of the Inn. On October 2, 1996, the Cameron's were denied an approval for conversion of one bedroom, one bath for handicap accessibility, and a shop area. Reason given was the sideline setback, and the Cameron's would

page 2 of the March 5, 1997 Minutes, cont'd.

require a variance on the setback and land area. Section 6-5.5 of the Essex By-Laws was cited in the 10/2/96 Motion to Deny. A 2/13/97 Letter from the Essex Board of Appeals was read stating the unanimous vote to grant the requested variance. (The letter is filed with the Cameron File at the Town Hall.)

MOTION: JOE GINN MOVES TO FIND THAT BOB AND CINDY CAMERON OF THE GEORGE FULLER HOUSE AT 148 MAIN STREET, BE ALLOWED TO CONVERT THE EXISTING GARAGE INTO ANOTHER ROOM WITH BATH WITH HANDICAP ACCESS FOR USE WITH THEIR BED AND BREAKFAST BUSINESS. THAT IT WOULD CAUSE NO FURTHER HARM OR DISTURBANCE TO THE AREA, SITING THE FINDING OF THE BOARD OF APPEALS DATED FEBRUARY 13, 1997 ALLOWS RELIEF FROM THE SIDELOT SETBACK. THE CONDITIONS AS NOTED IN THE DECISION BY THE BOARD OF APPEALS BE FOLLOWED. SECONDED BY W.BURNHAM. IN FAVOR WERE: D.JONES, S.PENNOYER, J.GINN, GIL GUERIN, P.DUNN AND W.BURNHAM. THE MOTION PASSES.

DICK CARTER: A copy of AN ACT TO CLARIFY THE EFFECTIVE DATE OF ZONING ORDINANCES was given to the Board for their information. It is a House Bill, No.1753 which states, "Be it enacted by the Senate and House of Representative in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 5 of chapter 40A of the General Laws, as appearing in the 1992 Official Edition, is hereby amended by striking lines 92 through 94 and inserting the following phrase in the place thereof: -- by-law shall be the date on which such adoption or amendment was passed by a vote of the town meeting; provided, however, that publication in a town bulletin or pamphlet and posting is.

SECTION 2. Section 5 of chapter 40A of the General Laws, as appearing in the 1992 Official Edition, is hereby further amended by striking lines 104 and 105 and inserting the following phrase in place thereof: -- the date on which such adoption or amendment was passed by vote of the city council; provided, however, that.

(The Minutes will reflect further conversation regarding the above. See page three.)

HOWIE LANE: RTE.133, A letter from the Town Counsel was given to the Board for filing, from Dick Carter, as was mentioned in the 2/19/97 Minutes.

WESTLEY BURNHAM MOVES TO NOMINATE GIL GUERIN AS ACTING CLERK OF THE PLANNING BOARD. SECONDED BY DAVE JONES. ALL MEMBERS VOTED TO APPROVE THE NOMINATION. GIL GUERIN IS THE CLERK TO THE PLANNING BOARD.

MARK GLOVSKY, ATTY. 125 APPLE STREET, FOR APPROVAL NOT REQUIRED. The applicant is Danielle Swanson, 125 Apple Street, Book 13550, Page No. 493, Lots 4 and 5 situated on the southerly side of Apple Street, containing 42,602 square feet of land, more or less, and 6.64 acres of land, more or less, respectively, as more particularly shown on the accompanying Plan. Both Lots 4 and 5 have the required frontage on a public way which meets the standards of the Subdivision Rules and Regulations, and in all other respects conform with the Essex Zoning By-Laws.

MOTION: W.BURNHAM MOVES TO APPROVE THE ANR PLAN OF

page three of the March 5, 1997 Minutes, cont'd.

DANIELLE SWANSON OF 125 APPLE STREET, FOR CREATION OF LOT 4 AND LOT 5, AS SHOWN ON PLAN OF LAND PREPARED FOR ANDOVER EQUITY DEVELOPERS, 21 CENTRAL STREET, ANDOVER, MA. LOT 4 CONSISTS OF 42,602 S.F., LOT 5 CONSISTS OF 6.64 ACRES. BOTH LOTS HAVE AN EXCESS OF 150 FEET OF FRONTAGE ON APPLE STREET AS REQUIRED BY THE TOWN OF ESSEX BY-LAWS. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION WERE: W.BURNHAM, JOE GINN, S.PENNOYER, DAVE JONES, P.DUNN, GIL GUERIN. THE MOTION PASSES.

WESTLEY BURNHAM MOVES THAT THE BOARD APPROVE A MOTION TO ALLOW PLACEMENT OF THE APPROVED PROPOSED BY-LAW AMENDMENTS RELATIVE TO SECTION 6-6.9e OF THE ESSEX BY-LAWS UNDER SPECIAL PERMITS, TO BE INCLUDED IN THE WARRANT FOR THE TOWN MEETING SCHEDULED TO BE HELD IN MAY OF 1997. SECONDED BY JOE GINN. IN FAVOR OF THE MOTION: PAT DUNN, W.BURNHAM, S.PENNOYER, JOE GINN, GIL GUERIN. DAVE JONES VOTES PRESENT. THE MOTION PASSES.

A request to place the proposed amendment will be forwarded to the Selectmen's office.

PETER VANWYCK: Sheldon Pennoyer will draft a letter to be sent to Peter VanWyck. The copies of the Plan submitted by him are clearly for DEP. purposes only, and are not acceptable to the Board for submission. A copy of this letter will go to Town Counsel, as well.

MASS. GENERAL LAW, Ch. 40 section 6 and section 5 was read by W.Burnham. A letter will be drafted by W.Burnham to be given to Town Counsel. Questions will also be asked of the Special Permit Application of Stavros, re: telecommunications tower. The questions of enforcement of by-laws that are not in force, but are drafted, posted for public hearing. Does Stavros adhere to the by-laws that are in effect to the date of his submission to Town Clerk for the Special Permit, or does the applicant have to adhere to the proposed by-laws being drafted, and voted upon at the Town Meeting. This question must be answered by Town Counsel so that the Board can be prepared at the March 19, 1997 meeting.

Note: Sheldon Pennoyer, Chairman, is stepping down from the Table during the next discussion, and W.Burnham will hold the Chairperson position.

JOHN HENDERSON, SOUTHERN AVENUE: Mr. Henderson came before the Board to receive approval for a change in the location of a proposed house on Parcel A, to moving the location of the home to Parcel B. The history of the subdivision was reviewed; a restriction was lifted to allow one dwelling on the parcel. The Board concluded that as long as the road leading to the parcels was signed off, they could see no problems. However, Mr. Henderson will return at the March 19, 1997 meeting at 7:30p.m. and present the Board with an Approval Not Required (Form A) and additional copies of the site plan.
(NOTE: SHELDON RETURNS TO TABLE)

JOHN GUERTNER: PERIWINKLES Restaurant. Mr. Guertner came for information from the Board only. He showed architectural drawings of a proposed deck on the side of the restaurant.

page four of the March 5, 1997 Minutes, con't.d

The Board listed the concerns that he would face for the additional seating, parking issues, sideline setbacks, the Rivers Act, and percentages of building coverage, lot area. No action was taken by the Board.

W. BURNHAM MOVES TO ADJOURN THE MEETING AT
9:15P.M. SECONDED BY JOE GINN. ALL MEMBERS VOTE
TO APPROVE THE MOTION. THE MOTION PASSES.

Note: Next scheduled meeting is March 19, 1997, to be held in the CAFETERIA of the School.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in black ink, appearing to be "Joe Ginn", written in a cursive style.

* NOTE: Joe Ginn would like the Minutes to show
that a citizen had called him regarding Lots 2, 3, 5
on Apple Street. The request was that the lots be
serviced by a common driveway already located
on the plan. Joe.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 12, 1997

The Essex Planning Board is scheduling a special work meeting for Wednesday, February 12, 1997 at 7:00 p.m. at the Essex Elementary School

7:00 P.M.

Telecommunications information regarding
the proposed By-Law changes.

Flood Plain By-Law changes

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, FEBRUARY 12, 1997

The SPECIAL WORK MEETING took place at the Essex Elementary School on Story Street, and began at approximately 7:05p.m.

Attendees: Joe Ginn, Gil Guerin, Dave Jones, W.Burnham and S.Pennoyer. Pat Dunn was absent for the meeting.

This special work meeting was held to discuss the final changes affecting the Essex by-law under Section 6-6.9e. The Board, working along with interested residents, and John Guerin, Atty., member of MAPC, will have the draft ready at next week's scheduled meeting (2/19/97).

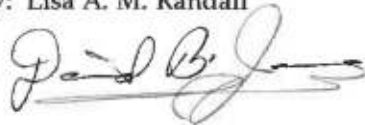
A copy of the draft will appear with the Public Hearing Notice that will be scheduled at the next meeting.

The Flood Plain By-law changes will be finalized at a later date.

MOTION: D.JONES MOVED TO CLOSE THE MEETING AT APPROXIMATELY 9:00 PM. GILL GUERIN SECONDED THE MOTION. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

Prepared by: Lisa A. M. Randall

Attested to:



Note: next meeting will be 2/19/97 at the Scout House on Pickering Street.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA WEDNESDAY, FEBRUARY 19, 1997

The meeting will be held at the Scout House on Pickering Street, and begin at 7:00p.m.

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of January 29, 2/5 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | John Coughlin: Essex Village - <i>Canceled</i> |
| 8:00 p.m. | Peter VanWyck: Turtleback Road
Subdivision: Submission of Plans |
| 8:15 p.m. | Decision on Filias Realty Trust:
138 Main Street |

Planning Board Business

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, FEBRUARY 19, 1997

The meeting took place at the Scout House on Pickering Street, and began at approximately 7:00 p.m.

Attendees were: P.Dunn, S.Pennoyer, W. Burnham Joe Ginn, Gil Guerin. Dave Jones was absent.

Note: John Coughlin has canceled his appointment for this evening.

Dick Carter/Building Inspector: Walima Mfg. still needs to give a parking plan to the Building Inspector who will then show it to the Board.

Howie Lane, re: trailers parked at residence: A letter from Town Counsel will be given to the Board regarding the parking issue.

Julian residence: Dick Carter stated that the complaint issue for this residence has been taken care of.

Note: Sheldon Pennoyer leaves the table for the following discussion.

JOHN HENDERSON: Property off Southern Avenue, regarding a seven acre subdivision. Mr. Henderson wants to change the location of the proposed house. It was asked if the lot lines were going to be changed and they were not. The location of the house was for aesthetic purposes, and Mr. Henderson was told to bring in a site plan, noting that the lots must have frontage on an approved way. He will return at the next meeting with the changes.

Note: Sheldon returns to the table.

MOTION: W.BURNHAM MOVES TO APPROVE THE FEBRUARY 5, 1997 MINUTES WITH THE CHANGE ON THE FIRST PAGE TO READ: "...BECAUSE THE ROAD LAYOUT AND DETAILED PLANS IN ACCORDANCE WITH THE SUBDIVISION REGULATIONS HAVE NOT BEEN SUBMITTED." SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WERE: W.BURNHAM, PAT DUNN, GIL GUERIN, S.PENNOYER AND JOE GINN. THE MOTION PASSED.

MOTION: W.BURNHAM MOVES TO APPROVE THE JANUARY 29, 1997 MINUTES AS WRITTEN. SECONDED BY JOE GINN. ALL MEMBERS PRESENT VOTED IN FAVOR OF ACCEPTING THE MOTION. THE MOTION PASSES.

TELECOMMUNICATIONS BY-LAW PROPOSED CHANGES: The changes affecting the proposed amendment to the by-law are located as an attachment to these minutes. Gil Guerin reminded the Board ~~to~~ ^{at} number 12, which will read: "Severability: Each provision of the By-law shall be construed as separate to the end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of this section shall continue in full force and effect."

Kimberly Jermain of Apple Street requested that the Planning Board review Chapter 40 Section 6 of the MGL regarding Special Permit Applications, specifically regarding the affects of the proposed changes that the Board is working on of the Section 6.69e By-laws. The Board will review this request.

MOTION: JOE GINN MOVES TO ACCEPT THE DRAFT AS WRITTEN AND AMENDED AS DISCUSSED THIS EVENING, TO SCHEDULE A PUBLIC HEARING FOR WEDNESDAY, MARCH 19 AT 8:00P.M.

SECONDED BY GIL GUERIN. VOTING TO APPROVE THE MOTION WAS: PAT DUNN, S.PENNOYER, W.BURNHAM, GIL GUERIN AND JOE GINN. THE MOTION TO APPROVE PASSES.

PETER VANWYCK: Turtleback Road Subdivision off Apple Street. He submitted plans by Patrowicz Engineering; S.Pennoyer examines the plans, but no comments at this time. Peter Vanwyck questioned why he was to use Larry Graham for the Clerk of the Works. Sheldon explained that other towns have engineers that they work with, exclusively, and Larry Graham should continue with the Town. There is an established relationship with the Town and this particular Clerk of the Works. Gil Guerin noted that this defines this situation. Peter stated that the Subdivision Rules do not state that the Board chooses the Clerk of the Works. He felt that he should have the choice. S.Pennoyer recommended asking Larry Graham to come in to the Board to discuss what is to be expected for this project. Joe Ginn noted that the Board should have the contractor and the engineer present before the Board to discuss this project. A request for three more copies of the plan was asked of VanWyck. This would allow the process to begin; the Clerk of the Works would be Larry Graham, and copies of the plan would be left with Sally Soucy, Town Clerk. As of the present date, the project is at a stand-still, according to S.Pennoyer. A definitive plan must be approved, a clerk of the works must be in force. Scottie Robinson of Apple Street asked that the Board look closely at the drainage problems of this Subdivision. The Board acknowledged the request.

*

FILIAS REALTY TRUST: Gil Guerin asked whether or not the parking spaces for the marina were adequate. S.Pennoyer noted that according to the by-laws, they indeed have enough parking spaces. The Wetlands District by-law was questioned, and the Filias property was there before 1985, the year in which the by-law was passed. The navigation issue by residents was understood by the Board, but this decision was not part of the planning issue for the Special Permit. Pat Dunn questioned how this is a "private use". S.Pennoyer stated that this marina does not provide access for any one to drive up, leave a car, and let off a boat from this address. It is not for open access such as a public landing is. Additionally, there is no fuel dock, no steward, etc.

MOTION: W.BURNHAM MOVE THAT THE ESSEX PLANNING BOARD ACTING AS SPECIAL PERMIT GRANTING AUTHORITY THE FOLLOWING DECISION IN REGARD TO FILIAS REALTY TRUST, 138 MAIN STREET, ESSEX. SECONDED BY JOE GINN. IN FAVOR TO APPROVE THE APPLICATION WERE: W.BURNHAM, S.PENNOYER, JOE GINN AND GIL GUERIN. PAT DUNN IS OPPOSED. THE MOTION PASSES.

NOTE: S.PENNOYER DISCUSSES A CHANGE TO BE ADDED TO THE SPECIAL PERMIT: "1. THE PROPOSED PERMITTED USE HAS IN FACT BEEN IN EXISTENCE AND CONTINUOUSLY IN USE IN ITS PRESENT LOCATION PRIOR TO JUNE 1972 AND PREDATES THE ADOPTION OF BY-LAW 6.10 WETLANDS DISTRICT. THE EXACT CONFIGURATION OR SIZE OF THE FACILITY AT THAT TIME IS UNCLEAR BUT ITS EXISTENCE IS NOT DISPUTED, AS INDICATED BY A FINDING BY THE ESSEX PLANNING BOARD ON JANUARY 8, 1997".

MOTION: W.BURNHAM MOVE THAT THE ESSEX PLANNING BOARD ACTING A SPECIAL PERMIT GRANTING AUTHORITY APPROVE THE ADDITIONAL MODIFICATION LISTED ABOVE. SECONDED BY JOE GINN. IN FAVOR OF THE MODIFICATION: S.PENNOYER,

See
last pg.
(Page 3)
Decision
is ATTACHED
HERE TO THESE
MINUTES.
J.G.

page three of the February 19, 1997 Minutes

W.BURNHAM, JOE GINN, GIL GUERIN. P.DUNN OPPOSED. THE
MOTION TO MODIFY PASSES.

MOTION: W.BURNHAM MOVES TO CLOSE THE MEETING AT 9:30 P.M.
SECONDED BY GIL GUERIN. ALL MEMBERS VOTE IN FAVOR OF
THE MOTION. THE MOTION PASSES.

Note: Next meeting to be scheduled for March 5, 1997 at the Essex Elem. School.

Presented By: Lisa A.M. Randall

Attested to: 

* Filias Decision is attached here to these
minutes.

Proposal to amend 6-6.9e of the Essex By-laws: (2/19/96) WCB

6-6.9e Radio, Telecommunications, Cellular, Television facilities, including free standing tower type structures. Installation of this type of facilities shall be permitted subject to at least the following requirements which shall in no way limit the right of the Special Permit Granting Authority to impose stricter requirements and/or conditions to the full extent of the law:

- 1) Exceptions to this provision include Citizen Band, VHF or Ham radio installations for private use.
- 2) All towers shall be monopole types, no guyed towers shall be permitted.
- 3) In no event shall any tower be located closer than two (2) miles to any other such tower.
- 4) Maximum height shall be 150 feet or 10 feet below the FAA height which requires permanent lighting whichever is lower.
- 5) The setbacks from all property lines shall be a minimum of a distance at least equal to one hundred and twenty-five percent (125%) the height of the tower.
- 6) The setback of any tower from designated wetlands, water bodies, or any area designated under 6-10.2 Wetland District Delineation, shall be one hundred and fifty (150) feet.
- 7) The minimum distance of the tower from all existing structures designed for human occupancy shall be at least five hundred (500) feet. Except when concealed within or camouflage within existing structure.
- 8) Accessory buildings associated with the tower shall maintain a setback from all property lines of fifty (50) feet, and shall be of a common design and color. A maximum of ten (10) structures no to exceed four hundred (400) square feet in area each and a maximum height of ten (10) feet will be permitted per tower, multiple structures shall be connected by a common wall.
- 9) Lighting shall be limited to that needed for maintenance and emergencies.
- 10) Towers shall be located within an established wooded area, minimum radius of heavy growth to be at least one hundred and fifty (150'), except when concealed or camouflaged within an existing or proposed building.
- 11) Any tower and associated accessory buildings shall be removed within ninety (90) days of the discontinuance of the permitted use. The Land owner of record shall be held responsible to insure this dismantling occurs in a timely manner.
- 12) Severability: Each provision of this By-law shall be construed as separate to the end, that if any provision, or sentence, clause or phrase thereof, shall be held invalid for any reason, the remainder of this section shall continue in full force and effect.

TOWN OF ESSEX MASSACHUSETTS PLANNING BOARD
ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
FEBRUARY 21, 1997

RECORD OF PROCEEDINGS ON
APPLICATION FOR A SPECIAL PERMIT

I, Sheldon Pennoyer, Chairman of the six member Board, hereby certify that the following is a detailed record of all its proceedings relative to the application of Charles Filias, Trustee of Filias Realty Trust of 5 LedgeWood circle, Manchester-by-the-Sea, MA 01944, for a special permit under Section 6-6.9b of the Essex Zoning By-Law. The Applicant desires to operate and maintain a small scale marina and related facilities as shown on the plan submitted to the Essex town Clerk. The premises affected is located at 138 Main Street, Essex, on the North side of Main Street (Rte.133), 2,100 feet from the intersection of Martin St. (Rte.22), being in a Zoning District in which the above-mentioned use requires a special permit.

1. On January 8, 1997 an application of which a true copy marked "A" is made a part of this record, was presented to the Board.
2. A notice of public hearing, a true copy of which marked "B" is made a part of this record, was published, posted and mailed to the "Parties in Interest" as indicated below:
 - a. Published in the "The Gloucester Times" a newspaper of general circulation in the town on 1/15/97 and 1/22/97;
 - b. Posted in a conspicuous place in the town hall on 1/10/97;
 - c. Mailed on 1/14/97 postpaid to the applicant, abutters and owners of land within 300 feet of the property line as named in the certificate from the assessors, a true copy of which marked "C" is made a part of this record, and to the Planning Board, Board of Selectmen, Building Inspector and the Planning board of every abutting municipality.
3. On February 5, 1997, a hearing was held at the Essex Elementary School, Story Street, Essex, MA at which opportunity was given to all those interested to be heard in favor or opposition to said application. The following evidence was presented at the hearing: (See Attachments hereto and affixed)

Members present: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Dave Jones, Gil Guerin, and Joe Ginn.

4. Following the hearing, the Board made the following specific findings regarding the land in question and the proposed use: (See Attachments hereto and affixed)

page 2 of the Records of Proceedings, cont'd.

5. The Board voted at its meeting on February 19, 1997 as detailed below, to GRANT the application subject to the following conditions, safeguards and limitations on time or use, if any. (See Attachments hereto and affixed) Motion to Approve the Special Permit: Westley Burnham, Gil Guerin, Sheldon Pennoyer, and Joe Ginn Voted to Approve. Pat Dunn Voted to Deny. David Jones was Absent for the Vote. George Stavros' Resignation from the Board accepted on January 29, 1997.

Essex Planning Board Acting As Special Permit Granting Authority, Sheldon Pennoyer,
Chairman.

TOWN OF ESSEX MASSACHUSETTS, PLANNING BOARD
ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
FEBRUARY 21, 1997

DECISION ON SPECIAL PERMIT OR ANY EXTENSION, MODIFICATION OR
RENEWAL OF SPECIAL PERMIT

TO: Charles Filias, Trustee - Filias Realty Trust of 5 LedgeWood Circle, Manchester-by-the-Sea, MA 01944

Affecting the rights of the owner with respect to the use of premises on 138 Main Street located on the North side of Main Street (Rte.133), 2,100 feet from the intersection of Martin St. (Rte.22).

The record title standing in the name of Charles Filias, Trustee of Filias Realty Trust whose address is 5 LedgeWood Circle, Manchester-by-the-Sea, MA 01944, by a deed duly received in the Essex County - South Registry of Deeds in Book 6501, Page 157.

Notice is hereby given that following the public hearing on February 5, 1997 at 8:00 p.m. on the application in this case so as to permit Charles Filias, Trustee of Filias Realty Trust, owners of the property located at 138 Main Street, Essex, MA 01929,

The Board, at its meeting on February 19, 1997,

VOTED TO GRANT the application under Section 6-6.9b "Recreational facilities for other than home use", of the Zoning By-Law based on finding as detailed in the Record of Proceedings, subject to the following conditions, safeguards and limitations on use or time if any:

1. This permit allows the operation and maintenance of a small scale marina and related facilities as shown on the plan submitted with this application. Said plan dated December 1996 for page one, and dated September 1996 for pages 2 through 5, prepared and certified by David B. Vine, Professional Engineer.
2. The applicants shall maintain available during the months of May to October all parking spaces indicated on the plan submitted on 2/5/97 dated 12/96 and prepared by David Vine for the tenants of the apartment building and the marina. And will take whatever steps are necessary to insure that all parking associated with either of the uses on this property will remain on the property.
3. The applicants shall arrange, maintain, and install any portions of this use located on or in the waterway in accordance with any permit granted by the Army Corps of Engineers and the Mass Department of Environmental Protection and shall forward a copy of the final approval and any subsequent revisions or changes to the Essex Planning Board.

page 2, Decision on Special Permit of Filias Realty Trust, cont'd.

This Special Permit is being issued based in part on the following:

1. The proposed permitted use has in fact been in existence and continuously in use in its present location prior to June 1972 and predates the adoption of bylaw section 6-10 Wetlands District. The exact configuration or size of the facility at that time is unclear but its existence is not disputed, as indicated by a finding by the Essex Planning Board on January 8, 1997.
2. The proposed use as presented indicates a maximum of fifteen (15) slips to be made available. This number is effectively a downsizing of what appears to have been available in the past and should not overburden the existing land based facilities located on the premises.
3. The facility is private in nature, no public services which would cause marine traffic other than that which is required for long term (seasonal) tenants is permitted.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. and shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

This Special Permit is not in effect until the applicant has filed a certified copy of the decision with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk

TOWN OF ESSEX MASSACHUSETTS, PLANNING BOARD
ACTING AS SPECIAL PERMIT GRANTING AUTHORITY
FEBRUARY 21, 1997

DECISION ON SPECIAL PERMIT OR ANY EXTENSION, MODIFICATION OR
RENEWAL OF SPECIAL PERMIT

TO: Charles Filias, Trustee - Filias Realty Trust of 5 Ledgewood Circle, Manchester-by-the-Sea, MA 01944

Affecting the rights of the owner with respect to the use of premises on 138 Main Street located on the North side of Main Street (Rte.133), 2,100 feet from the intersection of Martin St. (Rte.22).

The record title standing in the name of Charles Filias, Trustee of Filias Realty Trust whose address is 5 Ledgewood Circle, Manchester-by-the-Sea, MA 01944, by a deed duly received in the Essex County – South Registry of Deeds in Book 6501, Page 157.

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The Board, at its meeting on February 19, 1997,

VOTED TO GRANT the application under Section 6-6.9b "Recreational facilities for other than home use", of the Zoning By-Law based on finding as detailed in the Record of Proceedings, subject to the following conditions, safeguards and limitations on use or time, if any:



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 5, 1997

- | | |
|-----------|--|
| 7:00 p.m. | Minutes of Jan.15, 1997 |
| 7:15 p.m. | Dick Carter/Building Inspector |
| 7:30 p.m. | Peter Vanwyck: Information regarding
Clerk of the Works |
| 8:00 p.m. | Public Hearing: Filias Realty Trust
Special Permit |

Discussion of By-Laws concerning Telecommunication Towers and
Flood Plain will commence after the Public Hearing.

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, FEBRUARY 5, 1997

The meeting was held at the Essex Elementary School on Story Street and began at 7:10p.m.
Attendees: W.Burnham, P.Dunn, D.Jones, S.Pennoyer, J.Ginn, G.Guerin

DICK CARTER/BUILDING INSPECTOR: Gene and Nancy Roberts, 83 Eastern Avenue, Map 0038, Lot 45, 2.75 acres, 55,000 s.f. of upland area. Connect new three bedroom addition including new kitchen, two baths, to existing 20'x24' dwelling, adding a two-car garage with den over, as shown on plans. 38'x26'x32', BOH, Conserv. Comm., Wetlands - all approved. Frontage of over 200' feet from road.

MOTION: DAVE JONES MOVES TO APPROVE THE BUILDING APPLICATION OF GENE AND NANCY ROBERTS, 83 EASTERN AVE., MAP 0038, LOT 45, 2.75 ACRES, 55,000 S.F. OF UPLAND AREA, TO CONNECT NEW THREE BEDROOM ADDITION INCLUDING NEW KITCHEN, TWO BATHS, TO EXISTING 20'X24' DWELLING, ADDING A TWO-CAR GARAGE WITH DEN OVER, AS SHOWN ON PLAN DTD. 12/3/95, 2ND REV. OF 9/20/96, BY MORIN ENGINEERING. SECONDED BY W.BURNHAM. IN FAVOR WERE, D.JONES, P.DUNN, W.BURNHAM AND S.PENNOYER. THE MOTION PASSES.

note: Joe Ginn enters.

PETER VANWYCK: Turtle Back Road Subdivision, Mr. Vanwyck comes before the Board to request that Mr. David W. Hidden of Western Avenue, be endorsed as the Clerk of the Works for the Subdivision. Mr. VanWyck's intention was to finish the road as soon as possible. The Board was not prepared to make such arrangements because the ~~site plans have not been brought forward~~ ^{road layout & detailed plans in accordance with the sub. div. Regs. have not been submitted} to the Board. Furthermore, the Board concluded that given Mr. VanWyck's history of legal issues and the water lines (see DPW letter in file), a CERTIFIED CIVIL ENGINEER would be the appropriate avenue to pursue. Mr. Hidden, they agreed, was capable, it was the reputation of Mr. VanWyck and the history of this application, that the conclusion was drawn upon.

Change approved at 2-19-97 meeting

Residents present voiced opinions regarding how the Clerk of the Works should be chosen. Mrs. Frye, an Apple Street resident and past member of the board felt that a list of Certified Engineers should be chosen by the board to oversee the subdivision projects. She did not feel that the applicant should have the say as to who would work as Clerk. The Board reported that it was not an easy task to appoint a Clerk, as most clerks were not agreeable to work solely on one case in town, as long as they were connected to a subdivision. Also, the Rules and Regulations were not definitive enough, regarding the hiring of the Clerk of the Works. S.Pennoyer would conclude with the agreement to come forth with a number of engineers, Mr. VanWyck to pick several from the list, and the Board would be the one to choose the Engineer from the choices left.

note: Gil Guerin enters at 7:45

ATTY. JOHN GUERIN: Telecommunications information. John gave the Board drafts from various cities and towns, and relayed information from sources regarding the Atty. General's Office. Copies of John's packet will be distributed to the Board, as well as concerned citizens that were present at the meeting. The Board decided to schedule a Special Work Meeting for next Wednesday, February 12, 1997 at 7:00 p.m.

page two, February 5, 1997 minutes

8:10 P.M. PUBLIC HEARING FOR FILIAS REALTY TRUST OPENED.

NOTE: A TAPE IS AVAILABLE ON THE HEARING, LOCATED IN THE FILES.

THE LETTERS FROM CONCERNED CITIZENS THAT WERE READ DURING THE PUBLIC HEARING ARE LOCATED IN THE FILIAS FILE.

The Public Hearing Notice was read before the public. A letter from the BOH was read, which requested that the Planning Board act under Section 6-6-9 of the Essex By-Laws, making a finding in this matter. The letter referenced that... "the applicant has requested a special permit for 'recreational facilities for other than home uses of the town of Essex by-law'. Should this use be for the public, then the Board would require, 'adequate public sewerage and water facilities..' to serve the proposed marina."

The following is a list of names and addresses of those letters from the residents that was read aloud at the hearing: Betsey C. and Frederick J. Fawcett of Apple Street, Essex, Thomas Ellis; Co-owner of Essex River Basin Adventures, Harold A. Burnham, Salt March Charters, 141 Main Street, Essex, Capt. Harold A. Burnham, 141 Main Street, Essex, James E. Witham, 23 Belcher Street, Essex, Bruce Fortier, Southern Ave., Essex, (also submitted is a copy of the May 18, 1994 minutes of the Essex Planning Board).

GEORGE HALL, ATTY.: For Filias Realty Trust, seeking a finding that the proposed pier configuration at 138 Main Street, as constructed, will not be more substantially detrimental to the neighborhood in the existing non-conforming use, as stated in 6-4.2 of the Essex Zoning By-Laws, and if the Board deems this inapplicable, the applicants are also seeking a Special Permit. The applicants owns the property in which there had been a pier and some configuration of floats existing in the Essex River since prior to June 1972. That is what is lawfully nonconforming, it was legal when there was no zoning by-law, and when the zoning by-law was enacted, it became lawfully nonconforming with the by-law requirements. It, like many structures, is an unlicensed structure under chapter 91 under federal laws. A couple of years ago, in taking advantage of the Amnesty Law, (of encouraging unlicensed owners to obtain a Water Ways License for their marine facilities) the applicant caused plans to be prepared to get that license, and in course of that proposed, some expansion of the existing pier configurations, 28 boat slips. In 1994, the applicant came before the Board seeking a Special Permit for that, that was withdrawn after the hearing. Subsequent to that, the applicant has proceeded with a waterways license application, an order of conditions, Notice of Intent with this Town's conservation, which granted permission for dredging for the installation of these floats, for up to 25 vessels. Recently, the Army Corp of Engineers also issued a permit under Section 404 of the Water Acts, Rivers Act, for a scaled down version of the proposal, requesting that only 15 boat slips be allowed, locating the piers 12ft. from the channel. Three times the mean loan.

A copy of a photograph obtained from the Dept. of Agriculture, was given to the Board for evidence, as was a photocopy of a photograph dtd. 1985 by professional photographer, James Apt, and one from Lawrence Lawry, a professional photographer. A set of drawings was distributed among the Board and the public present had a few copies as well. The dates of the photographs were written by the photographers. Atty. George Hall goes on to explain that the photographs indicate that fixed pier facility is the same as the one that has been there since prior to 1972, and there have been various combinations of floats serving a mixture of basically small pleasure craft, and those have been used by the residents at the apartment bldgs., or by other members of the public for recreational purposes since prior to the adoption of the Essex Zoning By-Law. A number of floats at the facility has been up to twenty-five boats. What we

are proposing is a different configuration of floats as directed by the Army Corp of Engineers to accommodate fifteen boats, of the same type; small recreational boats. It is our position that this reconfiguration is basically the maintenance of the same kind facility that has existed on the site since prior to 1972, to the extent that it is an increase of a few boats and it is not a significant increase. We also have on the site plan the parking facilities that are on the site to serve both apartment bldgs., and the proposed recreational facility.

PAULA FILIAS: There are 19 bedrooms at the apartment, in which each bedroom requires one and one-half spaces, 29 spaces, and fifteen spaces for the boat slips, for a total of forty-four spaces. Usually, about twenty percent of the people who live in the apartments do rent the boat slips. She feels that she may have an overage, because of this evidence.

GEORGE HALL: We think that this is not substantially more detrimental for the neighborhood than its existing use. There have been a lot comments this evening about navigational uses. Navigational uses are a part of the permits that are issued by the Army Corp of Engineers and the DEP, and those agencies go by the federal channel, and we are of course directed to the placement of the piers..... the dredging issue, again this is a lawful nonconforming use, we submit this as a maintenance dredging for an existing recreational facility. Maintenance does not necessarily mean putting it exactly the way it was twenty years ago, but being able to, in reasonable accordance within the scope of the use that existed as it appeared in the Essex zoning by-law. In terms of its impact on the neighborhood, there are no retail or other kinds of facilities associated with this, this is just a small family boating facility; people come, they go out, they leave, there is ample parking on the site, and in fact, the applicant has a private side agreement with the retail store owners that she will prohibit against the tenants from parking any vehicle on the street, or even public parking, where they would otherwise have a right to park, a condition with their boat slip.....

A letter from Atty. George Hall dated December 20, 1996 was addressed to the Board (see copy in the file which explains the project description, applicability of Section 6-4.2, 6-6.9b, case histories, and a description of the proposed modification that "will not be 'substantially more detrimental than the existing use to the neighborhood'.") He requests that the Planning Board make a finding under Section 6-4.2 of the Essex Land Use Regulations that the project will not be "substantially more detrimental than the existing nonconforming use to the neighborhood". The letter further lists the grounds for this request. Atty. Hall's letter on page 5 states in the last paragraph, "An application for Special Permit is being filed contemporaneously with this request. The Trust requests that this request be considered first, as a separate item on the agenda. If the Board acts favorably on the request, action on the Special Permit application may be unnecessary."

BRUCE FORTIER: Entered into the Record, Minutes from the Planning Board, from May 18, 1994, with two points highlighted. A statement from Filias ..."there are 19 apartments, six bays may be available to non-resident, the rest are to be used by apartment residents." John Dick, Hancock Survey Associates, ..."the docks are primarily for the use of the residents. Non-residents could rent fingers." Bruce wishes to request from the Board, "that if the Board does find that the use was nonconforming in 1979, I would request a statement by the Board as to the basis to that finding, and I don't think that that's possible, because I think that all available evidence is that that property was not nonconforming in 1979, it was not nonconforming, because it was a private boating facility as stated in the May 18, 1994 minutes.

page 4 of February 5, 1997 minutes

cont. ... The language is specific in the language of the law in the overlay district, and those regulations within that district, supersede the other laws... in the beginning of the zoning chapter, it says specifically, that in cases where there is conflict between provisions, the more restrictive one applies. So that even without the obvious understanding that the overlay district supersedes, the fact is that in that district, the law is more restrictive than in the other section, its the one that is more restrictive that applies anyway.... I think that your Board has no choice whatsoever, but to reject the application for a Special Permit because its not within your power, and I think it's impossible in the face of the facts to make a finding that this was a nonconforming use because it was in fact completely conforming, it was a private use that met all the requirements..."

KIMBERLY JERMAIN-APPLE STREET: Question:.....A question of the photographs that were submitted... the claim of existing nonconforming use.. certifications? ... Answer: Dept. of Agriculture shows the date of 1971, making it very clear for certifications.

PAULA FILIAS: Responding to the Minutes of May 18, 1994: "The amount of tenants varies from year to year: I used a minimum of twenty percent to be conservative, as far as the parking spaces are concerned, but I can have as many as eight or more, it just depends on how many are living there at the time... of people that actually live there that rent a boat slip from me. So whatever I said in 1994 could have very well been in 1994, but would have changed in 1993, 1992, or 1995."

CHARLES BURNHAM: Submits a six page document from the Comm. of Mass., Regulation filing and Publication, 310 CMR 9.00, Waterways Regulations, specifically highlighting page 267, Maintenance Dredging, and pages 268 and 269 about Public Recreational Boating Facility meanings. (see the file for the complete exhibit). He feels that this is a Private Marina, not a Public Marina.

TED MARSHALL-PICKERING STREET, ESSEX: "Has personally been associated with Filias' area at Main Streetfinds this place to be one of the most peaceful, quite spots that he could drive his car up, and walk down the dock to here birds, etc., ... he has operated the river every summer of his life, for pleasure and professional capacities.... a forty-nine passenger tour boat for four years, every corner of this river is a tight corner until you get to the corner of the bay... and Harold can back me up as a licensed mariner, you are supposed to keep everything in sight, if there is a chance of collision, you are supposed to take the first initiative and abort your course, and direction, to prevent an accident... It's the independent operator to act properly,could always find parking, no noise, no wakes from boats, other than jet skis.... there have been boats there many years, you lose a facility like that, you lose revenue for the Town, etc.."

CHAS. BURNHAM: Shows a configuration that he feels would be acceptable for all, including the sailing population. (see file for the configuration and map)

JAY HAVIGHURST-MAPLE STREET: ...has small run-a-bout. Does not want to see more boats, agrees that boats of this nature need a place to pull off - the floats are in the way.

BRUCE FORTIER: "Specs. are not the issue, the Special Permit is, and the Board has no authority to issue this permit... there is a question of whether or not this is a nonconforming use....this is not a nonconforming use."

GIL GUERIN-BELCHER STR.: Harbormaster in past years: when this facility got enlarged, there were questions: How could this be enlarged?... Was not sure what the by-laws refer to as a recreational facility: Does it include the dock space, or does it include the shore facility? Because if you run through the M.G.Laws, regarding harbor patrol and harbormaster duties, and responsibilities, anything that it is not permanently affixed and given a permit by the Corp of engineers, is under the purview of the harbormaster. Anytime something goes in that is fixed, then it has to be backed by the way of the Corp of engineers. Once the Corp of engineers approve, it has nothing to do with the harbormaster. He also took note: Every winter, the pipes were removed - its not a permanent structure. Does the Town have control over that water facility unless its been approved by the Corp of Engineers, and they have a license for it. Then the purview comes from under the harbormaster....who can allow or disallow moorings, much more power than even policemen on the streets. Before you make a decision, I would like you to review Chapter 102, Powers of the Harbormaster..... if its not licensed by the Corp of Engineers, its my belief that the harbormaster has full force.....

BRUCE FORTIER: Amplifies what Mr. Guerin is saying..."State Enabling Act, ch. 40a, gives Town authority to regulate the waterways.....gives the Town the specific authority to regulate the waterways in the specific areas such as these constructions and everything, so that the fact that that the local harbormaster has exclusive authority to decide where floats can go or not go, doesn't quite mean exclusive, it means he has exclusive authority to decide where they can go, as long as there is not another law against it. he doesn't have the authority to override a state law or a federal law.....all these things move around each other, the Town is given authority under state enabling act, to adopt that local zoning by-law.... other people may have authority for the same facility...."

TED MARSHALL:"As far as this is a public or private facility, and as far as I can see, in the state guidelines, they are renting to private individuals, be it the apartments or slips, its not open to the public to come and go as a restaurant.... it looks like a private one. If its a public facility, you'd have to get into the state public access rule and regulations as to access to public waters."

GEORGE HALL, ATTY.: ...Public vs. Private facility: "These definitions are not sated in the Zoning By-Laws. Terminology and configuration is under the Army Corp and DEP. The applicant has little control over. There are no new structures. The impact of the zoning by-law is non existent.... "

KIM JERMAIN: "What makes something illegal, or nonconforming? if its illegal, its illegal, and should not be allowed to continue.... and if its not illegal and its lawful, then,... I'd like to know if you would discuss that issue..."

SHELDON PENNOYER: "I'd like for you to tell me, for the record, why you think its illegal?"

JERMAIN: "Well,.... it hasn't been the same use as they are claiming it was, I think there are discrepancies in the recounting and the history.... I'm not convinced that its a use that is permitted,....I think it's one that might have been assumed, and therefore they might be trying to get legal permission for it under the current laws, and I'm sure that that's something you want to do...I think we want to look at what currently is going on now, with what its effect is.... I think that they are expanding the use.... not sure it should be considered nonconforming now because it was just carried on now, it doesn't mean that it is a legal use, or a legal nonconforming use..."

page 6, February 5, 1997 minutes

MOTION: W.BURNHAM MOVES TO CLOSE THE PUBLIC HEARING AT 9:30 P.M. SECONDED BY GIL GUERIN. IN FAVOR WERE, W.BURNHAM, GIL GUERIN, P.DUNN, J.GINN. DAVE JONES VOTES OPPOSED. S.PENNOYER VOTES PRESENT. THE MOTION PASSES TO CLOSE THE PUBLIC HEARING.

Note: The vote on the Filias application and finding, etc. is scheduled for February 19, 1997 agenda

TELECOMMUNICATIONS: W.Burnham submits another draft dated 2/5/97 for the Board to study. The information from John Guerin will be copied and distributed to the Board for studying, also. The Special Work Meeting will be scheduled for February 12, 1997 at 7:00 p.m.

Two letters were read from the Town Clerk and George Stavros. The letters notified the Planning Board that George has resigned, effective immediately.

MOTION: W.BURNHAM MOVES TO ACCEPT THE RESIGNATION OF GEORGE STAVROS. LETTERS WERE SUBMITTED BY THE TOWN CLERK AND GEORGE STAVROS. SECONDED BY JOE GINN. ALL MEMBERS PRESENT VOTED TO ACCEPT THE RESIGNATION. THE MOTION PASSED.

MOTION: W.BURNHAM MOVES THAT THE CHAIRMAN SEND A LETTER TO THE TOWN CLERK, INFORMING HER THAT WE HAVE ACCEPTED THE RESIGNATION OF GEORGE STAVROS WITH DEEP REGRET, AND WE RECOMMEND THAT SHE NOT ATTEMPT TO TEMPORARILY FILL HIS POSITION UNTIL SUCH TIME AS THE MAY 1997 ELECTIONS ARE COMPLETE. SECONDED BY JOE GINN. ALL IN FAVOR OF THE MOTION: P.DUNN, JOE GINN, D.JONES, W.BURNHAM, GIL GUERIN, S.PENNOYER. THE MOTION PASSES.

GEORGE STAVROS: A submission of an application to the Planning Board for Special Permit causes the Board to schedule a Public Hearing on Wednesday, March 12, 1997. The application states that George Stavros, Trustee of the Stavros John Wise Avenue, Nominee Trust, desires to erect a "fixed Telecommunications Tower" and accessory Structures (documentation is attached to the application, and can be found in the file, as with the Town Clerk).

MOTION: W.BURNHAM MOVES TO SCHEDULE A PUBLIC HEARING FOR GEORGE STAVROS, TRUSTEE OF 132 JOHN WISE AVENUE, ESSEX, MA FOR CELLULAR TOWER INSTALLATION SPECIAL PERMIT HEARING ON MARCH 19, 1997 AT 9:00 P.M. SECONDED BY JOE GINN. ALL IN FAVOR OF THE MOTION WERE: J.GINN, W.BURNHAM, P.DUNN, W.BURNHAM, D.JONES, G.GUERIN, AND S.PENNOYER. THE MOTION PASSES.

page 7, February 5, 1997 minutes

MOTION: W.BURNHAM MOVES TO APPROVE THE
JANUARY 15, 1997 MINUTES AS WRITTEN. SECONDED
BY PAT DUNN. ALL MEMBERS VOTED TO APPROVE
THE MOTION. THE MOTION PASSES.

MOTION: JOE GINN MOVES TO ADJOURN THE MEETING
AT 10:10P.M. SECONDED BY PAT DUNN. ALL MEMBERS
VOTED TO APPROVE THE MOTION. THE MOTION
PASSES.

note: special work meeting on February 12, 1997 at 7p.m.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in black ink, appearing to be "J. M. Ginn", written over the "Attested to:" text.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 29, 1997

NOTICE: THE ESSEX PLANNING BOARD HAS SCHEDULED A SPECIAL WORK MEETING FOR JANUARY 29, 1997 AT 7:30 P.M. TO DISCUSS THE NECESSARY ACTION TO BE TAKEN CONCERNING PROPOSED BY-LAWS TO BE PRESENTED TO THE TOWN OF ESSEX DURING THE ANNUAL TOWN MEETING SCHEDULED FOR MAY, 1997.

THE MEETING WILL BE DEDICATED FOR TWO ITEMS:

TELECOMMUNICATION TOWERS

FLOOD PLAIN INSURANCE CHANGES

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 29, 1997

The Special Work Meeting was held at the Essex Elementary School on Story Street, and began at approximately 7:35p.m.

Attendees: S.Pennoyer, D.Jones, G.Guerin, W.Burnham, P.Dunn, J.Ginn.

Note: It was mentioned that G.Stavros has terminated his position as Planning Board Member. Submission was given in writing to the Town Clerk, effective immediately. Correspondence relating to the termination will be read at the next scheduled Planning Board meeting (2/5/97).

Telecommunication By-Law: W.Burnham has drafted a proposed by-law for the Town to review, and vote on at the May 1997 Town Meeting. (see attached proposal, with these minutes) The majority of the applicants for cell towers will be handled as a "case by case", with the Special Permit process. The proposed By-Law changes and additions were read, and several residences were present to voice their opinions.

S.Pennoyer and the board realized that the issues of the scenic view obstruction were of importance, since the towers will not be allowed to be banned from the Essex area. This issue discussed the specific natural features - Sheldon proposed to add ..."the towers shall be located within an established evergreen wooded area with an average tree height of 100', and extending a minimum of 200' in all direction of the tower. It was agreed that the tower must protect abutters, but to limit the area to be in only a naturally wooded area would discriminate against other areas, precluding a tower, therefore causing potential companies to dispute the by-law, and perhaps overriding the Town's rules by way of the Telecommunications Act of 1996. W.Burnham noted that you could put reasonable limitations on the by-law, and the applicant would still have to go through the Special Permit Process. S.Pennoyer's issue was to provide a limit to the impact of the tower. He gave the board a picture from a February 1997 issue of National Geographic's Earth Almanac, which showed a 125 foot-white pine model in Atlanta. It was covered with epoxy-resin bark, the steel pole conceals antennas inside branches.

Several residents were allowed their questions and comments for the rest of the evening. Some of the ideas ranged from creating a district where the towers could be located, including building them within other buildings, (i.e., steeples), environmental impacts were discussed, maintenance - including the fact that a road leading to the towers would create impacts, the accessory buildings along with the towers would also create an impact. Wildlife preservation, conservation property, aesthetics, enforceability, moratoriums, etc. It was clear that residents and the Board realized that the towers were coming to the Town, and the lighting was a major concern. All agreed that keeping the poles at a height in which no lighting would be necessary was of great importance.

The Special Permit Process was again the focus of the conclusion of the meeting. It was clear that the towers could not be banned - The By-Law would be specific, but the Special Permit Process would allow for maximum public input, incentives for applicants, and each application would be scrutinized individually.

Page two: January 29, 1997 Planning Board Minutes

The board was grateful for the input of the residents, and their concerns would be addressed as they worked to amend 6-6.9c of the Essex By-Laws, and the Special Permit section.

A meeting scheduled for February 5, 1997 would resume talks, and allow for Atty. John Guerin of the MAPC to provide more information regarding the towers.

George Stavros, Sr. handed the Board an application for Special Permit for a Telecommunications Tower this evening. The Board will hold the paper work and schedule a hearing at the next scheduled meeting.

MOTION: PAT DUNN MOVES TO CLOSE THE MEETING AT 10:00 p.m.
SECONDED BY J.GINN. ALL MEMBERS PRESENT VOTED TO
ADJOURN THE MEETING. THE MOTION PASSED.

Presented by: Lisa A. M. Randall

Attested to:

A handwritten signature in black ink, appearing to be "J.M.G.", written over a horizontal line.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 15, 1997

The Board meets at the Essex Elem. School on Story Street.

7:00p.m.	Minutes of Dec.18, 1996
7:15p.m.	Dick Carter/Building Inspector
7:30p.m.	Turner and Walima/demolish two-family apt., construction of shop space.
8:00p.m. to approx. 8:45p.m.	Planning Board Business: Discussion of telecommunications information to date, and Flood Plain Insurance matters relating to to Bylaws. Spring Street legal case; Board to vote on decision as advised by Town Counsel

ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 15, 1997

The meeting was held at the Essex elementary School on Story St. and began at approximately 7:09p.m. Attendees: S.Pennoyer, P.Dunn, W.Burnham, D.Jones, G.Guerin, G.Stavros, J.Ginn.

MOTION: W.BURNHAM MOVES TO APPROVE THE JANUARY 8,1997 MINUTES WITH THE FOLLOWING AMENDMENT: REMOVE THE WORD "PRIOR" IN THE FILIAS REALTY TRUST MOTION. SECONDED BY PAT DUNN. IN FAVOR WERE: S.PENNOYER, D.JONES, W.BURNHAM AND PAT DUNN. G.STAVROS VOTES PRESENT. THE MOTION CARRIES.

MOTION: W.BURNHAM MOVES TO APPROVE THE DECEMBER 18,1996 MINUTES AS WRITTEN. SECONDED BY G.STAVROS. IN FAVOR WERE, W.BURNHAM, P.DUNN, D.JONES, G.STAVROS AND S.PENNOYER. THE MOTION PASSES.

LAND COURT CIVIL ACTION: Anthony Taliadoros et als. v. Richard A. Stratton, et als. S.Pennoyer read a letter by Town Counsel. Attorney Cassidy recommends approval of the Agreement for Judgment. The Agreement leaves the Planning Board's ANR approval in effect and imposes two additional requirements on Mr. Stratton. Before construction occurs, he plants threes along the property lines of Messrs. Prentiss and Bachini in conformance with Addendum A to the Agreement. The second requirement is that he complies with the Essex Board of Health's regulations pertaining to on-site drainage (Addendum B). The Planning Board signed and Agreement for Judgment and will forward the document to Town Counsel.

MOTION: W.BURNHAM MOVES TO ALLOW THE ESSEX PLANNING BOARD TO ACCEPT THE AGREEMENT NOT TO PURSUE AN APPEAL AND FOR JUDGMENT BETWEEN ANTHONY TALIADOROS ET ALS. V. RICHARD A. STRATTON, ET ALS., AS ESSEX PLANNING BOARD AS DEFENDANTS, AS SUBMITTED BY TOWN COUNSEL DATED DECEMBER 13, 1996, FINDING THAT THE AGREED UPON CONDITIONS ACCEPTABLE TO THE ENTIRE BOARD. SECONDED BY GEORGE STAVROS. IN FAVOR WERE, W.BURNHAM, P.DUNN, S. PENNOYER, G.STAVROS, D.JONES. THE MOTION PASSES.

ANNUAL REPORT: S.Pennoyer will draft a copy of the Planning Board's Annual Report to be submitted to the Board of Selectmen by February 14, 1997.

WARRANTS FOR TOWN ARTICLES: The Board was reminded that the deadline for Articles in the Warrant will be accepted until March 10, 1997.

(Joe Ginn enters)

TURNER AND WALIMA MFG. CO., 191 Western Avenue. The Board was aware that after the meeting of January 8, 1997 with the applicant Rolf Roller, the two-story residential apartment was demolished and removed. The Board stated to Mr. Roller that they were not going to approve the site plan from last week, as the footprint could not be extended. The applicant was aware of the fact that he could only rebuild upon the same footprint that existed *but* he was not aware that a new site plan was to come before the Board. P.Dunn asked if this application created a new change of use. W.Burnham commented that it was a mixed residential/commercial use; and the change of use had already occurred. P.Dunn asked if it was to be considered Class "A", how many employees, and the issue of frontage. S.Pennoyer

what about

commented that it was already nonconforming, and a site plan was needed, along with the parking plan. The applicant stated that he had adequate parking; calculations were done, and the parking was estimated at a maximum of twelve. P.Dunn reiterated that if this is a change to Class "A" Industrial "action", that the Board should look at Route 22. If 22 is widened, what will be the outcome? She felt that this business had outgrown itself for the area. W.Burnham noted that this property has existed for twenty odd years, but P.Dunn noted that it wasn't always what was there. Joe Ginn commented that P.Dunn's questions were not out of line - The applicant was adding more nonconformity of the residential area, and now changing to Commercial/Industrial Use, this changes the use and adds to the nonconformity. They are taking away some of what would be better. He felt that this application required a variance. D.Jones agreed. The Board recalculated the square footage and found 5,915 s.f., and twelve parking spaces.

MOTION: W.BURNAHM MOVES TO APPROVE THE BUILDING PERMIT FOR TURNER AND WALIMA MFG. CO. OF 191 WESTERN AVENUE FOR THE CONSTRUCTION OF ADDITION OF SHOP SPACE ON THE FOOTPRINT OF THE TWO-FAMILY APARTMENT DWELLING WHICH WAS DEMOLISHED AND REMOVED FROM THE SITE. TOTAL SQUARE FOOTAGE OF ADDITION IS NOT TO EXCEED 1,490 SQUARE FEET. CONSTRUCTION CONTINGENT UPON THE APPROVAL OF THE CONSERVATION COMMISSION, AND UPDATED SITE PLAN TO BE PRESENTED TO THE BUILDING INSPECTOR SHOWING THE EXACT DIMENSIONS AND LOCATION OF TWELVE SPACES OF PARKING, IN COMPLIANCE WITH THE ESSEX ZONING BYLAW 6-5.8 "OFF-STREET PARKING REQUIREMENTS." FURTHER, THE BOARD MAKES THIS MOTION UNDER 6-4.2, FINDING THAT THE EXISTING STRUCTURE AND DOMINATE USE OF THE BUILDING HAS BEEN IN EXISTENCE FOR APPROXIMATELY TWENTY-TWO YEARS AND THIS CHANGE OF THE BUILDING WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL TO THE NEIGHBORHOOD THAN ITS EXISTING USE. SECONDED BY GEORGE STAVROS. IN FAVOR WERE, W.BURNHAM, G.STAVROS, D.JONES, J.GINN. OPPOSED WAS PAT DUNN. S.PENNOYER VOTES PRESENT. THE MOTION CARRIES.

DON AND JOAN ENOS: 81 Eastern Avenue, Map 38, Lot 46, 8,037 s.f., BOH approved, Conserv. Comm. approved. To extend porch, footprint 6' west - 12' south - 12' east and enclose foundation. P.T 4x6 post. Skirted with T-111. Enclosed deck is 15 foot setback, and Board cannot create a more nonconforming property. The Board denies the application - Applicants will go to the Board of Appeals.

MOTION: G. STAVROS MOVES TO DENY THE APPLICATION OF DONALD AND JOAN ENOS OF 81 EASTERN AVENUE, MAP 38, LOT 46, LOT SIZE 8,176. SITING THAT THE CONSTRUCTION OF PORCH WILL ENCROACH ON SIDELINES, CREATING A NONCONFORMING LOT, REFERENCING SECTION 6-6 OF THE TOWN OF ESSEX ZONING BYLAWS, "LAND USE REGULATIONS." SECONDED BY JOE GINN. IN FAVOR WERE, J.GINN, W.BURNHAM, P.DUNN, G.STAVROS, AND D.JONES. S.PENNOYER VOTING PRESENT. THE MOTION CARRIES.

Note: George Stavros removes himself from the table during the following discussion.

TELECOMMUNICATION ISSUE:

W. Burnham referred to the December 16, 1996 letter from Town Counsel's recommendation for a By-law to address the regulations for cellular and telecommunications towers. W. Burnham felt that the recommendations should be split into two sections. A draft of Lunenburg's rules and regulations were used as reference in the discussions. Most of the regulations were amenable to the Board, with changes that would be dedicated to the welfare of the Town of Essex. The board commented on the necessity for a Special Permit Process for telecommunication towers. Several residents were present to voice their opinions. It was clear that the Board and interested citizens agreed that changes must be made in order to specify the exact regulations and requirements of companies wishing to place towers in the Town. No action was taken at this meeting, but information relating to an Appeal by the Zoning Board of Appeals of Plymouth was given to the Board for reference. Conversations also included instituting a Moratorium on the decision of accepting the towers. The facts were not clear on the rights of the Town to take this action, and would be investigated further. The Planning Board decided that a special work meeting was necessary, in order to draft the proper language that would be placed on the Warrant for the Annual Town Meeting. A date was set for January 29, 1997 at 7:30p.m., as a date for the Public Hearing on this matter was tentatively scheduled for February 19, 1997.

Note: George Stavros returns to the table.

FLOOD PLAIN BY-LAW: W. Burnham will review the draft of the proposed by-law and will have the finished draft by the January 29, 1997 special work meeting.

MOTION: G. STAVROS MOVED TO ADJOURN THE MEETING AT APPROXIMATELY 9:30P.M. SECONDED BY P. DUNN ALL MEMBERS VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

Note: Next scheduled meeting will be January 29, 1997 at 7:30 p.m.

Prepared by: Lisa A. M. Randall

Attested to:



ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 8, 1997

The meeting was held at the Essex Elementary School on Story Street, and began at approximately 7:30p.m.

Attendees: P.Dunn, W.Burnham, D.Jones, J.Ginn, G.Guerin and S.Pennoyer

Dick Carter/Building Inspector: TURNER AND WALIMA MFG. CO., INC. 191 western Ave., for Demolition of two family apartment house and construct of additional shop space. Change of use, current use as two unit apartment house. Proposed use as commercial 2,220 s.f. in new addition. Cleared by B.O.H., 60x37x14. New septic and siting of septic.

Discussion: There was a question as to how many employees there would be, and the count was eleven people, nine employees, and two owners. Square footage of property = 54,320. Industrial Class A. Planning Board discussed the setbacks, existing footprint. The applicant was asking to increase the non-conformity, and after discussion, the applicant would use the same footprint of the existing building, 1,490 s.f.

Joe Ginn made comments relative to the Class "A" business use. He felt that this applicant needed variances. Up to 16 employees have been working there as mentioned by the applicant. This would create a precedence for others. Also, where was the parking plan for this site? He felt that this is now going to be a commercial area abutting with residential properties. This was a full change of use. The owner stated that he would not have twenty-four hour shift business, despite the Class "A". Ginn mentioned the fact that if the property were ever to sell to another company, the twenty-four hour shift business certainly could be granted authority because of the change of use.

Conclusion: The board would table the application, the applicant would use the same footprint as the existing building, and come in to the next board meeting scheduled for January 15, 1997./

FILIAS REALTY TRUST: Re: Chapter 91 application and request for Special Permit for Recreational Uses other than home use. George Hall, Attorney for the Filias' gave a brief history of the property, noting that the property had been a recreational use prior to 1972. He was asking that the board find that under 6-4.2, "the existing nonconforming use be found that the proposed extension is not substantially more detrimental than the existing nonconforming use to the neighborhood." Atty. Hall also requested the special permit process of a public hearing. This would then allow the Filias' to complete the requirements of the Chapter 91 Application. Paula Filias will bring a copy of the 6/11/71 photograph by the Department of Agriculture showing the pre-existing use.

MOTION: W.BURNHAM MOVES TO FIND THAT THE ~~PRIOR~~ ^{fall 11-15-97 G.S.} UPLAND STRUCTURE AND WHARF FACILITY LOCATED AT 138 MAIN STREET, ESSEX, IS A PRE-EXISTING NONCONFORMING STRUCTURE, ALLOWING FINDING TO BE UNDER 6-4.3 PREEXISTING NONCONFORMING USES, AND SHOULD BE ALLOWED TO CONTINUE IN ITS PRESENT CONFIGURATION. FINDING IS BASED UPON AERIAL PHOTOGRAPH DATED JUNE 11, 1971 FROM THE DEPARTMENT OF AGRICULTURE. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WERE: W.BURNHAM, P.DUNN, G.GUERIN, J.GINN, AND D.JONES. S.PENNOYER VOTED PRESENT. THE MOTION CARRIED.

Atty. Hall requested that the board also agree to vote on the 6-4.2 by-law. The Board was not willing to agree to this, and insisted that the Filias' go through the Public Hearing process.

S. Pennoyer noted that this property has grown to be a recreational use and did not start out as such. The issues are planning issues, relating to the upland areas. This issue will go through the special permit process.

MOTION: W. BURNHAM MOVES TO SCHEDULE A PUBLIC HEARING ON WEDNESDAY, FEBRUARY 5, 1997 AT 8:00 P.M. AT THE ESSEX ELEMENTARY SCHOOL ON STORY STREET, ESSEX, ON THE APPLICATION BY FILIAS REALTY TRUST, MANCHESTER-BY-THE SEA, MA, FOR A SPECIAL PERMIT UNDER SECTIONS 6-4.2 EXISTING NONCONFORMING USES AND 6-6.9b SPECIAL PERMITS RECREATIONAL FACILITIES FOR OTHER THAN HOME USES OF THE TOWN OF ESSEX ZONING BY-LAW. PREMISES CONSISTS OF TWO MULTI-FAMILY DWELLINGS WITH A TOTAL OF 19 UNITS AND A FIFTY FOOT TIMBER PIER SITUATED AT 138 MAIN STREET (RTE 133), LOCATED ON THE NORTH SIDE OF MAIN STREET, 2,100 FEET FROM THE INTERSECTION OF MARTIN STREET (RTE 22). SECONDED BY PAT DUNN. IN FAVOR WERE, W. BURNHAM, P. DUNN, J. GINN, G. GUERIN, D. JONES AND S. PENNOYER. THE MOTION CARRIED.

A copy of the correspondence relating to the Filias application will go directly to the Town Counsel, Brian Cassidy, for advice, before the Public Hearing.

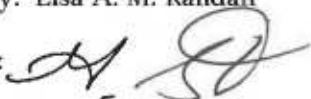
FY '98 Budget will be done by the 1/15/98 meeting.

The Grant money available to the Planning Board is being investigated, and would probably be used for planning issues relating to flood plain insurance and telecommunications by-laws that may be proposed in the future.

MOTION: P. DUNN VOTES TO ADJOURN THE MEETING AT 9:00 P.M. SECONDED BY D. JONES. ALL MEMBERS VOTED IN FAVOR OF THE MOTION. THE MOTION PASSED.

Prepared by: Lisa A. M. Randall

Attested to:



TOWN OF ESSEX PLANNING BOARD
AGENDA

WEDNESDAY, DECEMBER 16, 1998

7:00 P.M.	Minutes of 12/2/98, 12/9/98
7:15 P.M.	Building Inspector Report
7:30 P.M.	Clay Morin, Eng. Re: John Wise Ave. Subdivision
8:00 P.M.	Thos. Neve for Turtleback Road Subdivision
Other:	Mail Payroll Voucher ENF Report, and current Notice of Change Dtd. 12/11/98 Memo from Fin. Comm. Re: 1999 f/y Discussion of Wedlock/Pederson Subdivision

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, DECEMBER 16, 1998**

Attendees: Pat Dunn, George Stavros, Westley Burnham, Sheldon Pennoyer, Brian Feener, and Gil Guerin

Absent: Dave Jones

The meeting was held at the EEMS and opened by the Chairman Pennoyer.

Minutes: Under "Building Inspector's Report", change third paragraph to read "142 Eastern Avenue", not "142 Main Street".

**MOTION: W.BURNHAM MOVES TO APPROVE THE
DECEMBER 2, 1998 MINUTES AS AMENDED.
SECONDED BY PAT DUNN. VOTED TO APPROVE
THE MINUTES WERE W.BURNHAM, G.STAVROS,
S.PENNOYER. P.DUNN VOTED PRESENT. THE
MOTION PASSES.**

(Brian Feener enters)

Building Inspector Report: Off common driveway, 12R (14Rear) County Road, Mr. James Rynkowski, for a building permit for a storage garage at 12R County Road, 30x40, one and one half stories, meets minimum setbacks. Lot 38, Map 31. The Board agreed that Mr. Rynkowski has met the front set back requirements. The fifteen-percent lot coverage was addressed, and calculations were done because of the Water Resource Protection District bylaws. It was calculated that the property buildings were well within the percentage.

(Gil Guerin enters)

**Motion: George Stavros Moves to issue a building permit to James Rynkowski, of 12Rear (14 Rear) County Road, Assessor's Map 31, Lot 38, Lot Size, 42,000 s.f., for construction of 30'x 40' storage garage with no plumbing, being for storage only. Siting that it meets all of the setbacks of the Town of Essex bylaws. Seconded by P.Dunn. Voting in favor: Pat Dunn, Sheldon, Pennoyer, George Stavros, and B.Feener.
Present: W.Burnham and Gil Guerin.**

140 Main Street: Mr. Nelson brought an application for a building permit to connect two existing sheds at 140 Main Str. Applicant is Gateway Realty Trust, John Coughlin, Western Avenue. Connection of two existing sheds – to be contiguous. Sheldon felt that these sheds are not grandfathered, they are new. proposed work is for workshops to be used to refurbish antiques to place in antique store at 140 Main Str., No plumbing. There was a question as to whether there was ever a building permit for these sheds. Making them permanent would require a permit. Where one of the sheds sits is a problem, as is not ten feet off the property line – It is nine feet to Main Street. The recommendation was that the shed must be moved to meet the setbacks before a permit would be issued.

170 John Wise Avenue Subdivision: Clay Morin, Engineer for Mr. Craig Doyle came before the Board to comment that the easement (for Lot C-2) which is on Lot C-1 has been enlarged on the plan. As long as the lot lines have not changed, the Board was in agreement that this easement was not an issue as far as the Approval of the Definitive Subdivision Plan. At the time of Endorsement of the Plan, the Board will annotate the change.

Turtleback Road Subdivision: Chairman Pennoyer noted a conversation with H.L.Graham whereby Chairman Pennoyer stated again that this plan should continue on, and if there are changes that need to be made in the field, then this was appropriate. Holding the subdivision roadwork up by the planning board for DEP issues was not in the Board's purview, according to W.Burnham. The Board of Health was also active with their decisions and actions regarding this subdivision (Memorandum dated December 8, 1998 to Planning Board, re: Title 5 (310 CMR 15.220(4)(a), disapproval of a septic system design plan for Lot 35).

Changes should be made on the "As-Built", as noted by W.Burnham and Pennoyer. Stavros felt that any changes should be made on a plan as a modification.

A December 15, 1998 Letter of Recommendations by Technical Review Agent, H.L. Graham Associates, regarding the Revised (11/17/98) plans of the Subdivision, materials and letter from Thos. Neve Assoc. (TENA) dtd. 11/20/98 and 11/30/98 were studied by the Board and noted as follows: **Note: H.L. Graham's comments are in *ITALIC* print.**

(Ref. III.A&B); #1 - states that on the 11/17/98 revision plan by TENA, there is shown a creation of 29 through 37 (nine additional lots). The Board recognized that the Lots have changed and discussed the matter noting that the subdivision road plan is what the board would be signing, which will include the proposed lots.

(Ref. III.D.,E.&F.) #2 - "Board approval action should be made conditional upon approval from DEP and as necessary, the local Conservation Commission." George Stavros feels that this should be adhered to, and he did not feel that he would sign the plans. Again, this comment was noted by Burnham who felt that the Subdivision Rules states under Chapter 81, that the Board must to continue with the process - Other boards in Town must continue with their process, which may or may not mean a continuation of the project, according to their rules and regulations.

Proposed lot lines on the 11/17/98 Revised Plan: (Nine lots): W.Burnham noted that the 1987 plan is not the plan that is to be endorsed, the Board is dealing with a REVISED PLAN. (Letter from Cassidy, BOH)

(Ref. III.G.) #3 - "Any approval action by the Board should carry the condition relative to possible future installation of curb and drainage should problems arise with the "country drainage" proposed." The Board recognized that in the Approval, a condition would be written to state that if problems do arise, the curbing and drainage would be addressed.

(Ref. III.G.) #4 - "Any approval action by the Board should carry the condition relative to submission of a subsequent plan(s) revising the right-of-way such that the proposed and constructed physical roadway alignment will fall therein." Board did not fully comprehend this notation. Creating an easement for the Conservation Commission requirements extended the right-of-way, and after the completion of the road, they (TENA) would file a plan including the easement. A condition on completion of the road, a plan will be included at stations 2 + 93.60 and 7 +62.07, will be included in the Decision.

(Ref.III.G.) #5 - "Any approval action by the Board should carry reference to TENA's October 14, 1998 Memorandum relative to water main and appurtenances issues and compliance with same." No waterline approval from the DPW, no release of performance guarantee will occur.

(Ref.III.H.) #6 – “TENA has not revised the plans relative to Common Drives shown at Sta. 8+50 left to Lots 29/30 and at Sta. 11+40 left to Lots 31/31. The Board in the past has discouraged Common Drives.” The Board did not agree with Mr. Graham relative to opposition of Common Drives. This would not be part of the Decision by Board.

(Ref. III.J.) #7 – “TENA’s has revised the plans relative to the creation of a roadway swale at Sta. 0.00 to 3+50 left....The grades depicted and the available area within the right-of-way will NOT allow for adequate construction of same...”. Board feels that curbing will not be constructed unless there is a drainage problem.

(Ref. III.K.) #8 – “No testing to determine groundwater levels, presence of ledge or even soils textural composition beneath the five (5) proposed detention basins...ignores standard engineering exploration, evaluation and design practices...The decision proposes relatively shallow excavations (0’to3’) to the pond bottoms and installation of underdrains to relieve both groundwater and collected run-off...No vertical information is presented for the latter referenced piping. “It is a build in the field approach”.. Recommend Board require a berm of ¼” to 1-1/2” stone 2’-3’ in height and approx. 10’ at its base ...to filter out sediment, be easy to maintain, and/or replace...prolonging life of stone wicks.” Board felt that this is a field condition, to be done during construction.

(Ref.III.L.) #9 – “...Agreement in the field on 10/14/98, the Board would consider acceptance of the existing pavement from the intersection to Sta. 3+75± providing six core samples were taken to prove out the pavement and base thicknesses and materials. To date there has been no information concerning this confirmatory testing. Board will address this at the Final Acceptance (approval).

(Ref. III.M.) #10 – “TENA’s revised plans include access roads to the detention basins. Proposed road width is only 6 feet and no construction detail is given relative to their section.” The Board did not agree that there would be access roads to the detention basins.

(Ref. III.N.) #11 – “The proposed rip-rap swales will reduce velocities and allow some sediment to be detained/trapped therein...” The Board would refer this to the DEP’s jurisdiction, and no consider H.L. Graham’s requirement for pretreatment of the detention basins.

(Ref. IV.B.) #12 – “Require TENA and evaluate the significance of the easement which underlies the right-of-way of a portion of Turtleback Road as shown on Land Court Plan No. 32098J. It is unclear as to what this easement is for or to whose benefit it runs.” The Board felt that this easement was for the Tennessee Gas Line (TENECO), and the Board questioned why Mr. Graham did not know that this was the gas line (easement).

(Ref. IV.C.) #13 – “The addition of a fire hydrant, gate valve, blow-off line and capped main at 15+0 left was revised Sheet 3 of 7, but not on Sheet 6 of 7. The clarity of this detail according to Oct. 14, 1998 field meeting w/ D.Boutchie (Water Dept.) is also lacking.” Board agrees with this statement. Show blow-off valve on sheet 6.

(Ref. IV.C.D.,M.,0.5., and 0.6) #14 – “Any approval action taken by the Board should be based on final approval of the plans by D.Boutchie, and Board should not endorse the plans until such review and approval is received and any required revisions made.” Board will not release the performance guarantee until Water Dept. approves installation of appropriate waterlines.

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(Ref. IV.G.) #15 – "...Plans should carry a note relative to the required placement of 12".CL.V RCP driveway culvert crossings and same should be added to the plans prior to plan endorsement." Any driveways that cross any water swales will require a 12' culvert under driveway. Board agrees.

(Ref. IV.J.) #16 – "...Plans should carry a note relative to the construction of the roadway swale at Sta. 18+0 to 19+0 right in accordance with TENA's 11/20/98 letter's statements." Board would not take action on this after looking at 11/20/98's letter as they could not locate the particular statement relative to the above.

(Ref. IV.N.) #17 – "100-year Flood elevation note was revised on Sht. 5 of 7, but not on Sht. 6 of 7." Board took no action to this request.

(Ref. IV.O.)(Ref.2.a) #18 – "Guardrail not shown on Roadway Cross Section." The guardrails are show on the actual plan, according to the Board, if not, they should be noted on the plan.

(Ref. IV.O.)(Ref.2.b) #18 – "Typical Right-of-Way width, 44' not shown on Roadway Cross Section. Board would take no action on this matter.

(Ref. IV.O.)(Ref.2.d) #18 – "4: Underdrain not shown on Roadway Cross Section." Board would not take action on this comment.


(Ref. IV.O.)(Ref.3.) #18 – "TENA recommends loam and seed shoulder. H.L. Graham recommends compacted process gravel, etc.." Board prefers grass strip at edge of pavement and drainage swales.

(Ref.IV.O.)(Ref.4.) #18 – "...Recommends TENA revises plans...adding a note relative to the MDPW Material Spec (M.2.02.3.) and finished condition of the proposed rip-rap swale per previous comment (e.g. Lynn Pak/gravel shoulder)." Board agreed that no material spec. be required for this recommendation.

(Ref. IV.O.)(Ref.5.) #18- "Plans should note the thickness of the sand backfill over the water pipe. Done prior to plan endorsement." Board will refer to the DPW's Construction Approval; no release of performance guarantee.

Old Manchester Road: The date for a Decision was February 3, 1999. The Board will address this on January 20, 1999.

The Board, having no further business, adjourned the meeting at 9:15 p.m.

Presented by: 
Lisa Randall, Admin. Assist.

Attested to: 
George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WORK SESSION
WEDNESDAY, DECEMBER 9, 1998**

Attendees: S.Pennoyer, Chairman, W.Burnham
Absent: G.Stavros, Gil Guerin, B.Feener, Pat Dunn and David Jones

Chairman Pennoyer and Westley Burnham discussed the previous meeting where the map designating the Phase 1 and Phase 11 areas of "passing" and "failing" septic system inspections. This will determine the possible areas for a "high density" district.

Discussion included possibly decreasing the front and sideline setbacks in these potential areas. Parking would then allow for more accessibility for the areas.

The lots located within the "high density" areas were outlined. Lot areas along the "high density" were also outlined. Whether or not these areas would be included within the "high density" areas would depend on the soils in those areas.

Essex as a whole was discussed. Until the "sewer line" was somehow designated, it would be impossible to make distinctions at this time as to its location and affected areas.

To do: The Phases of each street would be looked at during the next work session.

To do: Find total lot sizes of: Winthrop St., Pickering St., Main St., Martin St., Eastern Ave., to Water St., Southern Ave., to Addison St., Desoto Road and Southern Hgts.

Zoning set backs and zoning regulations for the "inner core" area would be discussed after the information was in place.

It was discussed also that Dames and Moore information should intertwine with the planning board's proposed "high density" area.

Meeting adjourned at 9:30 p.m.

Presented by:



Lisa Randall, Admin. Assist.

Attested to:



George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA**

WEDNESDAY, DECEMBER 2, 1998

7:00 p.m.	Minutes of 11/18/98, 11/24/98
7:15 p.m.	Building Inspector Report
7:30 p.m.	Discussion: Decisions of 44 Story Str., Doyle Subdivision (see BOH ltr)
8:00 p.m.	Public Hearing of Wedlock/Pedersen Definitive Subdivision
9:00 p.m.	Turtleback Road Subdivision, Thos. Neve <i>Cancelled: rescheduled for 12/16/98 Spv</i>
Planning Business:	Bills Payable Payroll Mail

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, DECEMBER 2, 1998**

Attendees: S.Pennoyer, Chairman, W.Burnham, B.Feener, Gil Guerin
Absent: Pat Dunn, G.Stavros and David Jones

The meeting was held at the EEMS and opened by the Chairman at approximately 7:10p.m.

Chairman Pennoyer gave the Board a brief update of Turtleback Road: Mr. Graham, the Technical Review Agent for the Town, wants to hold the project up, due to the DEP extension that is not in place. Chairman Pennoyer felt that the project should move forward in accordance with the planning board regulations, and feels that the DEP should be a separate matter for the subdivision roadwork. Also, a previous question by the Board of Health relating to actual, versus proposed lot lines of the subdivision was reviewed and answered by W.Burnham. He explained that proposed lot lines in the definitive plan for the road are acceptable to the planning board per the subdivision rules and regulations.

Minutes:

Motion: W.Burnham moves to approve the 11/18/98 Minutes as written. Seconded by Gil Guerin. All voted to approve the Motion.

Motion: Gil Guerin moves to approve the 11/24/98 Minutes as written. Seconded by W.Burnham. All voted to approve the Motion.

Building Inspector Report: Did the Board receive a packet for a Masetranzi Variance? A Zoning Board of Appeals hearing is scheduled for Dec. 10, 1998. The Planning Board has no information other than the Legal Notice. The hearing is in regard to the back house off of Choate Street, previously owned by Mr. Scaildone. Mr. Nelson will go to the Town Clerk to gather the information on this issue. The Board took no action.

Lots owned by Jones on Choate Street. Did the lot lines change the configuration prior to 1972? Two dwelling units cannot be built upon unless a variance is granted. There is currently not enough frontage for the lot. Is this a grandfathered lot? Mr. Nelson is gathering information regarding this lot. The Board took no action.

Eastern Avenue:

142 ~~Main Street~~: There is a person interested in the building and the lot. Mr. Nelson was asked if an antique shop and a dwelling could be built on the lot. If it was a nonconforming lot now, it could not be more nonconforming than its present use. After discussion, it seemed that they could do this, which would be a mixed use. It needed to meet the individual requirements: greater than 300 feet frontage and sixty square footage of lot area. He can't use the accessory structure unless its owned or operated by a family member. (Home occupation bylaw.) This is a grandfathered lot, which has a single family use. If an accessory building was to be built, you couldn't increase the nonconformity. If the bylaw was followed by the home occupation, he could do this. The applicant could not build a home behind the building and rent out the building for business by someone else other than family. The Board took no action.

44 Story Street Special Permit Decision: Westley Burnham reads an Approval of the Special Permit:

Affecting the rights of the owner, Russell and Elizabeth Hodgkins of 44 Story Street, Essex, Massachusetts 01929, with respect to the use of premises on 44 Story Street, located approximately 200 feet from the intersection of both Story and Belcher Streets, record title standing in the names of Russell and Elizabeth Hodgkins whose address is 44 Story Street, by a deed duly recorded in the Essex County – South Registry of Deeds in Book 10697, Page 467.

Notice is hereby given that following a public hearing on Wednesday, November 4, 1998 and continued to Wednesday, November 18, 1998 on the application in this case as to permit, the Board, at its meeting on Wednesday, December 2, 1998,

VOTED TO GRANT: The application for a Special Permit under Section 6-6.9.j of the Town of Essex Bylaws based on findings as detailed in the *Record of Proceedings*, subject to the following conditions, safeguards and limitations on use or time, if any:

Our Decision is based on the testimony received at the public hearing held on November 4, 1998, and continued on November 18, 1998, correspondence from the Board of Health, several neighbors and the Building Inspector.

This Special Permit is being approved based in part on the following:

The proposed conversion of an existing two family residence to a three family residence located at 44 Story Street meets the intent of Town of Essex bylaw 6-6.9.j. The plot plan and building sketches submitted meet the minimum requirements for land area, parking, and indicate that no substantial structural changes will be required.

The following conditions shall apply:

The proposed use shall be limited to three (3) single bedroom units.

1. The structure as it now exists shall not be substantially altered from its proposed configuration without prior consent of this board. Modification of this permit may be required if the board feels the change warrants public input as to whether the change will adversely affect the surrounding neighborhood. Exceptions to this are any access or egress modifications required by the Building inspector to insure all State and Local building codes are complied with.
2. Off street parking for three (3) bedrooms will be provided and maintained to the rear and side of the building. In all cases the parking facilities will be located no less than 30 feet from the Story Street property line, or within five (5) feet of any lot line. (ref. 6-5.9 Parking lots)
3. In accordance with the requirements of 6-5.8.b, one and one half-parking spaces shall be provided for each bedroom. Five (5)-parking spaces with appropriate maneuvering and turning space shall be provided.

4. The unit identifying numbers (i.e., 44a, 44b, 44c) shall be clearly marked and easily read from the street in accordance with the guidelines provided by the Essex Emergency Center.

This Special Permit is not in effect until the applicant has filed a certified copy of the Decision with the Registry of Deeds. Certification that the twenty- (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. and shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

MOTION: WESTLEY BURNHAM MOVES THAT THE PLANNING BOARD APPROVE THE SPECIAL PERMIT APPLICATION FOR THE PROPOSED CONVERSION OF AN EXISTING TWO-FAMILY RESIDENCE TO A THREE-FAMILY RESIDENCE LOCATED AT 44 STORY STREET, AS THE APPLICATION MEETS THE INTENT OF THE TOWN OF ESSEX BY-LAW 6-6.9.j. THE PLOT PLAN AND BUILDING SKETCHES SUBMITTED MEET THE MINIMUM REQUIREMENTS FOR LAND AREA, PARKING, AND INDICATE THAT NO SUBSTANTIAL STRUCTURAL CHANGES WILL BE REQUIRED. NOTING THAT THE PROPOSED USE SHALL BE LIMITED TO THREE (3) SINGLE BEDROOM UNITS. SECONDED BY BRIAN FEENER. UPON ROLL CALL VOTE, ALL MEMBERS PRESENT VOTED TO APPROVE THE SPECIAL PERMIT.

Public Hearing of Wedlock/Pedersen: Definitive Subdivision Plan, Old Road to Manchester:

Chairman Pennoyer opened the public hearing at approximately 8:06p.m. and read the Public Hearing Notice. One resident from the public was present for the public hearing that represented the First Congregational Church. The Church has property near the applicant's land. Mr. Patrowicz, the engineer for the applicant presented the plan. The plan locus is at the end of Old Manchester Road, off Andrews Street. A gate blocking the road is located just beyond Ms. Pederson/Mr. Wedlock's driveway. Plan shows existing house. W.Burnham states that this is not "Old Road to Manchester", it is "Andrews Street", per the Town Clerk. The applicants disagreed, and only commented that it has always been known as the "Old Road to Manchester", and showed a Deed referring to the "Old Road..." The applicants would like to subdivide into two lots. Another parcel, separate to the subdivision was also shown. Old Manchester Road, not wide enough, it is proposed to create an extension of an easement area for the road for 44 wide. It is only proposed for part of lot 1 and the entire piece of lot 2. No frontage on a portion of lot 1; the beginning of lot 1 (165.75 feet, and frontage for lot 2 is 150 ft.) Lot 1 encompasses around lot 2. Many waivers are asked: (See attached copy of Waivers) The applicants were concerned that by seeking the waivers requested, that relief should be granted in order to maintain the existing character of the land and uphold those performance standards as specified under section 7.01.3, "keeping the rural character of the land..." The 7.02.2.j Section regarding the Dead End requirements was discussed at length (Dead-end exceeding 1,200 feet in length. Plan shows

1,246 feet dead-end measured along the centerline to the intersection of Conomo Drive) Applicant is asking for 46 feet long waiver from dead-end footage requirement. They have proposed a three-point turnaround. Plan does comply with section 3.05, with exception of twelve-foot gravel. They are proposing to use the existing gravel road, expanding it to twelve feet, and installing a gravel turnaround at lot 2 for emergency vehicles. Reverse frontage for lot configuration per Section 7.06.4 will be stricken from the Waiver List.

Chairman Pennoyer reads the notations from the Board of Health (no comments possible until individual septic system design plans are submitted and reviewed for compliance) and the Conservation Commission: The Conservation Commission recommended that the Road be paved, per the subdivision control law, with complete drainage and utilities, and paved to the required width, in order for emergency vehicles to have adequate access. The Commission also wrote that the road should be so completed to the corner of Andrews Street/Rocky Hill Road. W.Burnham noted that he would not accept with a twelve-foot gravel road for this subdivision. He did not consider this road adequate in its present condition. Issue of pavement is one that the board has held up consistently, noted Chairman Pennoyer.

The Board discussed the issue of the twelve hundred feet of road, creating on either side of this road, the one hundred fifty feet of frontage. This is now a potential building area for across the street. 1246 feet divided by 150, is approximately eight to ten additional lots. Potential growth will be looked at on this road, per Chairman Pennoyer. A restriction is placed on the Wedlock's lot already built on (one s.f. home). Mr. Patrowicz stated that it is all ledge on the potential sides.

Mr. Patrowicz felt that the Board already held multiple meetings regarding this road and felt that the Board would accept a gravel road, keeping with the same character, was the best option. Yes, the Board said sixteen feet gravel. The Board would look at this issue, but did not commit to an answer at this time.

Additionally, W.Burnham wanted the Performance Guarantee in place, and would not approve a waiver for this, nor would other members.

The Dead End Road issue: The Board, within the subdivision regulations is allowed a 1200-foot road, could this road be extended another 1200 feet? There would be an additional 300 feet. Definition of a dead end was discussed as one way in, one way out. It was discussed as to whether the Southern Avenue entrance was the starting point: One way in and one way out. It was discussed whether or not the waiver would be from Andrews Street. Discussion about using Southern Avenue as the dead end 2650 feet – or Andrews Street was detailed and included the access for emergency vehicles, utility workers, fire vehicles, etc. The 1200-foot or less is still an access to get at (line for fire, etc.) At what point the dead end road ends was not decided upon this evening. The Board would table this issue.

Drainage Calculations: Grade: up to full compliance of depth of gravel, sub-base of gravel, (potential of eleven lots) Width of road: sixteen foot gravel road? Drainage: Intention to keep the road as is. Expand a small width. Patrowicz shows about ten percent grade in the beginning of the road. Flatten contour of the road. There are no drainage calculations, the board was not given any grading notations. Rest is basically flat.

Board discussed whether to close the public hearing. What was the Board's feeling on this subdivision, and what the issues are was discussed again at length: Board members discussed the

road. Twelve-foot pavement was the consideration by W.Burnham, and B.Feener. Gil Guerin noted that sixteen feet gravel or twelve feet of pavement. The Board wants this subdivision to be looked at the angle that the potential for growth is the extra potential lots that could be built. This subdivision had to be discussed as a build out of a potential of ten lots.

A consensus was taken of some the members present: W.Burnham would go for paving.

Brian: There are issues along with paved road. Two house subdivisions have been paved.

Access is important. Board needs more time to discuss this matter; the contributing factor of the build out is an issue. Fairness to everyone.

Gil Guerin noted that the potential for build-out is a critical issue, and pavement at 12 ft ^{of} and 16ft of gravel is acceptable.

Pennoyer: Issue of length of road taken from Southern Ave, or from Andrews Street. Pavement?

Look at all potential lots on this road. Regulations of 20 foot road. Creative: If some of this

does get turned over to Conservation, perhaps the road across is going to do this, and if the twenty foot road was paved with the condition of conservation, after the condition, a twelve foot paved road, would this be acceptable. They would come back for a request of a modification.

In conclusion, the Planning Board would take the information given this evening and close the hearing. The Board would discuss the matter for a Vote at a later date.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING AT 9:30 P.M. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO CLOSE THE HEARING OF WEDLOCK/ PEDERSON.

Mr. Harvey, an interested party for the First Congregational Church will receive a copy of these minutes and any other information regarding the Subdivision for the Trustee's records.

John Wise Avenue Subdivision of Craig Doyle – Decision: Westley Burnham read an Approval of the Subdivision of Craig Doyle for the Board to VOTE:

"No preliminary plan was filed.

After all required notifications and advertising, a Public Hearing was held on 11/4/98 and closed that evening.

Correspondence was read from:

1. Department of Public works - recommended with no comments
2. Conservation Commission - Approved, no alterations are indicated or to be performed in any area which is subject to Wetlands Protection Area as defined in MGL 131 Sec. 40.
3. Board of Health: Requested that approval be withheld until the upgrade serving the existing dwelling gain Board of Health approval. (Approval granted on November 25,1998)

The following waivers from The Essex Planning Board Subdivision regulations are approved:

1. These approvals are made based on testimony and information submitted to the Board indicating no more than two (2) house lots, will be serviced by this access. Any deviation from the plan submitted shall require prior approval of the Board or approval of the following waivers shall be null and void.

2. Relief from 6.01-G Drainage calculations.
3. Relief from the requirement of 6.02-4, 7.02-3 no street name is proposed, the John Wise Ave. address is deemed adequate for identification of the subject property.
4. Relief from 6.03-6 and 7: no drainage systems are proposed or deemed necessary other than what is existing and shown on the definitive plan.
5. Relief from the 7.01-10 requirement of underground utilities: The small size of the project and lack of similar construction method in the area deems this excessive.
6. Relief from the requirements of 7.02-2g The proposed roadway is to remain in private ownership with the lot over which it passes. Rounding lot lines is not required.
7. Relief from the requirements of 7.02 -2j and 7.02-4.c.3, the proposed "Hammerhead" turnaround is deemed adequate to meet the intent of accommodating emergency type vehicles.
8. Relief from the requirements of 7.02-4.a.2 and 3.05-2, 12-foot wide pavement is authorized in lieu of the 16 foot gravel requirements for 10 or less dwellings. The pavement will continue the length of the subdivision road and include the turn around area for emergency vehicles at the end. All other construction standards shall be complied with.
9. Relief from the requirements of 7.02-4.2.b, Sidewalks are not required.
10. Compliance with 7.0.3 Drainage is waived except as follows: In accordance with 7.02 4g, 4h, 5 grassed swales are approved for the length of the roadway and meet the intent for controlled ground water recharge. The swales shall be constructed and maintained in such a way as to control the runoff and direct it to a discharge point on the applicant's property, minimizing any impact on neighboring properties.
11. Relief from 7.02 4.a.6b: shoulders shall be granted to reasonable and appropriate for safe pass and re-pass of emergency type vehicles and be blended with the drainage swales.
12. Relief from the requirements of 7.04-1 Water systems, Town supplied water is not within reasonable reach. Potable water will be provided by on site wells. Board of Health certification will be required prior to issuance of Certificate of Occupancy for any new construction.
13. Relief is granted from the following requirements: 7.02 Streets and Ways: 2b, 2c, 4.a.2b(see 8, above) 4.b, 4i, 4j, 6, 7, 8; 7.05 Blocks, 7.06 Lots, 7.07 Monuments. These waivers are based on the small scale of the project and the applicant's intent to maintain the natural vegetation and existing trees to the maximum extent possible.
14. Relief is granted from 6.04 Construction plan contents: The definitive plan and road profile contain adequate detail for this project.

The following conditions are to be attached to this plan as part of the approval.

1. All septic systems shall conform to the requirements of the Essex Board of Health, and shall be approved prior to issuance of any building construction permits.
2. No building permit shall be issued for Lot C-2 until the Board of Health requirements for the existing septic system upgrade is received. This condition is based on the easement to allow the new septic system for lot C-2 to be located on Lot C-1. The board feels this is necessary to insure that adequate measures are in place to deal with an existing nonconformity. (Approval from BOH on November 25, 1998)
3. This plan was reviewed with the minimum requirements of 'Single Family Dwellings' being met. Any change of use may require modification of this subdivision approval.
4. A covenant agreement shall be attached to the two (2) lots created stating that this roadway is to be maintained as private road. All maintenance costs incurred will be the responsibility of the owner or owners of record of the property.
5. In lieu of a street name a sign identifying the Lot address numbers assigned to the Lots created shall be erected at the intersection of John Wise Ave. This sign will be adequate for reasonable identification of the location to assist emergency personnel.

Endorsement of the approval will occur after the following requirements have been met:

A Performance Guarantee is in place and agreed to by both the Applicant and the Essex Planning Board. Said agreement having been reviewed by Town Counsel if the Board deems necessary.

An individual to act as 'Clerk of the Works' has been designated and agreed to by the Board. This individual will answer to the Board and will monitor construction IAW the approved Plan. A written agreement to fund this individual is submitted to the Board by the applicant.

Written confirmation that no appeals have been filed with the Town Clerk within the statutory twenty-day appeal period. The date for start of this time period will be when this Decision is filed with the Town Clerk."

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE DEFINITIVE SUBDIVISION PLAN SUBMITTED ON OCTOBER 7, 1998, PLAN DRAWN BY JAMES L. KLOPOTOSKI, PLS, OF GLOUCESTER SURVEY ASSOCIATES FOR LAND OWNED BY CRAIG DOYLE AT 170 JOHN WISE AVENUE, BOOK 7560, PAGE 296, ESSEX, BASED ON THE ABOVE DECISION. THE MOTION WAS SECONDED BY GIL GUERIN. UPON A ROLL CALL VOTE, AT WHICH TIME, CHAIRMAN PENNOYER, WESTLEY BURNHAM, GIL GUERIN AND BRIAN FEENER VOTED TO APPROVE THE DECISION WRITTEN BY WESTLEY BURNHAM. THE MOTION PASSES.

Page Eight of Planning Board Minutes of 12/02/98, continued...

The Board, having no further Business, closed the meeting at 10:00 p.m.

Presented by:  Attested to: 
Lisa Randall, Admin. Assist. George Stavros, Clerk

Next meeting: December 9, 1998

LIST OF WAIVERS:

THE FOLLOWING IS A LIST OF WAIVERS REQUESTED BY THE OWNER SEEKING RELIEF FROM THE ESSEX SUBDIVISION RULES AND REGULATIONS IN ORDER TO MAINTAIN THE EXISTING CHARACTER OF THE LAND AND UPHOLD THOSE PERFORMANCE STANDARDS AS SPECIFIED UNDER SECTION 7.01.3.

- WIDE
1. ROAD WIDTH (PER SECTION 3.05.2)
NOTE: PLAN SHOWS 12' WIDE GRAVEL ROAD
 2. LOCUS AT SCALE 1" = 800' (PER SECTION 6.01.1.B)
 3. ROAD PROFILE (PER SECTION 6.01.1.C)
 4. CROSS-SECTION (PER SECTION 6.01.1.D)
 5. DRAINAGE CALCULATIONS (PER SECTIONS 6.01.1.G AND 6.02.12)
 6. CONSTRUCTION PLANS (PER SECTIONS 6.01.1.K AND 6.04)
 7. SOIL SURVEYS (PER SECTION 6.01.1.L)
 8. STREET NUMBERS ENCLOSED IN A SQUARE (PER SECTION 6.02.7)
 9. PROPOSED SEWAGE DISPOSAL SYSTEMS AND WELLS
(PER SECTION 6.02.13)
 10. STREET PLANS AND PROFILES (PER SECTION 6.03)
 11. PERFORMANCE GUARANTEE (PER SECTION 6.06.2)
 12. AS-BUILT PLANS (PER SECTION 6.06.5.D)
 13. SEDIMENT CONTROL (PER SECTION 7.01.15)
 14. DEAD-END EXCEEDING 1,200 FEET IN LENGTH (PER SECTION 7.02.2.J)
NOTE: PLAN SHOWS 1,246 FEET DEAD-END MEASURED ALONG THE CENTERLINE TO THE INTERSECTION OF CONOMO DRIVE.
 15. DEAD-END STREET CUL-DE-SAC TURNAROUND (PER SECTION 7.02.2.K)
NOTE: PLAN PROPOSES A THREE-POINT TURNAROUND WITHIN THE PUBLIC ACCESS EASEMENT
 16. GEOMETRIC STANDARDS FOR STREETS (PER SECTION 7.02.4)
NOTE: PLAN COMPLIES WITH SECTION 3.05 (w/ 12' WIDE ROAD EXCEPTION)
 17. STREET DRAINAGE (PER SECTION 7.02.5 AND 7.03)
NOTE: PLAN SHOWS EXISTING DRAINAGE PATTERNS TO REMAIN.
 18. CURBING (PER SECTION 7.02.6)
 19. SIDEWALKS (PER SECTION 7.02.7)
 20. REQUIRED TREES TO BE PLANTED (PER SECTION 7.02.8)
 21. REVERSE FRONTAGE LOT CONFIGURATION (PER SECTION 7.06.4)
 22. MONUMENTS (PER SECTION 7.07)

DEFINITIVE SUBDIVISION PLAN OF LAND

of land located along the

Old Road to Manchester Essex, Massachusetts

Prepared for the Owner: Stephen J. Wedlock and Kim M. Pedersen
Old Manchester Road, Essex, MA 01929

Date: October 15, 1998

TOWN OF ESSEX PLANNING BOARD

AGENDA

TUESDAY, NOVEMBER 24, 1998

7:00 P.M.

Work Session – Discussion
about district zoning, and
Mapping

Other:

Sign Bills Payable for H.L. Graham
Mail

**TOWN OF ESSEX PLANNING BOARD MINUTES
WORK SESSION
TUESDAY, NOVEMBER 24, 1998**

Attendees: S.Pennoyer, Chairman, Westley Burnham, Pat Dunn, Gil Guerin.
Absent: George Stavros, Brian Feener and David Jones

The meeting was held at the EEMS Cafeteria, and opened by the Chairman.

The Board was given a Map to work with by Wastewater Coordinator, Tom Noble, which shows lot areas in Phase I and Phase II that have passed Title V septic systems, and also the systems which have failed and would require tight-tanks or some type of off-site septic system.

A lengthy discussion about a possible "*sewer district*" for high-density areas began with the Board outlining their calculation of the high-density areas of the Town (being mostly in the "core area").

High-density areas, (which also have a variety of mixed-uses) will be the first issues that the planning board would study this work session. Questions were raised; including what lots will fall into that region. Probable areas were outlined and were as follows: Main Street in its entirety, up to, but **not** including Western Avenue (running along property lines, not streets) Winthrop Street (including properties on either side), Pickering Street, Main Street up through School Street, down to Southern Avenue, and Eastern Avenue, just the lots up to but not including the Water Street area.

Parking: The Board discussed briefly, the possibility of reduction of lot sizes and the reality of issues relating to the problem of parking in the downtown area. Municipal parking, in both directions of Town was a solution for the availability of space if more building was going to be allowed in high-density area.

In closing, the Board would continue discussion about the possibility of a "*sewer district*". More information would be gathered to aid in this process. Tom Noble would be contacted for additional maps.

The Board, having no further business, adjourned the meeting.

Presented by: Lisa Randall ^{Admin} Assist. Attested to: George Stavros
Lisa Randall, Admin. Assist. for: George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, NOVEMBER 18, 1998**

7:00 p.m.	Building Inspector Report
7:15 p.m.	Minutes of 10/7, 10/14, 10/21, 11/4
7:30 p.m.	Western Avenue Subdivision Road Vote on Clerk of the Works
8:00 p.m.	Continuation of Public Hearing of 44 Story Street – proposed three family dwelling
Other Planning Business	Discussion of Technical Review Agent Pool DEP letter to Turtleback Road, re: DEP File #21-164 1998-1999 Planning Board Mtg. Dates Mail Work Session of 10/28/98 – need record of minutes for that evening from planning board member

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 18, 1998**

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, George Stavros, Brian Feener and Gil Guerin. Absent: David Jones

The meeting was held at the EEMS and opened by the Chairman at approx. 7:10 p.m.

Building Inspector's Report: Bob Nelson inquired about a lot on Choate Street and whether or not the lot was a buildable lot. The lot is 5.07 acres, and fifty feet of frontage: The question of *use* was raised to Mr. Nelson asking if this lot is acceptable for a three-family dwelling. After discussion, the Board noted that if this lot was in existence at the time (pre-1972), by common ownership, and the lot lines had not been changed (added or subtracted to), then this lot would be considered a grand-fathered parcel for a single family or two family dwelling (or three dwellings on the lot). The inquiring party was looking into a three-family dwelling unit on this lot. Discussion only, the Board took no action.

148 Main Street: Mr. Nelson inquired about a previous vote to approve a building permit for a building (garage) in the back of the Bed and Breakfast. The applicant had asked for an extension on the original building permit and was now asking to expand the building a few feet to the side (not on the side of the abutting property). The permit had been given a variance for a side line setback previously, making it a legal nonconforming property. The question about the twenty-five percent of building size was raised by W.Burnham. The Board took no action; Mr. Nelson will receive the Minutes from the approval of the original permit to aid him with this application.

Brook Pasture Road/73 Martin Street: This issue regarding the access for 73 Martin St. via Brook Pasture Road: The Board's consensus was that the driveway should not be accessed through a *utility easement*, since the frontage is on Brook Pasture Road (over two hundred feet of frontage for the 73 Martin St. property is on Brook Pasture Road.) Mr. Nelson provided the Board with a Jan.-March 1998 issue of *Land Use Manager* regarding "Common Driveways", which supported this issue. The Board concluded that this is a private matter. Mr. Nelson would not issue a building permit if the applicant were accessing the lot through the utility easement. Adequate, safe, access was the reasoning, coupled with the access through Brook Pasture Road was an approved way by the Town through the approval of the subdivision there.

Minutes: **Motion:** George Stavros moved to approve the October 7, 1998 Minutes as written. Seconded by Pat Dunn. All members Present voted to approve the Motion.

Motion: W.Burnham moved to approve the October 14, 1998 Minutes and amending the first paragraph, fourth sentence, by Deleting "units" and adding "Town", deleting "quadrooms" and Adding "quadrants", the fifth sentence, after "to", add, "meet With". Seconded by P. Dunn. All members present voted to Approve the amended minutes.

Motion: W.Burnham moved to approve the October 21, 1998 Minutes by amending the first Motion on page one to add after Burnham, "entertained a Motion". Seconded by B.Feener. Voting in favor of the amended Motion was: P.Dunn, B.Feener,

G.Stavros, W.Burnham, Gil Guerin, W.Burnham. S.Pennoyer Voted Present.

Motion: Chairman Pennoyer entertained a Motion to Approve The November 4, 1998 Minutes by amending on page three, the First paragraph, last sentence, by deleting "radiuses" and adding Lot size requirements". Seconded by G.Stavros. All members Present voted to approve the amended Minutes.

Robert Bradley/Western Avenue Subdivision: Mr. Bradley came before the Board with a Clerk of the Works for the subdivision road. At the last meeting, Mr. Bradley was denied by the Board to have Mr. Vernon LeBlanc as the Clerk, as Mr. LeBlanc had drawn the actual plans that were approved. Mr. Bradley was asking the Board this evening to approve Mr. Donald M. Brings, Jr, P.E.-8 Bailey Ave., Beverly, MA . After discussion, the Board would not approve Mr. Brings, as he had drawn the drainage calculations for Mr. LeBlanc. The Board would notify Mr. Graham of H.L. Graham Associates to provide the services as the Town's Technical Review Agent. It was not clear previously, if Mr. Graham was willing to provide services for this subdivision, given its size. Mr. Graham clarified the matter with Chairman Pennoyer that he would in fact, oversee this project.

Story Hill Subdivision: Chairman Pennoyer gave the Board a brief update on the subdivision road fieldwork. In a letter by H.L. Graham (dtd. 11/17/98), it was noted that during the excavation in the cul-de-sac area for Evan's Way had exposed some heavy ledge, movable only by blasting. An on-site meeting on 11/13/98 had John Judd of Gateway Eng. Proposing to raise the end of the cul-de-sac by eighteen inches. Chairman Pennoyer explained that he approved this change via a conversation with Mr. Graham in order to keep the project moving along. The Board agreed that this field decision by Chairman Pennoyer was acceptable, noting that there was still a chance that even if the raising of the road was accomplished that they would still need to blast, to install utilities.

The funding for H.L.Graham Associates by SMB Development was discussed, as well. A deposit of \$3,960.00 was requested for the account in a letter dated Nov. 17, 1998 to Scott Boches, of SMB Development. Mr. H.L. Graham wrote to the Board on October 29, and again on November 9, 1998, requesting that this amount be deposited.

44 Story Street- Special Permit Public Hearing/Proposed three-family Dwelling: The Public Hearing was opened by the Chairman, who read the public hearing notice. There were no interested parties or abutters present. Mr. and Mrs. Hodgkins presented the Board with drawings showing the back and front of the property, the parking, which showed eight parking spaces, floor plans of apartment "a" and apartment "b" on the first floor, and the lower level apartment showing a 13.6 x 12.6 living room, a bedroom 16.6 x 12.0, one bathroom, a 14 x 12 kitchen and an adjoining dining area of 11.10 x 12. (Copy of which is included in the files). The Board was in agreement that this plan was acceptable; the Board of Health would be aware that this was to be a three-family dwelling unit housing only one bedroom in each dwelling, when the building permit was applied for. Mr. Nelson, the Building Inspector, was present for this hearing.

Pat Dunn Moved to Close the Public Hearing for the Special Permit of Mr. and Mrs. Hodgkins of 44 Story Street for the application of a three Family dwelling unit having only one bedroom per unit. The Motion

**Was Seconded by George Stavros. All members present Voted in favor
Of closing the Public Hearing.**

The Board was not prepared to Vote on the Decision whether to Approve the Application. W.Burnham would draft a Decision and present this to the Board.

Technical Review Agent Discussion: The Board held a short discussion on whether or not to institute a retainer at the Town for hiring Technical Review Agents for future projects. Chairman Pennoyer noted that a Mr. Arthur Hagstrom, a consultant to H.L. Graham Assoc., was interested in being considered as a review agent for the Town. Mr. Hagstrom is semi-retired and has experience. He will forward his resume for the Boards' review.

Turtle Back Road Subdivision Update: Correspondence from the DEP dated November 6, 1998 regarding DEP File 21-164 Turtleback Road Loop Extension stated that "no work on the drainage system, including site preparation (tree clearing, land grading, etc) within jurisdiction shall commence without said Department approval. Such work, if commenced, shall be deemed a violation of the Order and may result in departmental enforcement action." This letter was written in response to the DEP's knowledge that the site plan, and in particular, the drainage system, has been modified from the plan that was submitted to the DEP. The Department is currently reviewing the extension request filed earlier by Peter Van Wyck. The Superceding Order of Conditions requires that any proposed plan modification be submitted to the Department for review and approval. The DEP requested Mr. Neve to submit a formal request to modify the approved plans, and submit two copies of the new plans, with supporting calculations and documentation for the DEP's review and approval.

A letter responding to the above requests by Mr. Neve dated November 13, 1998 was read by Chairman Pennoyer: Mr. Neve noted to the DEP that a conditional approval from the Planning Board to continue work on this project was voted on 11/4/98 (see the Minutes). Mr. Neve has enclosed a set of subdivision plans showing minor changes to the alignment of the road and the grade of the road, and the elimination of two detention ponds ("since they were small and performed poorly according to Stormwater Mgmnt regulations"). Hydrologic plans and a full hydrologic report the deletion of those ponds and the proposed ponds were included, as well.

G.Stavros is trying to get in contact with Mr. Jim Sprague at the DEP to follow up on the above. Road alignment stakes were a concern by Mr. Sprague. Chairman Pennoyer noted that Mr. Graham pointed out that in order to monitor this, the offset stakes can be measured. The waterline would need to be removed and re-installed. W.Burham felt that Mr. Neve would adhere to the drawings. G.Stavros and S.Pennoyer disagreed. Neve Associates and P.Van Wyck has indicated that they would like the revised plans endorsed at the next meeting. The Board agreed that when the DEP endorses the extension with the modifications, and when H.L. Graham has reviewed and was satisfied, then the Board would sign the Plans. Chairman Pennoyer will contact Mr. Neve. W.Burnham will contact the Board of Health regarding the "approval" of the subdivision, and the Agreement for Judgement, and the proposed lot lines. Brendhan Zubricki of the BOH had questions relating to the proposed lot lines in relation to the septic system design plans for those lots. (Ten lots left, out of the original twelve)

Work Session Minutes of October 28, 1998: Gil Guerin will forward the draft of the Minutes to the Administrative Clerk. A work session was held on that evening.

Page Four of Planning Board Minutes of 11/18/98, continued...

1998-1999 Planning Board Meeting Dates: The Board approved the meeting dates for 1998-1999 for posting at Town Hall. A copy of this schedule will be delivered at the next meeting.

H.L. Graham Associates Invoices: The Board signed the invoices for technical review work on Hunter's Circle, Story Hill Subdivision, and Turtleback Road Subdivison.

Planning Board Discussion Regarding Zoning: Chairman Pennoyer has discussed with Selectman, Chairman Rolf Madsen the possibility of land use districts. It was time that the Board look into district zoning in the areas that the septic problems are apparent. Tom Noble, Wastewater coordinator for the Town, will be contacted to provide the Board with a map delineating the pass and fail parcels for phases 1, 2 and 3. The next work session will be dedicated to continuing work on the Map and discussion about zoning districts.

The Board, having no further business, adjourned the meeting.

Presented by: *Lisa Randall* ^{Admin} Attested to: *George Stavros*
Lisa Randall, Admin. Assist. *For* George Stavros, Clerk

Reminder: Work Session meeting is to be held on Tuesday, November 24, 1998.

TOWN OF ESSEX PLANNING BOARD

AGENDA

WEDNESDAY, NOVEMBER 4, 1998

- 7:00 P.M.** MINUTES OF OCTOBER 7, 14, AND 21
- 7:15 P.M.** **BOB NELSON, BUILDING INSPECTOR**
- 48 Belcher Street-Building Permit
- 73 Martin St. Map 36, Lot 56, Question of access by way of Brook Pastures Lane
- 7:30 P.M.** **ROBERT BRADLEY, WESTERN AVENUE SUBDIVISION – VOTE ON APPROVAL OF TECH. REVIEW AGENT AND COVENANT**
- 8:00 P.M.** **PUBLIC HEARING OF CRAIG DOYLE SUBDIVISION OF TWO LOTS OFF JOHN WISE AVENUE**
- Correspondence from Boards
- 8:30 P.M.** **PUBLIC HEARING OF 44 STORY STREET FOR THREE FAMILY DWELLING OWNED BY MR. & MRS. HODGKINS**
- Correspondence from Board of Health And Resident, Joan Bucklin
- 9:00 P.M.** **TURTLEBACK ROAD SUBDIVISION, RE: CONTINUATION OF 10/21/98 MEETING ON APPROVAL FOR BOND, DEP ORDER OF CONDITIONS, AND DISCUSSION OF TECHNICAL REVIEW AGENT REPORT**
- OTHER BUSINESS:** Bills Payable
Payroll Voucher
Sign Graham's Invoice for Turtleback Road And Story Hill Subdivision
Letter from Larry Graham re: Story Hill Road/Cost of Clerk
Sign Chapter 91 License (Bldg. Inspector Also)
Mail

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, NOVEMBER 4, 1998**

Attendance: Sheldon Pennoyer, Chairman, Westley Burnham, George Stavros, Brian Feener, Pat Dunn and Gil Guerin. Absent: David Jones

The Meeting was held at the EEMS Cafeteria and was opened by the Chairman at 7:20 p.m.

Building Inspector Report:

48 Belcher Street, Map 36, Lot 56 – O'Donnell: Siting of new single family dwelling, 50,303 s.f., adequate frontage.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE SITING FOR A THREE BEDROOM, RESIDENTIAL, SINGLE FAMILY USE, LOCATED AT 48 BELCHER STREET, FINDING BOARD OF HEALTH, CONSERV. COMMISSION AND WETLANDS APPROVAL, AND FINDING THAT THE APPLICATION MEETS ALL OF THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS. SECONDED BY GEORGE STAVROS. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

Brook Pasture Lane/73 Martin Street: Discussion with the Building Inspector on the question of adequacy, using Brook Pasture Lane frontage for a lot at 73 Martin Street. Chairman Pennoyer noted that this is a private matter. Mr. Nelson stated that according to Town Counsel, you can only allow access through the frontage, being Brook Pasture Lane. The Board felt that if you cannot use the frontage because of geological/topographical ways have been exhausted, the utility easement access could be used. Gil Guerin felt that if you tell an applicant that they cannot use the easement, you could possibly have a lawsuit.

Western Avenue Subdivision of Robert Bradley: Mr. Bradley came before the Board to have approval for Mr. Vernon LeBlanc, P.E., P.L.S., to oversee the Subdivision Road off Western Avenue. It was noted that Mr. LeBlanc's resume was acceptable, but he had also drawn the plans for the Road. The Board would not approve Mr. LeBlanc as the Clerk of the Works and Mr. Bradley would need to return on November 18, 1998 at 7:30 p.m. with another Clerk.

Pat Dunn and Brian Feener asked why the Town's chosen Technical Review Agent, Mr. Graham, was not hired for this particular project. If one applicant had to employ the Town's Technical Rev. Agent, then all applicants should use the same one, commented Mrs. Dunn. Chairman Pennoyer noted that Mr. Graham did not feel that this project would need his expertise, being a small subdivision. It was noted also that Mr. Graham might not be able to do other projects due to his schedule. Pat Dunn felt that if Mr. Graham did not have interest in working with the Town, then this should be put in writing. The Board would have Mr. Graham contacted to have this issue resolved.

The Covenant for the Western Avenue Subdivision was read by the Board, and agreed to:

MOTION: WESTLEY BURNHAM MOVES THAT THE BOARD ENDORSE THE DEFINITIVE SUBDIVISION PLAN FOR THE APPLICANT, ROBERT BRADLEY, FINDING ALL THE MINIMUM REQUIREMENTS HAVE BEEN MET AS DELINEATED IN THE APPROVAL DATED AUGUST 5, 1998, WITH THE EXCEPTION OF THE ESTABLISHMENT OF THE CLERK OF THE WORKS. THE COVENANT AND COPIES OF THE PLAN WILL BE

FILED WITH THE REGISTRY OF DEEDS AND NO CONSTRUCTION WILL COMMENCE UNTIL ESTABLISHMENT OF, AND FUNDING FOR THE CLERK OF WORKS IS IN PLACE. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

(Pat Dunn removes herself from the Table for the next discussion.)

Public Hearing of Doyle Subdivision, John Wise Avenue: Chairman Pennoyer opened the Public Hearing at approximately 8:10 p.m. and read the Legal Notice. Engineer Clay Morin brought forth a Definitive Plan dated Oct. 7, 1998 for a two-lot subdivision at 170 John Wise Avenue, by James L. Klopotoski, PLS, Glou. Survey Assoc., Assessors Map 22, Lot 6. Applicant proposes to subdivide the Lot 6 to be Lot C-1 of 2.55 acres with an existing home, and Lot C-2, 41,418 sf, which includes a proposed 44 ft. easement for roadway. Frontage to the back lot (Lot C-1) 150 ft., from the proposed 44 ft. easement for roadway. The current existing home on Lot C-1 is currently accessed by an existing driveway, which will be proposed to have 12 feet of pavement and a 16 foot gravel turn-around.

Waivers: 6.01-G. Drainage Calculations, 6.01-I. Review by specialized engineering Conducted/Prepared at the expense of the applicant, 6.02-4. Proposed name of street – There will be no street name, 6.03-6,7. No catch basins, pipes or sidewalks. There is one cross culvert pipe existing, 7.01. Underground utilities. Overhead already exist. 7.01 Street trees. There are several large trees that exist that will remain along driveway. 7.02 Property line roundings at Rt. 133 / John Wise Ave. 7.02-3 A,B,C. Subdivision name and street name. 7.02-4, A, 2 B. 12 Feet of pavement instead of 16 feet of gravel. 7.02 4B Sidewalks 7.02-4C.3. Turn around diameter. 7.02-8. Trees. Several large trees exist along the roadway. 7.04-I. Water system in its entirety. Water provided with onsite private wells. 7.07. No monumentation proposed. Ownership of easement will be private.

Chairman Pennoyer read comments from the Town Departments that responded: DPW approval recommended with no comments. Conservation Commission – “Approval, This approval notes that there will be no alterations in the area subject to protection under the Wetlands Protection Area of MGL 131 Sec. 40, and there the plan is approved by the commission. However, if there are changes are made, the commission requests a submittal of the changes for their review. The Board of Health recommends that the Planning Board not approve the subdivision until the upgrade serving the existing septic system (Lot C-1) gain Board of Health approval. Clay Morin noted that he is submitting plans to the BOH within ten days. The Planning Board will await the BOH decision on these septic plans.

Tom Ellsworth-Belcher Street: Mr. Ellsworth commented that this subdivision “flies in the face of the Bylaw for the 150 feet of frontage....” He did not agree that it was permissible to drive a road into the middle of a property to get the frontage to create a lot. It was clearly one house lot, and this was a way “to fake” the frontage.

Gil Guerin noted that general bylaws require the 150 feet of frontage. The subdivision regulations do allow for this to happen. Mr. Ellsworth understood the purpose of the rules and regulations for 25 houses. Mr. Guerin stated that it is a two-house subdivision. Westley Burnham explained that the subdivision regulations were for the large subdivisions – the layout of the 44-foot ROW, utilities underground, and the ideal subdivision. Very few, or any, large subdivisions in Essex are in place. The standards are there, and so are waivers. It is a

legitimate legal way to access the property. The small lots being created bother S.Pennoyer, but the applicant is meeting the criteria in the bylaws. The bigger question is to whether the town creates new ~~radiuses~~ as the lots get farther away from the density of the center of town.

Lot size requirements

Gil Guerin stated that perhaps now zoning districts should be addressed to the town.

Mrs. Charles Story of John Wise Avenue commented that this is technically a subdivision, but it is a driveway accessing two lots. S.Pennoyer stated the minimum standards for the road and the requested waivers. The waivers were amendable to Chairman Pennoyer – this gives the applicant to engineer the road to the real use. Mrs. Story did not seem to understand that why is this called a subdivision – they are using a driveway, or the road, for the frontage. Mr. Ellsworth did not know why the 150 feet of frontage was used previously, but through a technicality, a fake road is being put in the middle to access a back lot. W.Burnham: In order for the Board to allow access, someone must come to the Board and create frontage. What is the purpose of the Road – To create new frontage, the applicant must provide adequate access. The subdivision rules predominately create that access. This particular case is a very limited one; they are targeting a forty-foot right of way out of that property to maintain this access. They are building a limited road, which only serves two houses in that area; they must meet the minimum requirements. S.Pennoyer notes that the requirements state that the applicant could put in a 16 foot gravel road there... In closing, Craig Doyle stated that years ago, there was an old garrison home on the front lot. The road there now has been there for probably 150 years. The only difference now is that the road that exists now will be paved.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING. SECONDED BY GIL GUERIN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. PAT DUNN ABSTAINS. THE MOTION PASSES.

(Pat Dunn returns to the table)

Public Hearing of 44 Story Street/Proposed Three Family Dwelling: Chairman Pennoyer opened the Public Hearing and read the legal notice. Mr. and Mrs. Hodgkins currently have a side by side duplex with one bedroom in each unit. They are seeking to have a three-family dwelling, one bedroom in each unit. 30,108 sf lot. The Special Permit Process under 6.6.9 J. "Conversion of an existing dwelling into a three-family unit provided that: 1.No dwelling shall be altered to accommodate more than one family for each ten thousand square feet of area of the lot. The planning board finds that such conversion would not be substantially more detrimental to the neighborhood than the existing use. 3. Except for creation of additional exits if required by law, the structure is not substantially changed or enlarged. 4. Parking as required in section 6-5.8b. is provided on the lot and behind the setback line. One and one half spaces for each bedroom.

The comments from the Board of Health were read: The issues relating to the bedrooms will be considered when the building permit goes before the BOH. Mrs. Hodgkins stated that there are now only two bedrooms. The existing septic system can hold up to four bedrooms, but she noted that this dwelling originally housed three bedrooms and her husband had taken a wall away, bringing the total number of bedrooms down to two. Mrs. Hodgkins stated that her intent is for a three family dwelling with one bedroom in each unit.

A letter from Joan Bucklin, an abutter, was read. She did not like the idea of having the neighborhood on Story St. full of single family homes with multiple units within them.

If the special permit was approved, Bob Nelson, Building Inspector will need to see three sets of plans, with all the units. Inspections will need to be done every five years. Mrs. Hodgkins was aware of this issue, and she understood that the Board of Health would need to approve the building permit.

The Board wanted to spend extra time on this Special Permit to deal with the total number of units, and the issues relating to the "formula" regarding calculation of the total bedrooms. The applicant was willing to place a deed restriction on the property.

MOTION: PAT DUNN MOVES TO HOLD THE PUBLIC HEARING FOR TWO WEEKS, CONTINUING UNTIL WEDNESDAY, NOVEMBER 18, 1998 AT 8:00 P.M. SECONDED BY GEORGE STAVROS. VOTING IN FAVOR OF THE MOTION: G.STAVROS, P.DUNN, S.PENNOYER, W.BURNHAM. OPPOSED TO THE MOTION: GIL GUERIN AND BRIAN FEENER. THE MOTION TO CONTINUE THE HEARING IS APPROVED.

Turtleback Road Subdivision: Thomas Neve for Peter VanWyck came before the Board to discuss the drainage issues by Larry Graham (see Review No. 2 dated 10/21/98 by H.L. Graham Associates, and Neve Assoc. letter of 10/14/98, revised on 10/21/98). George Stavros asked Mr. Neve whether the current plan by Neve Assoc. is the exact same plan drawn by Patrowicz Eng., a former Engineer of PVW. Mr. Neve replied that it is the same plan but with deletions of two ponds. He said other than that, it is exactly the same plan. Also, Mr. Stavros asked about the two expired Super Ceding Orders of the DEP. Mr. Neve stated extension requests were sent to the DEP within the allotted thirty-day time frame. George Stavros noted that only one request was received by the DEP- #21165, and not the #21164 which lot is currently owned by Mrs. Susie Preston. Mr. Neve disagreed. He said that reminder letters had been sent to the DEP as well, and he has been in touch with a Susan McCarthy. Mr. Neve stated that it was legal to do the work, as long as they stayed out of the 100-foot buffer zone; the extensions have been requested, and they were waiting for the extension. Mr. Neve did not know why the DEP has not acted on the extension request – Mr. Stavros noted that he spoke to Mr. Sprague of the DEP who said that this was a "gray area" on whether you could continue to work...even if you applied for the extension. Mr. Stavros noted that from a conservation commission point of view, Mr. VanWyck was working at his own risk; the Board agreed.

Mrs. Susie Preston was allowed by the Chairman to ask a few questions: She wanted to know that if work was going to continue, where would this take place, and how many trees on her property would be cut. The easement for a detention pond is on Mrs. Preston's land. This entailed a 300-ft. long and 50 ft. wide drainage easement and detention pond. The developer would be responsible to maintain the pond until such time that the road becomes a public way. The layout work is already being established and flags have been laid out on the entire easement. Mrs. Preston was shown where the detention pond would go, and Mr. Neve said that he would work with her regarding questions and concerns that she had. Chairman Pennoyer noted that it would be best for Mr. Neve to continue to communicate with Mrs. Preston.

Neve would like conditional approval of the plans, and with DEP's permission and conditions, be able to construct the retention ponds and bring the road to sub-base. Mr. Graham's review was discussed, and Mr. Neve noted that no major changes to the plans were in the review. The Bonds have been submitted to the Board (see file), no lots will be released until the road has a binder,

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and a cash amount will be set aside for the final coat. No signatures will be given at this evening's meeting. Mr. Neve has minor drafting work to do according to Mr. Graham's request, and a Motion would be made to allow work to commence up to a certain level.

MOTION: WESTLEY BURNHAM MOVES TO ALLOW THE TURTLE BACK ROAD SUBDIVISION, APPLICANT PETER VANWYCK, BASED ON THE PLAN SUBMITTED BY THOS. E. NEVE ASSOCIATES, REALIZING THAT THEY WILL NEED MINOR ADJUSTMENTS OF THE PLAN, THE BOARD AUTHORIZES THOS. E. NEVE ASSOCIATES, AS ROAD CONSTRUCTION MANAGERS, TO COMMENCE CONSTRUCTING THE ROAD AND DETENTION BASINS AS SHOWN, NOT TO EXCEED INSTALLATION OF THE ROAD. DOWN TO SUB-GRADE ONLY, AND CONSTRUCTION OF THE DETENTION BASINS AND DRAINAGE SWALES. SECONDED BY GIL GUERIN. VOTING TO APPROVE THE MOTION: W.BURNHAM, S.PENNOYER, GIL GUERIN, AND BRIAN FEENER. OPPOSED: G.STAVROS AND P.DUNN. THE MOTION PASSES.

Minutes: The Minutes of October 7, 14, and 21 have been tabled.

Old Manchester Road/Subdivision: The subdivision has been submitted and the public hearing will be for December 2. The Board was reminded to look at this.

Bills Payable were signed for office supplies and for H.L.Graham review invoices of Story Hill and Turtleback Road work was signed.

Chapter 91 License: 64 Eastern Avenue, for Nucci Assoc. was signed by Chairman Pennoyer and the Building Inspector. Copy of which is in the file.

The Board, having no further business to discuss, adjourned the meeting at 10:00 p.m.

Presented by: *Lisa Randall*
Lisa Randall, Admin. Clerk

Attested to: *G. Stavros*
George Stavros, Clerk

Note: Next meeting is November 18th. Please review the Wedlock/Old Manchester Road Subdivision Plan for the December 2nd Public Hearing.

TOWN OF ESSEX PLANNING BOARD

AGENDA

WEDNESDAY, OCTOBER 21, 1998

7:00 p.m.	Minutes of October 7, 1998
7:15 p.m.	Building Inspector Report
7:30 p.m.	Robert Bradley – Western Ave. Subdivision, Tech. Review Agent Vote
7:45 p.m.	Jonathan Brown-177 John Wise Ave., Discussion of Tree Farm on Property
8:15 p.m.	SMB Development – Performance Guarantee signatures
8:30 p.m.	Turtleback Road Subdivision – Performance Guarantee
Other Business:	Bills Payable: HL Graham Invoices to sign Mail

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, OCTOBER 21, 1998**

Attendees: W. Burnham, Acting Chairman, George Stavros, Pat Dunn and Brian Feener

Absent: Sheldon Pennoyer, Chairman, Gil Guerin and Dave Jones

Building Inspector's Report: Bob Nelson gave the Board a quick report of issues that he is currently investigating: One is the property off **Western Ave. at Shea's Court**. A previous approval from the Board (Gateway Subdivision) gave permission to move the two-family dwelling from Western Ave. to Shea's Court. It is alleged that it is now operating as a three-family dwelling. Mr. Nelson will contact Mr. Coughlin, the owner, and report to the Board.

44 Story Street: Mr. Nelson asked the Board a few questions about the proposed three-family dwelling. Currently, the house is a two-family, and Mr. and Mrs. Hodgkins are coming to the Board on November 4th for a public hearing on the change.

Old Manchester Road/Two Lot Subdivision: An Application for Approval of a Definitive Plan was presented for a Public Hearing. The proposed subdivision of Stephen J. Wedlock and Kim M. Pedersen of Old Road to Manchester will consist of two lots. The plan is dated October 15, 1998, Book 7118, Page 359, 3.837 acres. The plan is entitled, "Definitive Subdivision Plan of Land", by Patrowicz Engineering.

Entertained a motion

Motion: Acting Chairman, Westley Burnham, Moved to Hold a Public Hearing scheduled for December 2, 1998 at 8:00 P.M., on A Plan of Land entitled, "Definitive Subdivision Plan of Land", Dated 10/15/98 of Stephen J. Wedlock and Kim Petersen. Seconded By Pat Dunn. All members voted unanimously to approve the Motion.

177 John Wise Avenue: Real Estate Broker, Jonathan Brown, Mr. William Hatcher and Mr. William Matthews came to the Board to request a "garden center" business on the existing two acre property which has an existing dwelling as well. Acting Chairman Burnham recited the Home Occupancy Bylaw of the Town of Essex. It was decided that because the potential business owners wanted to employ more than two workers on the "tree farm", they would then need to separate the house from the business. Combining the two could only be allowed if the homeowners lived and worked on the property, along with only two outside employees. Mr. Brown will receive a copy of the Land Use Bylaws to assist them with their decision to purchase the property.

Western Avenue Subdivision – Mr. Robert Bradley: Mr. Bradley came to the Board for approval of a Technical Review Agent for the Subdivision Road off Western Avenue. This would be part of the requirements in the Approval by the Planning Board. Mr. Vernon LeBlanc, Prof. Civil Eng., 161 Holten Street, Danvers, MA will provide the Board with a Resume and other projects he has worked on, which include Logan Airport, Park Plaza Hotel, and other jobs, specific to road work.

Mr. Bradley asked several other questions regarding the road and easements. The easements will be shown on the final as-built plan. The performance guarantee will be in the form of a Covenant, holding one lot, as collateral until the road is complete. Mr. Bradley will come back to the Board on November 4, 1998 at 7:30 p.m. with the paperwork in place, and will then receive the Board's decision on accepting Mr. LeBlanc as the Clerk of the Works.

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SMB Development – Story Hill Subdivision: Attorney Athan Vontzalidas representing Scott Boches, came before the Board for Endorsement of the Story Hill Subdivision Plan. They brought forth a Letter of Credit, a Covenant, a Construction Monitoring Agreement, and a Proposal copy from Northern Essex Ltd.

Attorney Vontzalidas explained that Deed Restrictions on the Lots such as the No Cut Zone, Easement Agreements, the Deed Restriction regarding the roof drainage, and the Restriction of Parcel A to use Western Avenue for the vehicular passage could only be placed on the Deeds at the time of closing. The copies of the Deeds filed at the Registry will need to be copied to the Planning Board. The Covenant or Performance Guarantee will not be released until the Deed Restrictions are in place.

The Performance Guarantee was discussed at length: An irrevocable Letter of Credit will be drafted, and only released after the satisfaction of the Board regarding the Road. Acting Chairman Burnham requested a minimum of one year before releasing, and only after the topcoat was in place. The Letter of Credit will be for \$150,000 and will have a term of Two Years.

The “No Cut Zone” was not delineated on the Plan as per the agreed upon outlining during a previous meeting. Therefore, Mr. Boches will need to have this drawn on the Mylar and resubmit this plan before the Board will sign.

Mr. Boches questioned the Technical Review Agent’s costs for reviewing and comments. Acting Chairman Burnham and the Board noted that because each revision changed the plans significantly, and there were issues relating to drainage, it would necessitate the additional hours of review. The Board would not sign a letter (construction monitoring agreement) by Boches to order Larry Graham, Clerk of the Works to cap funding “in an amount not to exceed \$800.00....based upon compensation of \$100.00/hr. for work that should not require more than eight hours of time.”

Despite some members’ reluctance to have Mr. Boches return during a Work Session next Wednesday, if the above requests by the Board have been satisfied, the Plan could be resubmitted for signatures at that time. (Oct. 28 at 7:30p.m.).

Turtleback Road Subdivision: Mr. John Morin, a representative of Neve Associates came before the Board with a copy of a copy of the description of work and the cost, “Turtleback Road Ext. Bond”, and a letter (revised letter dated 10/21/98) explaining the Site Review of Wednesday, October 14, 1998 at 7:30 a.m. At this meeting, Sheldon Pennoyer, Larry Graham, Thomas Neve, Bruce Julian, DPW and Damon Boutchie, Supt. of Water Dept. were present. The Board also received a nine page Comprehensive Tech. Review Report No. 2 from H.L.Graham Assoc. Because of this, the Board was not willing to agree to give Neve Assoc. and Peter VanWyck the permission to go ahead and do preliminary site work. Mr. Morin stated that Mr. Graham was in favor of having the preliminary site work started, but Chairman Pennoyer was not present to verify this.

Mrs. Susan Preston of 8 Turtleback Road was present and was noticed by Acting Chairman to speak. She explained that when she purchased two lots, now being one lot, (one lot has an existing house, and the adjacent lot adjoined it) she was not privy to the fact that a retention basin would be on her property (an easement was given). The work being requested by Peter VanWyck

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would impact her land. She felt that the right reserved to excavate on her property was not fully acknowledged on the Deed. Acting Chairman Burnham gave Ms. Preston a brief history of this subdivision, explaining the DEP Order of Conditions, as well. Mrs. Preston was aware of the Superceding Order 21165 and 21164. 21165 was the one that she was concerned of. The Board asked Mr. VanWyck if the Orders were expired. He replied yes, and he has written to the DEP for an extension. No further details were given to the Board. Due to this issue, Chairman Burnham explained that Mr. VanWyck is held accountable to the State, and any work he does in violation of the Superceding Order would be at his risk. The Board told Mrs. Preston that her matter is a private one with Mr. VanWyck. She understood that she was able to attend all planning board meetings that discussed the Turtleback Road Subdivision.

The Board would not agree to give Turtleback Road the permission to do site work until they read the materials presented this evening. The matter would be tabled until Wednesday, Nov. 4th at 9:00p.m.

The Board, having no further business, adjourned the meeting at 9:35 p.m.

Presented by: *Lisa Randall*
Lisa Randall, Admin. Clerk

Attested to: *George Stavros*
George Stavros, Clerk

NOTICE

**Notice is hereby given that a public meeting is being held at Turtleback Road
Subdivision - On the property owned by Peter VanWyck.**

In attendance will be all

**Available Planning Board Members, DPW, and Thomas Neve, Engineer of
Neve Associates, Inc.**

Meeting is scheduled for Wednesday, October 14, 1998 at 7:30 a.m.

NOTICE

**Notice is hereby given that a meeting of the Planning Board is scheduled for
Wednesday Evening October 14, 1998 at 7:30 p.m.**

This Work Session is open to the public - no appointments will be taken

Note: This meeting is being held at the EEMS.

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION
WEDNESDAY, OCTOBER 14, 1998**

Attendees: Pat Dunn, Westley Burnham, George Stavros, Chairman Sheldon Pennoyer, and Gil Guerin

The Chairman at 7:40 p.m. opened the meeting, held at the EEMS on Story Street.

Work Session Discussion:

Delineating the parcels and their land uses was discussed. *How* this was to be done was an issue, as an Auto-Cad program was now not feasible for all board members to use. Chairman Pennoyer has an Architrion Program to show the Board. Pennoyer says that his program can color-code parcels, noting the use of that parcel. He would have to break down the ~~units~~^{Town} into ~~quadrons~~^{ants} - not an easy venture. He is proposing to ^{Meet with} Tom next week, showing him what he can do on his program, and seeing if Tom Noble can do this on his system.

Current uses of the properties were discussed, what has conservation restrictions, home occupations, class A and B industrial uses, town-owned property, mixed-uses, etc. Categories were then colored as uses became known by the Board's knowledge.

George Stavros will go to the Assessor's Office and get a copy of maps with parcels to help aid in the mapping process.

In closing, the Board will continue to fill out remaining uses with a color-coded system and return in two weeks to continue the process. The Board Voted to Adjourn the meeting at 9:15 p.m.

Presented by: *Lisa Randall*
Lisa Randall, Admin. Assist.

Attested to: *George Stavros*
George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA FOR WEDNESDAY, OCTOBER 7, 1998**

- 7:00 P.M. MINUTES OF 9/2 AND 9/16**
- 7:15 P.M. BUILDING INSPECTOR REPORT
- 73 Martin Street, Bob and Cynthia Cameron**
- 7:30 P.M. TURTLEBACK ROAD – THOS. NEVE ASSOC.
SUBDIVISION ROAD DISCUSSION**
- 8:00 P.M. CRAIG DOYLE/SUBDIVISION-JOHN WISE AVE**
- 8:15 P.M. 44 STORY STREET – HODGKINS RE: THREE
FAMILY DWELLING - DISCUSSION**
- 8:30 P.M. PUBLIC HEARING OF RICHARD O'DONNELL
BELCHER STREET – REMOVAL OF STONE
WALL ON A SCENIC WAY**
- OTHER BUSINESS: BILLS PAYABLE
MAIL
PAYROLL VOUCHER**

**TOWN OF ESSEX – PLANNING BOARD MINUTES
WEDNESDAY, OCTOBER 7, 1998**

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Brian Feener, Gil Guerin

Absent: David Jones, Pat Dunn and George Stavros

Chairman Pennoyer opened the meeting at 7:33 p.m., which was held at the EEMS.

MOTION: W. Burnham Moves to approve the September 16, 1998 Minutes by amending the following: Page three, paragraph three, change “Lots created, 1, 2, 3, 4” to “Lots 1, 2, and Parcel A”, on page two, change “Mr. Lane” to “Mr. Hidden”. The Motion was Seconded and unanimously Voted.

MOTION: W. Burnham Moves to approve the September 2, 1998 Minutes by amending the following: Page one, paragraph three, Change “lint pack” to “Lynn-Pack”, page one, paragraph two of The last sentence, change “are” to “area”. The Motion was Seconded and unanimously Voted.

Building Inspector absent for this evening’s meeting.

Bob and Cynthia Cameron- 73 Martin Street: The Camerons came to the Board in regard to a question as to the access of their lot from Brook Pasture Road. An eleven-foot access is deeded from Martin Street, abutting the Woodman’s property, but the Board felt that access by way of Brook Pasture would be more suitable. Brook Pasture Road is an approved subdivision, and the lot on 73 Martin Street, Map 36, Lot 56 has adequate frontage on this road and has 82,765 S.F. The Board took no action; this information was for the realtor present who had questions relating to ownership of the road and access to it for the lot which is to be sold.

Turtleback Road Subdivision – Peter VanWyck and Thomas Neve: It was discussed that the DPW should meet with the Planning Board for a site walk of the subdivision road. The date of Wednesday, October 14 at 7:30 a.m. would be arranged. Meeting on that morning will be all available Planning Board members, DPW, and Mr. Neve. Technical Review Agent Larry Graham will be notified, as well. Engineer, Thomas Neve came before the Board to discuss country drainage. The Town’s technical review agent, Larry Graham has written a review dated October 7 regarding the roadside drainage. It is recommended by Mr. Graham that in applying the Rules and Regulations, curbing be installed along considerable lengths of the roadway. He is aware of some of the “Board’s preference to “country drainage” and recommended curbing and appropriate closed drainage at the following MINIMUM locations: Sta. 4.0 to Sta. 8.0 Left and Right, and Sta. 11.0 to Sta. 14.0 Left and Right.” Board members present for this evening’s discussions were aware of Mr. Graham’s comments and discussed in detail the roadway proposed by Mr. Neve. The stations noted above were discussed at length and it was concluded that because a roadway of 20 feet of pavement with three foot shoulders on each side continuing at the same pitch and continuing on with an eight foot rip-rap swale being installed throughout the entire road, it seemed reasonable to the Board to go with the country drainage proposal. Total road width with the slope stabilization, would be 42 feet. However, Board members wanted to reserve their right to discuss further with Larry Graham, and see the site on Wednesday, October 14. Sheldon noted that this system would not cause the water to be concentrated, going directly into drainage systems. Brian Feener commented that he agreed with the country drainage, as did

Westley Burnham. Gil Guerin repeated that he wanted to reserve the right to speak to Larry Graham on the matter, but was not opposed.

MOTION: Westley Burnham Moves to accept the drainage proposal for Turtleback Road as presented on the road drawing crosssection as dated 8/21/98, sheet 7 of 7, present crosssection showing twenty feet wide pavement, three foot shoulders continuing at the same pitch and continuing to eight feet rip-rap swales. Feeling that this design construction should be adequate to handle the water. The Board will reserve the option to install curbing and appropriate discharge structures after construction, if wash out or inadequate drainage stability is present or becomes obvious. This decision on curbing shall be made prior to final Release of any Performance Guarantee funding. Seconded by Brian Feener. All members present Voted unanimously to approve the Motion.

Mr. Neve will be scheduled to meet on Wednesday, October 21st at 8:30 p.m. with securities and bonding documents.

John Wise Avenue Subdivision – Craig Doyle: Mr. Doyle and Clay Morin, Engineer came before the Board with a submission of a Definitive Plan. Application is for two lots, located at 170 John Wise Avenue, consisting of 3.53 acres, to be named "Dole Subdivision".

MOTION: Westley Burnham Moves to hold a Public Hearing on the Definitive Subdivision Plan, "Doyle Subdivision" on Wednesday, November 4, 1998 at 8:00 p.m. Seconded by Brian Feener. All Members present Voted unanimously to Approve the Motion.

44 Story Street – Hodgkins for Three Family Dwelling: Mr. And Mrs. Hodgkins came before the Board to inquire about changing an existing two-family side by side duplex into a three-family dwelling with a total of three bedrooms. Lot is 30,000 S.F., but the Board wanted this identified on the Plan, even though the Assessor's Card did show the 30,000 S.F. A Special Permit is required and the additional requirements of 6.6-9 J of the Bylaws were read to the applicants (min. of 30,000 S.F., each dwelling requiring 10,000 S.F.) The Board of Health will receive a copy of the public hearing notice, as will other appropriate boards. The applicants will also provide the Board with a certified plan, showing the actual total land area of the lot.

MOTION: Westley Burnham Moves to hold a Public Hearing scheduled for Wednesday, November 4, 1998 at 8:30 p.m. for Russell and Elizabeth Hodgkins of 44 Story Street for the conversion of an existing two-family dwelling to a three-family dwelling in accordance with the requirements of 6.6-9J of the Essex Bylaws. Seconded by Brian Feener. All members present Voted unanimously to Approve the Motion.

Public Hearing of 48 Belcher Street, Richard O'Donnell: Chairman Pennoyer opened the public hearing at 8:40 p.m. Mr. O'Donnell owns property at 48 Belcher Street, a scenic way, and was looking to access through a stone wall of about 12 feet wide to install a driveway. Mr. O'Donnell showed the Board pictures of the stone wall and noted that cutting of brush would not require the permission of the tree warden. Mr. O'Donnell had permission from the Board to remove the stones for the driveway. The Chairman closed the public hearing noting that in the future public hearings being held to access property for a driveway are not necessary. The

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"Scenic Way" By-law was for the purposes of maintenance, repair or reconstruction by the Department of Public Works, not the landowner.

Chairman Pennoyer gave the Board a copy of a Memorandum regarding the schedule for planning work sessions. A letter will be forwarded to the Finance Committee asking for funds for administrative work needed to be done. The wastewater facility and Title 5 Consent Order by the State makes is necessary for the Board to consider a proposed "downtown" district. This is only one topic, which will come into play because of the septic issues in the Town. In conclusion, the Board will have a letter to the Finance Committee and the Selectmen, asking for an amendment to the administrator's budget. Also, the meeting of the 14th of October will be a work session for the Board to continue the mapping of the land uses in the Town. Work session meetings will be from 7:30 p.m. to 9:00 p.m.

The Board, having no further business, adjourned the meeting.

Presented by: 
Lisa Randall, Admin. Assist.

Attested to: 
George Stavros, Clerk

Reminder: Wednesday, October 14th at 7:30 a.m. for site walkover of Turtleback Road

Work Session on October 14th at 7:30 p.m. at the EEMS

TOWN OF ESSEX PLANNING BOARD

AGENDA

WEDNESDAY, SEPTEMBER 16, 1998

- | | |
|-----------------------------|---|
| 7:00 PM | Minutes of Aug. 18 and Sept. 2 |
| 7:15 PM | Bld. Inspector's Report |
| 7:30 PM | Craig Doyle/John Wise Avenue
Disc. Of Subdivision |
| 7:45 PM | William Holten - Discussion
of proposed addendum to a by-law |
| 8:15 PM | Dave Hidden - Proposed Four Lots
to be subdivided off Icehouse Ln. |
| OTHER PLANNING
BUSINESS: | <ul style="list-style-type: none">*Sign Letter to Selectmen regarding
the Wastewater Mtg. On 8/19/98*Signature of Amnesty Project Appl.
For 15 and 17 Redgate Road
24 and 26 Coral Hill Road*Public Hearing Notices
See Ipswich's Zoning Articles*Calendar for October (Wkly Mtgs)*Story Hill Subdivision - DECISION
(Easement Letters are in File)*Sign HL Graham Invoices for Story
Hill and Turtleback Road*Proposed Outline of Planning
Issues for 1998/1999 (draft)*Memorandum from BOS, and Mail*Bills Payable, Computer/Printer,etc. |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 16, 1998**

Attendees: S.Pennoyer, Chairman, Westley Burnham, Pat Dunn, Gil Guerin, Brian Feener and David Jones.

Absent: George Stavros

The Meeting was held at the EEMS and was opened at approximately 7:10 p.m.

**MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE
AUGUST 19, 1998 MINUTES AS WRITTEN. SECONDED BY
BRIAN FEENER. ALL MEMBERS PRESENT VOTED TO
APPROVE THE MOTION. THE MOTION PASSED.**

Building Inspector's Report: Mr. Nelson, Bldg. Inspector, came before the Board with Mr. Ronald Metcalf of 118 Martin Street. Mr. Metcalf wishes to raise two dwellings and erect a more contemporary building for residence. The two existing buildings were not worth repairing, according to Metcalf. All setback requirements will be met, lot size is over 60,000 s.f. No action was necessary by the Board. Informational only.

Chapter 91 Amnesty Applications for signature:

**MOTION: BRIAN FEENER MOVES TO HAVE THE
CHAIRMAN SIGN THE FOUR CHAPTER 91
APPLICATIONS OF: LYLE BROWN OF 15 REDGATE
ROAD, CANAN O. HEWSON OF 17 REDGATE ROAD
OLIVER WARD OF 24 AND 26 CORAL HILL ROAD.
SECONDED BY PAT DUNN. ALL MEMBERS
PRESENT VOTED TO APPROVE THE MOTION.**

William Holten-Discussion of Proposed Large Structure Screening By-law: Mr. Holten of Martin Street, on behalf of his neighbors Richard Cairns, Craig Hammons, and Gus Carlson. Apparently, the new dwelling on 7 Maple Street has an above-ground type mounding for the septic system there. In order to contain the large amounts of gravel placed there, an eight foot high wall has been constructed, causing an "eye sore" on the Street. It was also noted that the setback from Dick Cairn's property line was two feet. Mr. Holten showed the Board pictures and wanted the Board to consider an addendum to a by-law that would provide for screening for this type of permanent structure, i.e. the cement wall. The Board was mixed with their reaction to the proposed request: Brian Feener noted that with all of the septic problems and financial hardship because of it, should you require the owner to put up a fence or screen - this could cause further hardship. Sheldon Pennoyer disagreed: Trees could be planted. W.Burnham felt that a by-law of this nature is too subjective. The Board did agree, however, that the wall was not aesthetically pleasing. The question was asked of Mr. Holten if he has spoken to the developer, and he had not. Mr. Holten thought that a by-law could be drawn to limit the height of a structure like this, and place some sort of screening. No action was taken by the Board at this time, and Mr. Holten said that he would be returning within a month or two.

Craig Doyle-John Wise Avenue Subdivision - Discussion Only: Mr. Doyle was accompanied by Engineer Clay Morin who presented the Board with a Preliminary Plan to subdivide Mr.

Doyle's property in order to build a home on the front lot. After the Board went through some changes, including changing the lot lines and discussion about the Subdivision Rules and Regulations regarding the existing driveway to be constructed to provide access to the two lots (total area is 3.2 acres). 12 feet of pavement will be asked for. The Board recommended addressing the drainage swales and molding of the shoulders (grass and stabilized sub-base.) Private water will be provided by use of onsite private wells. Several large trees along the road will be preserved. In conclusion, Mr. Morin will return to the Board with plans for either a preliminary or definitive plan.

Hidden

David Hidden - Two Icehouse Lane: Mr. Lane came before the board with a plan drawn by Matt Hautala, Eng. To subdivide his property into four lots, using the "old railroad way" as frontage. One lot to be deeded to another as a nonbuildable lot. The Board did not agree with Mr. Hidden that the railroad way was a "way in existence" or "adequate for access" the railroad has been long since abandoned, and this "way" is currently blocked by large stones. The "way" comes out onto Centennial Grove Road. Mr. Hidden questioned the Board on "Ways" and "Access" and if this "way" is an accepted way by the Town. The Board would investigate the matter, and Mr. Hidden requested a copy of the subdivision rules and regulations. No action was taken by the Board.

Story Hill Subdivision Decision:

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE STORY HILL SUBDIVISION:

The Essex Planning Board hereby approves the application for a subdivision submitted by SMB Developers on March 18, 1998, based on the following information and conditions. This application was received as a direct definitive submission with no preliminary plan.

After proper advertising and notices a public hearing was convened on May 20, 1998, and continued to June 3, 1998, further continued to June 17, 1998 when the hearing was closed to public comment. Many issues were raised, most concerned water runoff and drainage change effects on the neighboring properties. This plan was reviewed with regard for a 1989 Essex Zoning Board of Appeals decision allowing the division of land indicated on Map 36 as lots 79, 79A, 79B. The restrictions placed on this parcel relative to that decision have been incorporated into this proposal.

A revised plan was received on June 17, 1998 decreasing the total number of lots from 5 to 4 due to inadequate frontage and front yard setbacks. An extension to the time limit was granted at the applicant's request to August 5, 1998. Revision of the plan was required based on the comments of the engineering review performed by Larry Graham of Graham Associates, Ipswich Ma. on behalf of the Essex Planning board.

An extension to the time limit was granted at the applicant's request to August 19, 1998. A revised plan was presented at our meeting of August 19, 1998, with a request to extend the time limit to September 15, 1998 to allow a reasonable review by the Board members. **The Plan of Land titled Story Hill Subdivision**, dated: issue dates March 18, 1998, revised June 17, 1998,

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2nd revision dated August 4, 1998 is the plan being approved subject to the following considerations and conditions.

The board grants the following waivers from the Town of Essex Subdivision rules and regulations:

- 7.01 (10) - relief from the requirements for street lighting.
- 7.02 (4b) - relief from the requirements for sidewalks.
- 7.02 (4f) - relief to allow a 2.5:1 slope with "Jute netting" or any other means and / or materials as necessary on the easterly side of the proposed roadway, this is granted to minimize tree clearing.
- 7.02 (4e) - relief from the curbing radius requirements to allow for a 25 foot radius.
- 7.04 (1) - relief from the 500 foot maximum distance between hydrants is waived in lieu of a single hydrant at the end of the top of the cul-de-sac. The Fire Department concurs with this waiver for a single hydrant. All water installations shall be in accordance with Dept. of Public Works regulations.

Copies of the following shall be attached as addenda to this decision:

1. Deed restrictions to be placed on Lots 1, 2, and Parcel A delineating the "No cut or clear restrictions", with specific language to indicate that any septic system construction in this area will not increase the surface ground water runoff off site.
2. Deed restriction to be placed on Parcel A prohibiting vehicular access from Martin Street, and allowing rights of pass and re-pass across "Evans Way".
3. Deed restriction to be placed on all Lots created, 1, 2, ^{PARCEL "A"} 3, 4, that any construction shall include that all roof drains / gutters shall be directed to drywells. This is to insure that the maximum water recharge takes place with minimum impact on surface water runoff changes in the immediate neighborhood.
4. Easement to be filed with the Registry of Deeds relative to the Finnon's septic system presently located within the bounds of the property being subdivided. Said easement to provide for operation and maintenance as necessary to meet the approval of the Essex Board of Health. Certification of Board of Health approval to be provided prior to filing.
5. Proposed Maintenance agreement which will insure required maintenance on the drainage system, roadway, and any other utilities or structures common to all lots. This agreement shall include provisions for snow removal and sanding to insure adequate emergency vehicle access. This agreement shall remain in effect and be funded by the property owners until the Town of Essex accepts the roadway and accompanying infrastructure as a Town owned public way.

Page Four of Planning Board Minutes of 9/16/98, continued...

The following modifications shall be made to the plan submitted and reflected in 'as-built' plans submitted to the board following construction.

- Proposed catch basins CB-1, CB-2, CB-3, CB-4 shall be installed as double grate catch basins.
- Proposed catch basins CB-2, and CB-3 shall be relocated away from the proposed driveway apron areas, preferably downstream to assure capture of runoff from the respective driveways.
- A 'trash catcher' vertical grating shall be installed in the opening of the existing culvert. Said grating to be installed with the approval of the Dept. of Public Works.

The following requirements shall be met prior to endorsement of the plan:

- A Performance Guarantee is in place and agreed to by both the Applicant and the Essex Planning Board. Said agreement having been reviewed by Town Counsel if the Board deems necessary.
- An individual to act as 'Clerk of the Works' has been designated and agreed to by the Board. This individual will answer to the Board and will monitor construction IAW the approved plan. A written agreement to fund this individual is submitted to the Board by the applicant.
- Written confirmation that no appeals have been filed with the Town Clerk within the statutory 20 day appeal period. The date for start of this time period will be when this decision is filed with the Town Clerk.
- Clearly delineate the "no-cut" or "clear" restricted zones for Lots 1, 2, Parcel A, written in the Deed, and shown on Endorsement Plan.

Certified copies of this decision will be available at the Essex Town Clerks office and from the Essex Planning Board within 10 days of the date of this decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL. And shall be filed within twenty (20) days after the date of filing this decision with the Essex Town Clerk.

**A ROLL CALL VOTE TO APPROVE THE STORY HILL SUBDIVISION
DECISION AS AMENDED WAS TAKEN: VOTING IN FAVOR OF THE
DECISION WERE: PAT DUNN, WESTLEY BURNHAM, CHAIRMAN
SHELDON PENNOYER, DAVID JONES AND BRIAN FEENER. THE
AMENDED MOTION PASSES.**

Weekly meetings/budget: The Board was in agreement that the Finance Committee should be notified about the weekly meetings to be held in order to study planning issues, especially the changes which will occur because of the wastewater facility projected to be constructed. This work will require additional budgeting for the administrative position. Chairman Pennoyer will send a letter per the Board's request.

Future planning issues:

- * Downtown District Bylaw (sewer)
 - Flood Plain Bylaw
 - Water Resource Protection District Amendment
 - Site Plan Review for Buildings "out of scale"
 - Pine Ridge Road request for take over by Town

Bills Payable: The Board approved the invoice for the printer and back up, which came from the computer budget finances.

HL. Graham Invoices for Story Hill and Turtleback Road: These expenses were approved for payment from the funds available in the above two subdivision accounts.

REMINDER: THERE IS A QUARTERLY MEETING ON MONDAY, OCTOBER 5 AT 7:00 P.M. WITH THE SELECTMEN FOR ALL TOWN DEPARTMENT HEADS.

The Board, having no further Business, adjourned the meeting at 9:30 p.m.

Presented by: Lisa Randall
Lisa Randall, Admin.

Attested to: George Stavros
For George Stavros, Clerk

REMINDER!!!!!! Monday, October 5, 1998 is the Board of Selectmen/Town Departments Quarterly Meeting!! Tom Noble, WW Coordinator will have a guest speaker to discuss GIS, and the Town's needs analysis. 7:30 P.M. Media Center – all are welcome.

Note: The next scheduled meeting will be for October 7th at 7:00 p.m. at the EEMS teacher lounge.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

AGENDA

WEDNESDAY, SEPTEMBER 2, 1998

7:00 P.M.	Minutes of August 19, 1998
7:15 P.M.	Building Inspector Report <ul style="list-style-type: none">• Shea's Court• Scot's Way (update)
7:30 P.M.	Turtleback Road Subdivision/Thos. Neve to present Board w/ updated plans
7:45 P.M.	Craig Doyle - John Wise Avenue, Subdivision
8:00 P.M.	Story Hill Subdivision Discussion Only
Other Planning Issues	Weekly Meeting Schedule Flood Plain Bylaw Zoning Discussion

*Note: The Meeting is being held at the Essex Elementary and Middle School
on Story Street, Teacher's Lounge*

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, SEPTEMBER 2, 1998**

The meeting was held at the EEMS on Story St. and began at approximately 7:10 p.m.
Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn and George Stavros
Absent: David Jones, Brian Feener and Gil Guerin

Building Inspector's Report: It had come to the attention of the Board that there was an alleged three-family dwelling located on Shea's Court. This road is part of the Gateway Subdivision - PMC Realty Trust, John Coughlin. The Board will send a Memo to Mr. Nelson to investigate. It may be that a Special Permit should be required.

Icehouse Lane, Permission to pave: Sylvia Kirker came to the Board on behalf of David Hidden requesting pavement on Icehouse Lane, off Western Avenue, which is also included in the Water Resource Protection District. After discussion about the ^{LYN PAK} ~~lint pack~~ already in place, it was decided that the impervious area is already existing.

MOTION: WESTLEY BURNHAM MOVED TO AUTHORIZE THE PAVING OF ICEHOUSE LANE, IN WIDTH NOT TO EXCEED 14 FEET OVER LOT SHOWN AS LOT "D" FINDING THAT THE PRESENT ROADWAY IS EXISTING IMPERVIOUS SURFACE AREA, WHICH IS PRESENTLY 17 FEET WIDE IN ITS EXISTING CONFIGURATION. SECONDED BY DUNN. IN FAVOR WERE: PAT DUNN, W.BURNHAM, G.STAVROS AND SHELDON PENNOYER. THE MOTION PASSES.

PVW/TURTLEBACK ROAD SUBDIVISION: Chairman Pennoyer reads a letter from HL Graham which comments about the plans and documents prepared by Neve Assoc. The full review is not completed at this time. The main issues were:

1. The plans propose rip-rap swale shoulder or country-road type drainage. Due to the proposed steep road grades and problems with maintaining the country-road type drainage system, we had previously recommended granite curbing and a closed (catch basins, manholes and pipe) drainage system.
2. The latest revised Neve plans show the physical roadway "wandering" left and right of the center line of the record right-of-way layout except in one area from Roadway Sta. 3.0 to 6.50 where it stays westerly out of the layout. In previous reviews and consultation with the Board, Applicant and previous engineers, Graham had always advocated the position to permit the physical roadway to "wander" WITHIN THE LAYOUT BUT NOT OUTSIDE thereof. Although the current plans propose an easement adjacent and parallel to the right-of-way in this area, the ROADWAY SHOULD LIE WITHIN THE RIGHT OF WAY. If the Applicant were to revise the drawings to expand the right-of-way in this area to the lines of the proposed easement limits: If acceptable to the Board and DPW, a variable width right-of-way in this ^{area} ~~are~~ would be acceptable.

Thomas Neve, Engineer for PVW felt that the Board was in agreement with the country drainage. Chairman Pennoyer noted that if the plan could show that the road would not be washed away, then perhaps the Board would consider the country drainage. Pennoyer repeated that the steep area of road grades would be a problem. Neve's rebuttal was to work with the grade and rip-rap swales as designed will not pose additional maintenance burden to the Town and the rip-rap will be sized to accommodate the drainage velocities anticipated. The Board was mixed with their

comments on country drainage. Pat Dunn felt that country drainage is never maintained properly. Chairman Pennoyer noted that country drainage required no maintenance. George Stavros was not in favor of country drainage. Pennoyer added that country drainage is appropriate in certain areas. *No decision was made to which way the Board was leaning to.* Neve added that there were cross culverts on the plan, the country drainage is successful and preferred by the State. S. Pennoyer noted: Let's have HL Graham assess the proposed drainage stability of the road and give his interpretation of its longevity and came in favor of the country drainage, would Dunn and Stavros change their opinion. Stavros would agree then for country drainage.

Extension of time given to PVW - Turtleback Road Subdivision from October 8, 1998 to December 1, 1999: (AGREEMENT FOR JUDGMENT - OCTOBER 1996)

MOTION: WESTLEY BURNHAM MOVES TO INSTRUCT TOWN COUNSEL ON THE TOWN'S BEHALF, TO PROCEED WITH THE NECESSARY DOCUMENTATION TO EXTEND THE DATE FROM OCTOBER 8, 1996, TO DECEMBER 1, 1999 FOR COMPLETION OF THE ROAD, UTILITIES, ETC. DECISION IS BASED ON THE SUBMISSION OF PLANS, A CONCERTED EFFORT BY THE APPLICANT, AND BASED ON THE RECOMMENDATION OF HL.GRAHAM ASSOCIATES, TECHNICAL REVIEW AGENT ON BEHALF OF THE TOWN OF ESSEX. SECONDED BY GEORGE STAVROS. MEMBERS VOTING IN FAVOR OF THE MOTION: PAT DUNN, WESTLEY BURNHAM, SHELDON PENNOYER, AND GEORGE STAVROS. THE MOTION PASSES.

A Memorandum from DPW concerning the waterline was addressed by the Board. Thomas Neve will communicate with the DPW regarding this issue. The Board will meet with Neve again on September 16 to discuss any additional information from HL Graham Assoc.

STORY HILL SUBDIVISION DISCUSSION REGARDING DECISION ON 9/16/98:

The Board addressed HL Graham's Technical/Planning Review Report-D3 dated 8/13/98. The "no build/no cut/clear zones" will be delineated on the Plans (to be reflected on the same plans that the Pln.Board signs). This will need to be noted on the Deed Restriction for filing with the Registry. Roof drains - S.Pennoyer did not agree with this, wanted all gutters brought to a discharge system (lots 1, 2 and parcel A). Written easements need to be delivered by the applicant regarding location of Fannon's septic system. Restriction that Parcel A must be accessed from Evan's Way and prohibited from entering Martin Street. The landscaped island maintenance was not adopted by the Board. Runoff and sediment erosion to be referred to the Tech. Rev. Agent as part of his overseeing of the project. Comments from the DPW will be investigated by W.Burnham before writing the decision. In conclusion, the Board decided that the Endorsement Plan will reflect changes made herein and in the Decision, which will be drafted for Vote on September 16.

MOTION: CHAIRMAN PENNOYER ENTERTAINED A MOTION TO BEGIN WEEKLY MEETINGS STARTING OCTOBER 1998. THE FIRST AND THIRD WEDNESDAY EVENINGS FOR REGULAR PLANNING BUSINESS ONLY. THE SECOND AND FOURTH WEDNESDAYS FOR PLANNING ISSUES

Page Three of Planning Board Minutes of 9/2/98, continued...

**ONLY, OF WHICH, HOURS ARE TO BE FROM 7:30 TO 9:00 PM.
SECONDED BY GEORGE STAVROS. MEMBERS
PRESENT VOTING TO APPROVE THE MOTION: PAT
DUNN, GEORGE STAVROS, WESTLEY BURNHAM AND
S.PENNOYER. THE MOTION PASSES.**

The Board, having no further business adjourned the meeting at 9:15 p.m.

Prepared by:


Lisa Randall, Admin. Assist.

Attested to:


George Stavros, Clerk

Note: The next scheduled meeting is for September 16, 1998 at 7:00p.m. at the Teacher's Lounge.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

WEDNESDAY, AUGUST 19, 1998

(Meeting to be held at the Council on Aging/Scout House - Pickering Street)

- | | |
|------------------------|--|
| 7:00 P.M. | Minutes of July 15, and August 5, 1998 |
| 7:15 P.M. | Building Inspector's Report <ul style="list-style-type: none">• Scot's Way, Philip Hansbury, discussion of work/composting on Lot 31F |
| 7:30 P.M. | Selectmen Jack Schwartz - Discussion of Wastewater District Commission |
| 8:00 P.M. | Approval Not Required - Lufkin Point Road Property of Swan |
| 8:15 P.M. | Story Hill Subdivision - Discussion regarding Decision |
| Other Planning Issues: | Discussion - Pine Ridge Road Residents Petition to request the Road be included as a public road

Story Hill Subdivision - Review Revised Plan of 8/4/98

Shea's Court - three family dwelling

Bills Payable - Dues for Mass. Fed. Planning Membership (7/1/98-6/30/99) \$60.00 |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 19, 1998**

The meeting was held at the Scouthouse/Council on Aging, Pickering Street, and began at approximately 7:00 P.M.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, George Stavros, Pat Dunn, Gil Guerin.

Absent: Brian Feener and David Jones

BUILDING INSPECTOR/BOB NELSON: Mr. Nelson explained that there is some activity on Scot's Way, Lot 31F, which is owned by a Mr. Philip Hansbury. Currently, there are large "jersey barrier" type pillars being set up, and the lot area has been "scraped", which led to several comments from abutters that perhaps composting materials were going to be placed there. The area is in the Water Protection District which has several restrictions on proposed uses. There are no permits issued for the site; Mr. Nelson will inform the Board if any action occurs at this lot.

MELANIE AND DONALD BURNHAM, 2 ICEHOUSE LANE: Ms. Burnham came before the Board for an Approval Not Required, conveying property to Mr. David Hidden. Her site plan did not show the location of her dwelling on Lot D. The Board agreed to approve the Motion, but Mrs. Burnham was to submit the plan for signatures by the Board showing the dwelling on Lot D of the Plan.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE APPLICATION OF THE APPROVAL NOT REQUIRED FOR A PLAN OF LAND FOR DONALD AND MELANIE BURNHAM LOCATED OFF WESTERN AVENUE IN ESSEX, MA, FOR THE CREATION OF LOTS E2, FOR 25,543 S.F., THE LAND TO BE TAKEN FROM LOT D, ALSO THE CREATION OF LOT B1 OF 780 S.F., TO BE TAKEN FROM LOT D, AND THE CREATION OF LOT D1, 780 S.F. TO BE REMOVED FROM LOT D, (THE NEIGHBORING PARCEL), AND INCLUDED IN LOT B. SIGNATURES TO BE AFFIXED ONCE THE EXISTING HOUSE ON LOT D IS LOCATED ON THE PLAN SHOWING THE VERIFICATION OF THE REQUIRED SETBACKS. SECONDED BY GIL GUERIN. THE MOTION WAS UNANIMOUSLY VOTED BY ALL MEMBERS PRESENT.

BOARD OF SELECTMEN/JACK SCHWARTZ: Re: Discussion of Wastewater District, Article 5 at ATM(May 4, 1998): (In accordance with the approved Article 5, authorizing and directing the BOS to draft and release for public hearing and review appropriate documents to establish a town-wide Essex Wastewater District Commission which will create, among other things, an overall wastewater policy and plan for the Town... after releasing the documentation relating to procedure and public hearing, the Selectmen bring said documents to a town-wide vote at a Special Town Meeting) Mr. Schwartz, on behalf of the Board of Selectmen, was present to discuss the Planning Board's comments regarding Article 4, *An Act Establishing the Town of Essex Wastewater Management District Commission*, in order to gather information to fulfil the approval of Article 5. Westley Burnham asked Mr. Schwartz where he thought the Town would be with a "proposed Wastewater District Commission", after the septic issues were dealt with. Mr. Burnham also surmised what his vision would be for the future: A central sewer system/collection system of some sort, taking care of the "core area" (center of Town, Pickering St., up to Ernie's, over the Causeway, the core areas where they are in deep trouble right now). Outside of that, everybody will remain on septic systems to take care of the septic on-site. Mr.

Burnham continued to state that what he saw from a Planning Board issue, is a Zoning District created to re-zone within this context, and a wastewater management be created to manage the septic issues within that district, only. All other areas could be managed by the owners themselves. Mr. Burnham feels that the "long" version presented a ATM (Article 4) and realized by the homeowners, was that they (the homeowners) did not want to be responsible for their own systems, plus, give someone else ("wastewater district") the ability to tax them for what was in the "district" (core area). George Stavros noted that he felt that if the wastewater district was just for the core areas, then perhaps it could be Zoned for that purpose. Mr. Burnham noted that the Article read more than just the core area; it was much broader. Chairman Pennoyer felt that one of the things to look at was a comment from Mr. David Davis, (a resident and one of the landowners of the sites being tested for a collection/facility system): The Town should perhaps look at an "upper limit" to where the Town is going to go with the septic, depending on where the soils are. If there is a capability of hooking up 50,000, should the Town have the usage be for the maximum capacity? Mr. Burnham noted that this is why there should be Zoning in that particular area of where the system is going to be. George Stavros asked if the proposed wastewater district was town-wide, or area specific. Mr. Schwartz answered that Article 4 was written to include a town-wide district. The district would offer residents options to resolve their septic problems by providing group purchases, mediating communal or small cluster systems or other services.

The Board understood that the Commission would have "broad powers", and they were not ready to endorse the concept at the present time. They questioned whether this commission would be a duplication of services already in place at the DPW, BOH, BOS, etc. They noted that the Town already has a wastewater coordinator, and sanitarian. W.Burnham noted that if there needed to be a managing dept. for the system, the Water Dept. or DPW may be able to handle the task. S.Pennoyer, G.Stavros, W.Burnham all stated that they did not see the Article 4 proposal as necessary, unless the District had a "boundary", or distinction of the area (i.e., "core area" only district). Discussion about the process of extinguishing the wastewater commission after the septic system was completed and operational was briefly noted.

In conclusion, Selectmen Schwartz, on behalf of the BOS, was investigating the reasoning behind opportunities in funding a district or having a wastewater district formed and the scope of that responsibility. He invited the Board to contact the Board of Selectmen if there were additional opinions, ideas or attachments. All pertinent Town Departments are being contacted for their input, in order to fulfil the ATM Approval of Article 5.

APPROVAL NOT REQUIRED FOR SWAN, LUFKIN POINT STREET: Mr. Wayne Jalbert from Hancock Survey Assoc. was before the Board for an ANR of two lots. One lot, lot 1, will be sold as a buildable lot, of 8.82 acres, lot 2 being 4.7 acres, and parcel "a" will be sold to abutters. Separate easements will be deeded for proposed septic systems.

MOTION: GIL GUERIN MOVED TO APPROVE THE ANR FORM A APPLICATION FOR WALTER SWAN OF LUFKIN STREET, CONSISTING OF TWO LOTS AND ONE PARCEL, ON A PLAN DATED AUGUST 19, 1998 BY HANCOCK SURVEY ASSOC. LOT 1 BEING EQUAL TO 8.82 ACRES, LOT 2 CONSISTING OF 4.7 ACRES, AND PARCEL "A" INCLUDES AN AREA OF APPROXIMATLEY 1.42, BEING A NON BUILDABLE LOT. APPROVAL IS BASED ON THE MINIMUM

**STANDARDS OF LOT CONFIGURATIONS OF THE TOWN OF ESSEX
BYLAWS. SECONDED BY GEORGE STAVROS. ALL MEMBERS
PRESENT VOTED UNANIMOUSLY TO APPROVE THE MOTION.**

STORY HILL SUBDIVISION: Technical Review Agent for the Town, Larry Graham, did not have a completed review ready for the Board this evening. The Board agreed to accept an extension for the Decision of the Subdivision of Story Hill by the Applicants in order to draft a Decision.

**MOTION: WESTLEY BURNHAM MOVES TO ACCEPT AN
EXTENSION REQUEST FOR THE APPLICANTS OF THE
STORY HILL SUBDIVISION DECISION. DECISION WILL
BE VOTED AT THE PLANNING BOARD MEETING,
ON SEPTEMBER 16, 1998. SECONDED BY GIL GUERIN.
ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE
THE MOTION.**

PINE RIDGE ROAD RESIDENTS: Mr. Jim Albani representative for the residents at Pine Ridge Road came before the Board to request that the Road go before ATM to become a town-accepted road. The Board will investigate their responsibilities and will outline the procedure for the residents.

**MOTION: WESTLEY BURNHAM MOVED TO APPROVE THE
JULY 15, 1998 MINUTES AS WRITTEN. SECONDED BY
GIL GUERIN. ALL MEMBERS PRESENT VOTED
UNANIMOUSLY TO APPROVE THE MOTION.**

**MOTION: WESTLEY BURNHAM MOVED TO APPROVE THE
AUGUST 5, 1998 MINUTES WITH THE FOLLOWING
AMENDMENT: ONE PAGE SEVEN, THE LAST PARAGRAPH,
LAST SENTENCE, AFTER "THAT" DELETE "SOME SHORT
SITE PLAN REVIEWS" AND REPLACE WITH "THE BOARD
MAY WANT TO LOOK AT A SHORTER VERSION OF A
SITE PLAN REVIEW BY-LAW." SECONDED BY PAT DUNN.
ALL MEMBERS PRESENT VOTED TO APPROVE THE
AMENDED MINUTES.**

The Board, having no further business, adjourned the meeting at 8:30 p.m.

Prepared by: *Lisa Randall*
Lisa Randall, Admin. Assist.

Attested to: *George Stavros*
George Stavros, Clerk

Note: Next scheduled meeting is for September 2, 1998 at the EEMS on Story Street.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

WEDNESDAY, AUGUST 5, 1998

MEETING HELD AT THE COUNCIL OF AGING/SCOUT HOUSE
PICKERING STREET, ESSEX

7:00 P.M.	MINUTES OF JULY 1, JULY 15
7:15 P.M.	BUILDING INSPECTOR REPORT
7:30 P.M.	TURTLEBACK ROAD, THOS. NEVE ASSOCIATES: DISCUSSION

OTHER PLANNING BUSINESS:

POSSIBLE DECISION FOR WESTERN
AVENUE SUBDIVISION

DISCUSSION OF STORY HILL
SUBDIVISION, OFF MARTIN ST.
RE: REVIEW OF H.L.GRAHAM
RECENT REPORT

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 5, 1998**

Meeting Held at the Council on Aging/Scout House on Pickering Street

PRESENT: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Brian Feener and Gil Guerin
ABSENT: George Stavros and David Jones

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE JUNE 17, 1998 MINUTES AS WRITTEN. SECONDED BY PAT DUNN. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE MINUTES OF JULY 1, 1998 AS WRITTEN. SECONDED BY PAT DUNN. VOTING IN FAVOR: PAT DUNN, GIL GUERIN, WESTLEY BURNHAM. VOTING PRESENT: SHELDON PENNOYER, CHAIRMAN, AND BRIAN FEENER. THE MOTION PASSES.

BUILDING INSPECTOR REPORT: Westley Burnham asked Bob Nelson what was being built on Scot's Way. Mr. Nelson investigated, and the property owner has not been determined. This was not John Coughlin's lot. There was no permit pulled and digging was taking place. Mr. Nelson is looking into the matter.

9 MILK STREET - INDOOR ARENA: The owner, Shaw Butler, has submitted a plan to address any drainage issues caused by the indoor arena just recently built. It seemed that the abutters were now pleased with the work being done to divert the drainage onto Mr. Butler's property.

BLUE MARLIN GRILLE - SIGN DIMENSION: The dimensions to the sign that is attached to the building at the restaurant on Eastern Avenue was discussed. The Board realized that the sign has been there for quite some time. Mr. Nelson was aware of the size, and suggested that the Board look into administrating a "Design Review Board" and in the future, institute a "Sign Permitting Process". This would give the Town more control of the creation of signs. The Board noted Mr. Nelson's idea, and felt that it may be a good one. This would require a new by-law and a Town vote. No action was taken on the sign at this time.

TURTLEBACK ROAD - THOMAS NEVE, ENGINEER PRESENTS A PLAN FOR THE ROAD:
A lengthy presentation by Mr. Neve was given to the Board on the Road Plans presented this evening: The previous road plans by other engineers were ninety percent finished, but still had issues relating to drainage and roadway alignment. After working with the old and the new, Neve felt that he had an impressionable plan to present to the Board for approval. The Seven Sheets were detailed one by one for the members. "The plans one hundred percent conform to Regulations", according to Neve. The plan shows Nine Lots, potentially ten, with all easements - with the established forty foot wide easement added.

Sheet 3 - Topography and Grading Plan - Shows how development is built; shows ponds, finished grades, lot lines, structures, septic, and minimal clearing.

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Sheet 4 - Shows the bottom half of the development, country drainage, cross culverts, storm water management ponds, discharge.

Drainage Calculations (four copies) are included, as well.

Sheet 5 - Larger section for showing grades, installation of drainage.

Sheet 6 - Proper intersection - goes to a "t" intersection, 90 degree intersection, and only part of the circle is to be removed.

Sheet 7 - Guardrail-wooden post, state specifications included for rural community, shows weir and berm detail, drainage trench detail, emergency spillway, retaining wall detail. One to One forty-five degree angle with rip rap at the lower portion of the road was requested; the road needed to be moved. Relief from the road was given previously to preserve wetlands and raise the grade; but the last plan showed an eight foot retaining wall. This seemed expensive, excessive: Mr. Neve was looking for relief from the Vertical K Value. The Board noted that the Technical Review Agent would advise the Board on this issue, but the Board did not disagree with Mr. Neve on the grades of the roads, and the requested reduction in vertical curve lengths. He also requested that he remove a pond, and move the road over, and reroute the drainage to another pond by a culvert already on the plan. The Superseding Order for this plan has already been given by the DEP. The Board, again, would refer to Mr. Graham, but did not oppose the idea.

Water Line: The waterline would be moved, and would have sufficient coverage. A hydrant has been added, as requested by Westley Burnham. There would be a ten foot utility easement, as well.

Curbing was discussed: Mr. Neve suggested that swale drainage would be requested.

In conclusion of the review of this Plan, the Board commended Mr. Neve on his ability to improve this road to a more acceptable and clear plan, which adhered to the regulations. The plan would be forwarded to H.L. Graham Associates, the Town's Technical Review Agent, for evaluation and recommendations.

The Board also noted that the time frame for the completion of the Road was an issue. Mr. Neve explained that he was willing to continue with the project, providing he had the Board's approval for an extension. The Board realized that the Road would take perhaps another year to complete. They were willing to agree to extend the time frame, providing the work was going to be progressing reasonably. Mr. Neve would give the Board some reasonable Milestones in order to schedule realistic goals for the completion of the Road. Both parties agreed to meet on Wednesday, September 3, 1998, at 7:30 P.M. Larry Graham will need time to review and recommend, and convey the revisions to the Board. The above date will be reserved in order to be sure Mr. Neve has been given an appointment to report on the findings. Copies of the Plans will be distributed to appropriate departments.

The Technical Review Agent, Larry Graham, forwarded a letter dated August 5, 1998 requesting that the Board required the Applicant deposit an additional \$4,956.25 in the account for the anticipated review of the Neve submission. Mr. VanWyck, who was present, asked that the Board have Mr. Graham access the remainder of the funds, which would be approximately \$4,823.75. Mr. VanWyck said that he could not fund another \$5,000.00. Mr. Neve was confident that the review would not be as involved as others, as the plan incorporated the regulations, and Mr. Graham's previous recommendations. The Chairman

Page Three of Planning Board Minutes of August 5, 1998, continued...

would communicate Mr. VanWyck's request to use the remainder of the account for Larry Graham. If more revenue was required, Mr. Neve was willing to accommodate Mr. Graham's Fees.

FOLSOM/WOODMAN SUBDIVISION OFF WESTERN AVENUE - DECISION OF THE ROAD:

The Board discussed in length, the written Decision that Westley Burnham has drafted for the Board to Approve.

The approvals to some of the Waivers were made based on testimony and information submitted to the Board that no more than two (2) house lots, (single family residences), will be serviced by the access.

Sheldon Pennoyer made a change to Number Three (3) of Burnham's Approval: It will now read, **"Relief from the requirements of 7.02(2j) and 7.02(4c3), the proposed Hammerhead at the intersection of the proposed driveways is deemed adequate for emergency vehicle turnaround."**

Brian Feener asked if Larry Graham, of H.L. Graham Associates had seen this plan. Chairman Pennoyer replied by informing the Board that Mr. Graham was contacted by Pennoyer to advise him on several questions he had involving the grade of the road. It was Mr. Graham's unofficial opinion that the road was basically flat, accessing two, single family dwellings, not requiring his Technical Review. It was noted, however, that the applicant would be required to hire a "clerk of the works" for overseeing construction of the road, and report to the Board.

Pat Dunn commented: "This is not a subdivision. This is a paper road. I do not see where there is a paper road allowed." She noted that "...she was not present for all of the discussion on this road. You are looking at a driveway for two homes...Do we have a full subdivision road... Do we have drainage...I can't believe that from years to come, that's going to continue to be land in there that's not desirable to build on...I'm not looking at this as a driveway with two homes and so much land to build on..."

It was noted that in the Approval of the Road, the lots are restricted to two. This Decision will be attached to the Plan at the Registry. Any future growth would require another Plan, and a Technical Review Agent, who will investigate any restrictions on this particular road.

Pat continued: "Are we approving this because of the two names?" She hoped not, and the Board did not think that this was the case. It was also noted that the Approval included some Denials of the Waiver Requests.

Westley Burnham noted that the applicant was still obligated within the confines of the regulations i.e. the requirements of the D.P.W regarding pavement.

Gil Guerin wanted to add to the discussion: "He understood Pat's concern..." Westley repeated his comments from the July 15th work session: "The process of the Subdivision Decision, Chapter 81, globally, was set up to allow a process to be put in place for development. It was not intended to prevent development...Bylaws set the minimum standards. The Subdivision Regulations, this particular set, are capable, if a development, an entire neighborhood were to be developed, you have specific crossroad sites, curbing, site distance, etc....This Regulation is for the maximum development... We have the

ability to adjust with the Waivers... This Approval allows two houses... If someone wants to put THREE house lots, this Approval is NULL and VOID..." (reference the introduction paragraph in the Approval section.)

Brian Feener felt that every subdivision that comes in should be consistent. Westley Burnham commented that each subdivision is different, and you cannot speculate on what would happen in the future. Feener felt that when you give waivers, that's exactly what you are doing. Chairman Pennoyer pointed out that "...This is what the waiver system is set up to do. No piece of land is the same. No subdivision is the same. That is the purpose of this tool, the waiver system... Look at the "K Value" waiver being asked for at Turtleback Road, and it's an appropriate waiver..."

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE AMENDED DEFINITIVE SUBDIVISION PLAN SUBMITTED ON MAY 6, 1998, FOR LAND OWNED BY WOODMAN/FOLSOM LOCATED OFF WESTERN AVENUE, (BOOK 6594, PAGE 458), ESSEX BASED ON THE FOLLOWING INFORMATION AND CONDITIONS:

Property owners of record are Leonard Woodman of Main Street, and David Folsom of Eastern Ave., both are residents of Essex, MA. The Applicant is Robert Bradley of 20 Millbrook Road, Beverly, MA.

No Preliminary Plan was filed.

After all required notifications and advertising, a Public Hearing was held on June 17, 1998 and closed that evening.

THE FOLLOWING WAIVERS FROM THE ESSEX PLANNING BOARD SUBDIVISION REGULATIONS ARE APPROVED:

These approvals are made based on testimony and information submitted to the Board indicating no more than two (2) house lots, single family residences, will be serviced by this access. Any deviation from the plan submitted and subsequent discussions shall require prior approval of the Board or approval of the following waivers shall be NULL and VOID.

1. Relief from 7.02 4.a.1 minimum width of right of way, 44 feet: At the intersection with Western Ave. a width of 42.59 feet is authorized to a point where 44 feet can be attained and maintained for the balance of the proposed roadway.
2. Relief from the requirement of 3.05 Access Adequacy, 12 foot wide pavement is authorized in lieu of the 16 foot gravel requirements for 10 or less dwellings. This relief is granted in conjunction with the Conservation Commission request for a 20 foot paved road, and we believe it to be a reasonable compromise. The pavement will continue the length of the subdivision road and include the turn around area for emergency vehicles at the end. All other construction standards shall be complied with.
3. Relief from the requirements of 7.02 (2j) and 7.02 (4c3), the proposed hammerhead at the intersection of the proposed driveways is deemed adequate for emergency vehicle turnaround.

4. **Compliance with 7.0.3 Drainage is waived except as follows: In accordance with 7.2 4g, 4h, 5 Grassed swales are approved for length of the roadway and meet the intent for controlled ground water recharge. The swales shall be constructed and maintained in such a way as to control the runoff and direct it to a discharge point on the applicant's property, minimizing any impact on neighboring properties.**
5. **Relief from 7.02 4.a.6b: Shoulders shall be granted to reasonable and appropriate for safe pass and repass of emergency type vehicles and be blended with the drainage swales.**
6. **Relief from the 7.01 (10) Requirement of Underground Utilities: The small size of the project and lack of similar construction method in the area deems this excessive.**
7. **Relief is granted from the following requirements: 7.02 Streets and Ways: 2b, 2c, 4.a.2b (see #2), 4.b, 4.c1 (see #1), 4I, 4j, 6, 7, 8; 7.05 Blocks, 7.06 Lots, 7.07 Monuments. These waivers are based on the small scale of the project and the applicant's intent to maintain the natural vegetation to the maximum extent possible.**
8. **Relief is granted from 6.04 Construction Plan Contents: The Definitive Plan and Road Profile contain adequate detail for this project.**

THE FOLLOWING WAIVERS FROM THE ESSEX PLANNING BOARD SUBDIVISION REGULATIONS ARE DENIED:

1. **Relief from 6.06(2) Performance Guarantee is DENIED. The procedure for maintaining a Performance Guarantee shall be complied with.**
2. **Relief from the requirements for a "clerk of the works". The procedure for maintaining an overseer of construction (clerk of the works) shall be complied with.**

THE FOLLOWING CONDITIONS ARE TO BE ATTACHED TO THIS PLAN AS PART OF THE APPROVAL:

1. **All Septic Systems shall conform to the requirements of the Essex Board of Health, and shall be approved prior to issuance of any building construction permits.**
2. **Town water shall be installed for the length of the Roadway, the 500 foot maximum distance between hydrants is waived in lieu of a single hydrant at the end of the roadway in the vicinity of the hammerhead turnaround. The Fire Department concurs with this waiver for a single hydrant. All water installations shall be in accordance with Dept. of Public Works Regulations.**
3. **This Plan was reviewed with the minimum requirements of "Single Family Dwellings" being met. Whereas this project is located within the Water Resource Protection District, any other use may or may not conform to the requirements and will be held to the requirements of 6-13 of the Essex Zoning Bylaws.**

4. A Covenant Agreement shall be attached to the two (2) lots created stating that this roadway is to be maintained as a private road; all maintenance costs incurred will be the responsibility of the owner or owners of record of the property.
5. In lieu of a street name, a Sign identifying the Lot Address numbers assigned to the Lots created shall be erected at the intersection of Western Avenue. This sign will be adequate for reasonable identification of the location to assist emergency personnel.

ENDORSEMENT OF THE APPROVAL WILL OCCUR AFTER THE FOLLOWING REQUIREMENTS HAVE BEEN MET:

A Performance Guarantee is in place and agreed to by both the Applicant and the Essex Planning Board. Said Agreement having been reviewed by Town Counsel, if the Board deems necessary.

An individual to act as 'Clerk of the Works' has been designated and agreed to by the Board. This individual will answer to the Board and will monitor construction IAW the approved Plan. A written agreement to fund this individual is submitted to the Board by the Applicant.

Written confirmation that No Appeals Have Been Filed with the Town Clerk within the statutory 20 day appeal period. The date for start of this time period will be when this Decision is filed with the Town Clerk.

THE MOTION WAS SECONDED BY BRIAN FEENER. A ROLL CALL VOTE WAS TAKEN, AS WHICH TIME, CHAIRMAN PENNOYER VOTES IN FAVOR OF THE MOTION, BRIAN FEENER VOTES IN FAVOR, GIL GUERIN VOTES IN FAVOR, WESTLEY BURNHAM VOTES IN FAVOR. PAT DUNN VOTES AGAINST THE MOTION TO APPROVE THE SUBDIVISION ROAD. THE MOTION PASSES.

LETTER BY H.L. GRAHAM ASSOCIATES FOR REQUEST OF ADDITIONAL FEES FOR REVIEW OF STORY HILL SUBDIVISION: Chairman Pennoyer reads the August 5, 1998 letter. The Board agrees to send the request for additional funding to the Applicant.

MOTION: WESTLEY BURNHAM MOVES TO FORWARD TO THE APPLICANT, THE AUGUST 5, 1998 LETTER REQUESTING ADDITIONAL FEES OF \$977.50. SECONDED BY BRIAN FEENER. THE BOARD VOTED UNANIMOUSLY TO SEND THE REQUEST.

MOTION: WESTLEY BURNHAM MOVES TO ACCEPT THE AUGUST 19, 1998 EXTENSION FOR MEETING, REQUESTED BY GATEWAY CONSULTANTS FOR THE STORY HILL SUBDIVISION. SECONDED BY GIL GUERIN. ALL MEMBERS PRESENT VOTED TO APPROVE THE EXTENSION.

MOTION: WESTLEY BURNHAM MOVED TO AUTHORIZE SHELDON PENNOYER TO WRITE TO THE APPLICANTS SHOULD THE PLANS BE READY BEFORE AUGUST 19TH, THE BOARD WILL REQUIRE AN ADDITIONAL THIRTY DAY EXTENSION TO PROPERLY REVIEW THE PLANS FOR THE DECISION. IF THE THIRTY DAY EXTENSION IS NOT REQUESTED, THE PLANS THAT ARE TO BE SUBMITTED FOR AUGUST 19TH WILL NOT BE ACCEPTED, AND THE BOARD WILL ACT ACCORDINGLY ON THAT EVENING, WITH THE PLANS THAT THE BOARD HAS ALREADY IN THEIR POSSESSION. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTED UNANIMOUSLY ON THE MOTION. THE MOTION PASSES.

WEEKLY MEETING REQUESTED BY THE CHAIRMAN: Due to the high volume of the present work load, Chairman Pennoyer suggested that the Board think about having weekly meetings starting this Fall. This would give the Board two weeks in the month to meet with appointments, and two weeks working on Planning Issues, with no appointments scheduled. The meetings would be public and posted. Pennoyer also noted that ~~some short site plan reviews.~~ *the Board may want to look at a shorter version of a site plan review by-law*

The Board, having no further Planning Business, adjourned the meeting at approximately 9:45 P.M.

Presented by: *Lisa Randall*
Lisa Randall, Admin. Assistant

Attested to: *George Stavros*
George Stavros, Clerk

Note: The next scheduled Meeting is for August 19, 1998 at 7:00 p.m. at the Scout House.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

WORK SESSION

WEDNESDAY, JULY 15, 1998

SCOUT HOUSE, PICKERING STREET

- | | |
|------------------|---|
| 7:00 P.M. | Minutes of 6/17/98 and 7/1/98 |
| 7:15 P.M. | Building Inspector's Report |
| 7:30 P.M. | Brief Discussion about Western Ave.
Subdivision of Bradley |
| 7:40 P.M. | Discussion of Story Hill Subdivision
(applicant requested extension of decision
until 8/5/98, and H.L. Graham Review
to be discussed by Board) |
| 9:00 P.M. | |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JULY 15, 1998
WORK SESSION**

PRESENT: Sheldon Pennoyer, Chairman, Westley Burnham, Brian Feener, George Stavros, Gil Guerin
ABSENT: Pat Dunn, David Jones

Chairman Pennoyer opened the meeting at approximately 7:00 P.M.

BUILDING INSPECTOR'S REPORT: Bob Nelson came to the Board with a site plan for Lloyd Waites, who purchased Lot 2 on Moses Lane, Hunter's Place Subdivision. (Off Wood Drive.)

MOTION: W.BURNHAM MOVES TO APPROVE THE SITING FOR LLOYD AND MEREDITH WAITES, FOR A NEW GAMBREL-STYLE SINGLE FAMILY DWELLING LOCATED AT 2 MOSES LANE, HUNTER'S PLACE SUBDIVISION, FINDING BOARD OF HEALTH APPROVAL, PENDING THE BUILDING INSPECTOR'S APPROVAL, CONSERVATION COMMISSION APPROVAL, AND PROVIDED THE DWELLING LOCATION IS IN ACCORDANCE WITH PROPOSED SITING INDICATED ON PLAN BY GATEWAY CONSULTANTS, INC. MAP DATED 4/24/97. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

143 EASTERN AVENUE - NEW ANTIQUE STORE: Gil Guerin asked Mr. Nelson if the new store was inspected. Mr. Nelson inspected the property; the owner lives at the location. The property was formerly a two-family dwelling. Parking was discussed, and it was noted that parking is available at the back of the property. The dimension of the sign was discussed. Mr. Nelson will continue to investigate the matter.

9 MILK STREET - INDOOR ARENA: Recently, Mr. Nelson sent a Memorandum to Mr. Shaw Butler to produce plans for improving a drainage problem at the indoor arena. Mr. Butler contacted Mr. Nelson and will be producing a plan to alleviate any drainage problems to abutting properties.

STORY HILL SUBDIVISION/OFF MARTIN STREET: Chairman Pennoyer discussed several concerns that Larry Graham, (the Town's Technical Review Agent) has regarding requirements of lot width, and a potential problem with a siting of a proposed septic system on one of the lots. A meeting between the Engineer for the Subdivision and the Town's Technical Review Agent may take place next week. No action was taken by the Board.

MAPPING - LAND USE DELINEATION: Chairman Pennoyer shows the Map he has been in the process of creating: It shows portions of the Town with Open Land (no restrictions), and Open Land showing Chapter 61 parcels, Conservation areas, multi-family, and some single-family lots. Chairman Pennoyer has delineated areas by a color-coded system.

Technical issues were discussed, and how the transfer of the map into a CAD System. Using Hardware and Software that the Town presently owned, and who would input the data, once created, was debated. It was apparent that the project would require many hours of data input.

Gil Guerin suggested that the Board have a work session at the Town Hall, and be able to access the location of each parcel, using the Assessor's Records.

After more discussion of how this process was going to be realized, Chairman Pennoyer will contact Tom Noble at the Board of Health for guidance, Westley Burnham would delineate single family and multi family residences, targeting home occupations, as well.

In closing, the Board will continue to work on their individual maps, returning to another workshop with the progress made.

PLANNING BOARD LAP TOP:

MOTION: GIL GUERIN MOVES TO AUTHORIZE THE ADMINISTRATIVE ASSISTANT TO THE PLANNING BOARD TO PURCHASE A LAPTOP AND NECESSARY SOFTWARE FOR THE PLANNING DEPARTMENT. PURCHASE NOT TO EXCEED TWO THOUSAND DOLLARS. SECONDED BY GEORGE STAVROS. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

EXTENSION DATE APPROVAL FOR STORY HILL SUBDIVISION: The Board received a request from Gateway Consultants, on behalf of the applicants of the Definitive Subdivision Application of the Story Hill Subdivision, to extend the decision period

MOTION: CHAIRMAN PENNOYER ENTERTAINED A MOTION TO ACCEPT THE EXTENSION DATE OF STORY HILL SUBDIVISION LOCATED AT 91 MARTIN STREET, MAP 36, PARCEL 79, 79a & 79B - SMB DEVELOPMENT TO AUGUST 5, 1998 AT 8:30 P.M. AT WHICH POINT THE PLANNING BOARD WILL HOLD A MEETING. THE MOTION WAS MOVED, SECONDED, AND UNANIMOUSLY VOTED.

SUBDIVISION OF WOODMAN/FOLSOM OFF WESTERN AVENUE: WORK SESSION REGARDING THE DECISION:

The Board discussed in detail the twenty feet wide pavement requested by the Conservation Commission which would prevent any siltation into the wetlands, which ultimately would occur if a gravel road is allowed. Some members of the Board felt that a twenty foot wide road, plus the drainage, was excessive. The total road length is 710± and is 42.59± wide. The Waiver List was read, which (#1. 7.02 Streets and Ways #4a.1. Minimum Width: The Applicant requests that the minimum width be waived at the **entrance** of the property off of Western Avenue from 44' to 42.59', running northerly to a point where the 44' width can be sustained and the balance of the Road will be 44' in width.) The Applicant also requests a Waiver from 6.02, 12. Drainage; The Applicant requests a waiver from the strict compliance with said section. This is a "driveway" serving two dwellings only. The Board noted that the Road services only two lots; potentially one more, located as Map 8, Lot 34. Gil Guerin read the D.P.W.'s comments: 1. Elevations are inconclusive, 2. There is no indications of drainage and without elevations, we cannot determine whether or not water from the 710' driveway will empty onto Western Ave. Calculations of water amounts that will drain from the driveway is needed. 3. The driveway must conform to the conditions stated on the permit which include a 12 foot opening at the roadway intersection and the property line and a 10 foot paved apron from the existing Town pavement. 4. The overall plan needs better detail. The D.P.W. suggests: Public water will be connected to the proposed dwellings but no hydrant is planned. The plan shows a hydrant at the end of an 8" water main which

extends from the Western Ave. up the center of the driveway to the cul-de-sac. A hydrant in the cul-de-sac is necessary.

The Board noted after reading each individual Waiver, the restriction to two single family dwellings will be stipulated in the Decision. Members of the Board were looking at the Road, and determining where the Road could potentially lead to, (i.e., potential further additions of dwellings). Westley Burnham stated that, "What this process is (The Subdivision Rules and Regulations, the Process for the Decision Made..), just to put it back into perspective. We don't build houses in the subdivision process, we create streets, we create access, such that people can build houses. The whole intent of this process is to take an open piece of land, and systematically create access and utilities, for the use of development. Whether it be commercial, industrial, or otherwise. This particular parcel is not conducive to more than two single family dwellings." The square footage of the lots was discussed. Chairman Pennoyer noted that the Board must also "...think, that when the houses are built, we have to think of the full impact." Burnham agreed, and noted that this road had to be looked at with a potential third lot to build. Therefore, restriction of two single family dwellings would be a part of the Decision. The By-laws of the Water Resource Protection District will also restrict the area (wetlands cannot be counted as upland area). The Waivers requested will impact the Decision, as well.

Any other additional lots created on the Road would not be allowed, unless the road was upgraded. Twelve feet of pavement for the whole road will be required. The Board felt that the paving would further direct the water far more than 16 feet of gravel, which was requested. Gravel roads have, in the past, been neglected by the owners of the road. How wide the road was to be paved was discussed. A fire hydrant will be added at the end of the road as requested by the D.P.W.

Waiver of 6.03, 6, 7, and 8 was agreed to.

(6.06, 2 & 4) The Performance Guarantee was not negotiable.

Waiver : 7.01, 6, (No Parks are planned); 10, (Electric and communications lines may be above-ground); 13, 14, and 15, (Grasses and natural vegetation are intended to be planted immediately with the construction).

Also noted in the Waiver List #10. The proposed roadway/driveway is intended to be less obtrusive than the minimum requirements. Grades and intersection angles are consistent with the rules and regulations. No extensive shoulders are to be provided except that which is required for the safe passage of car(s) and trucks traveling in opposite directions. No future extension of this roadway is contemplated except for the purposes of access to the proposed two dwellings. Cuts and fills proposed will not exceed Planning Board specifications for grades and sideslopes.

Specifically, the following waivers from 7.02 are requested: 2b, 2c, 2g, 4a2b (to 14' from 20' minimum); 4a6b, (minimal to leave undisturbed the natural occurring vegetation); 4a10, (to two inches); 4b, (No sidewalks); 4c1, (see waiver request #1, 7.02 Streets and Ways #4a.1. Minimum Width: The Applicant requests that the minimum width be waived at the entrance of

the property off of Western Avenue from 44' to 42.59', running northerly to a point where the 44' width can be sustained and the balance of the Road will be 44' in width); 4c3b, (Although round turn-around shown, a "Hammerhead" is requested (not paved); 4g, (The proposed roadway is crowned and to provide for sheet flow runoff. No piped drainage is proposed. No curbs or gutters are proposed); 4i&j, (Marginal planting shall consist of native vegetation); 4k, (Gravel specifications shall be met, no paving except for the first 20'(feet) from Western Avenue is proposed); 4l, (This is a driveway not a highway); 5, (No street drainage is proposed); 6, (No curbing is proposed); 7, (As the proposed roadway will function as a private driveway, no pedestrian and bicycle easements or amenities are proposed); and 8, (Native trees shall be allowed to grow insofar as they do not interfere with safe passage or maintenance of the roadway).

The Board repeated their experience of gravel roads and maintenance. The Board felt obligated to require paving. The Board discussed again, that if the road is to be paved at twelve feet wide, the Decision would remain at two single family homes only. If any additional homes are to access the road, the Road will be upgraded.

7.04, 1a, A hydrant WILL be required by the applicant.

Ownership of the Road: The road will be owned by Lot A, with an easement to Lot B, to access the Road. The frontage will be along a private street with access to a public street.

Drainage was discussed. The Board recognized that the drainage was an issue. It was agreed that the Decision would also include provisions to have the drainage directed away from any abutting properties. Drainage swales would be required.

In conclusion, Westley Burnham will draft a Decision for the Board at the next scheduled meeting, which is scheduled for August 5, 1998.

The Board, having no further planning business, adjourned the meeting at approximately 9:00 P.M.

Prepared by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested by: George Stavros
George Stavros, Clerk

Note: The next scheduled meeting is for Wed. Aug. 5, 1998 at the Scout House, Pickering St.

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, JULY 1, 1998**

- 7:00 P.M. MINUTES OF JUNE 17, 1998**
- 7:15 P.M. BUILDING INSPECTOR REPORT**
- Milk Street Property
 - Bld. Permit/ Etter/Smith
 - Bld. Permit/Osburn-2 Prospect Str.
- 7:30 P.M. JAMIE RICHARDSON – A N R**
- 7:45 P.M. OTHER PLANNING BUSINESS**
- Subdivision off Western Avenue – Discussion
See Memorandum from Conserv. Comm.
 - Graham Associates, Inc.
Invoices for Approval – Story Hill
- Hunter's Place
 - June 25, 1998 – MAPC Meeting – discussion
By Attendees
 - Payroll Voucher
 - Public Hearing Notices
 - 26 Maple Street (former Garcia Kimball)
 - Letter/Directory to Complete for Mass. Alliance
For Economic Development

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JULY 1, 1998**

Attendees: Pat Dunn, Westley Burnham, George Stavros, David Jones

Absent: Sheldon Pennoyer, Chairman, Brian Feener, and Gil Guerin

The meeting was held at the Scout House and was opened by Vice-Chairman, Westley Burnham at 7:15 P.M.

MINUTES OF JUNE 17, 1998: The Minutes will be Tabled until the next scheduled meeting.

BUILDING INSPECTOR REPORT: Etter/Smith - 8 Hardy's Lane: Building Application for Additional Room being added over kitchen, Attic space, converted to storage area. Has B.O.H. approval. Total coverage of the lot is 60x75. The nonconforming lot is not being increased; same footprint.

**GEORGE STAVROS MOVES TO AUTHORIZE THE BUILDING
INSPECTION TO APPROVE THE BUILDING PERMIT
APPLICATION FOR THE ETTER/SMITH APPLICANTS OF 8 HARDY
LANE FOR AN ADDITIONAL ROOM BEING ADDED OVER THE
KITCHEN, AND FOR ATTIC SPACE FOR STORAGE ONLY.
FINDING THAT UNDER 6-4.2 THAT THE CONSTRUCTION WILL
NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE
EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD.
SECONDED BY DAVE JONES. VOTING TO APPROVE WERE:
PAT DUNN, GEORGE STAVROS, DAVID JONES. WESTLEY
BURNHAM ABSTAINS FROM VOTING. THE MOTION PASSES.**

9 Milk Street/Indoor Arena - Drainage Issues: A Memorandum was given to Mr. Butler, the Board of Health, Conservation Commission, and Planning Board regarding the Drainage problems noted in previous weeks. It was realized that the rains have been especially heavy this month, but Mr. Nelson will still investigate the issue of water running onto abutting properties. Mr. Nelson will return to the Board with Mr. Butler's reply to his request for improvements.

Two Prospect Street/Osburn - Deck: The Board of Health approved the construction of a deck off the house with a three foot hatch for access to the septic system that is located underneath the structure being built. Mr. Nelson added that the property has the appropriate land area for the construction.

32 Lake Shore Drive/Wade - Adding Office/Den: Adding a second floor with office/den space with a bathroom, adding a bedroom. The Board examined the single family/home occupation use. Approval from Board of Health.

**MOTION: GEORGE STAVROS MOVES TO AUTHORIZE THE
BUILDING INSPECTOR TO ISSUE THE BUILDING PERMIT**

FOR MICHAEL WADE OF 32 LAKE SHORE DRIVE, LOT 45 AND 46, LOT SIZE 5,500 S.F. FOR THE ADDITION OF A SECOND FLOOR RELOCATING ONE BEDROOM, ADDING OFFICE SPACE AND ONE BATHROOM, FINDING THAT UNDER 6.4-2 THAT THE CONSTRUCTION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. SECONDED BY PAT DUNN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

JAMIE RICHARDSON-ANR/ISLAND ROAD: Changing of Lot Lines, only. Lot 1B will merge with Lot 2. It is being transferred to the abutter, Thornhill Farm Realty Trust. Lot 1B is not a legal building Lot. Book 3863, Page 363, Assessor's Map 22, Lot 13. Lot 1B - 20,427 s.f., Lot 1A - 56,386 s.f.

MOTION: GEORGE STAVROS MOVES TO APPROVE THE APPROVAL NOT REQUIRED FOR WM. H.W. RICHARDSON AND J.RICHARDSON OF ISLAND ROAD, BOOK 3863, PAGE 363, RECONFIGURING LOT LINES ONLY, NOTING THAT LOT 1B, 20,427 S.F., WITH ONE STRUCTURE-A BARN- NOTING THAT LOT 1B IS NOT A LEGAL BUILDABLE LOT, FINDING THAT THE CREATION OF LOT 1A BEING 56,386 S.F. HAS MORE THAN ADEQUATE FRONTAGE ON AN EXISTING WAY. THE LOT 1B IS BEING TRANSFERRED TO THE ABUTTER, THORNHILL FARM REALTY TRUST, ON A PLAN DATED JUNE 5, 1998 PREPARED BY RURAL LAND SURVEYS. SECONDED BY PAT DUNN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

SUBDIVISION OFF WESTERN AVENUE/FOLSOM AND WOODMAN/APPLICANT ROBERT BRADLEY: The Board will Table the matter until the absent members were present to be included in the discussion/decision process. The matter will be scheduled for 7:30 P.M. on July 15, 1998.

Note: The time frame for a Decision of a Subdivision is 135 days after the submission of the Definitive Plan.

H.L. GRAHAM ASSOCIATES/INVOICES FOR HUNTER'S PLACE AND STORY HILL: The Board signed the Invoices which will be submitted to the Town for Payment from the two Revolving Accounts.

26 MAPLE STREET, LOTS MAP 36, LOTS 34, 34A AND 34B: After a brief discussion about the Memorandum from the Board of Assessors which asked, "We are submitting for a review a copy of a plan dated March 10, 1992, and filed at the Registry of Deeds on June 22,

Page Three of Planning Board Minutes of July 1, 1998, continued...

1992, Plan Book No. 276, Page 4, for the above noted lots, a copy of an as-built foundation plan dated January 12, 1998, for Assessors Map 36, Lots 35, 34 and 34B, and copies of deeds conveying Assessors Map 36, Lots 34, 34A, 34B, and 35, to LLD Properties, Inc., Trustee of Essex Maple Realty Trust. As all the lots are joined as one, the Board of Assessor question how one undersized lot (Lot 34A) can be removed from the parcel, as shown on the as-built foundation plan." There were three lots merged, yet a new as-built foundation plan dated January 12, 1998 by a Gateway Consultants, Inc., Assessors Map 36, Lots 35, 34 and 34B (a parcel is missing). W.Burnham notes that they had permission to build on the parcel that there is a house presently on now. The Board of Health has approved a septic system on a newly acquired lot abutting the original parcel that the site was approved on. No action was taken; Westley Burnham will discuss the matter with the Board and the Chairman at a later date.

The Board, having no further business, Voted to adjourn the meeting at 8:45 P.M.

Presented by: *Lisa Randall*
Lisa Randall, Admin. Clerk

Attested to: *Steve K...*
Bob George Stavros, Clerk

Note: Next Scheduled Meeting on Wednesday, July 15, 1998



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX - PLANNING BOARD AGENDA WEDNESDAY, JUNE 17, 1998

- | | |
|------------------|---|
| 7:00 P.M. | MINUTES OF 5/20/98 AND 6/3/98 |
| 7:15 P.M. | BUILDING INSPECTOR'S REPORT |
| 7:30 P.M. | TURTLEBACK ROAD/P. VAN WYCK
Introduction of Engineer |
| 8:00 P.M. | PUBLIC HEARING OF SUBDIVISION
Woodman/Folsom: Off Western Avenue |
| 8:30 P.M. | CONT'D. PUBLIC HEARING OF THE
STORY HILL SUBDIVISION |
| 9:00 P.M. | PLANNING BUSINESS <ul style="list-style-type: none">• Administrative Items• Public Notices to read, initial• Town Meeting Minutes from May 1998 - read, initial• |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JUNE 17, 1998**

The meeting was held at the Essex Elem. & Middle School. Chairman Pennoyer opened the meeting at 7:06 P.M.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Brian Feener, Gil Guerin, Dave Jones and George Stavros.

MOTION: GEORGE STAVROS MOVES TO APPROVE THE MAY 20, 1998 AND JUNE 3, 1998 MINUTES, AS WRITTEN. PAT DUNN SECONDED THE MOTION. ALL MEMBERS VOTED TO APPROVE THE MOTION.

BUILDING INSPECTOR REPORT: Karen Bernier of 101 Western Avenue, Map 32, Lot 10, 15,000 s.f., for a deck 17x20. The deck will not increase the existing nonconforming lot.

MOTION: GEORGE STAVROS MOVES TO APPROVE THE BUILDING PERMIT APPLICATION FOR CHRISTOPHER AND KAREN BERNIER OF 101 WESTERN AVENUE TO CONSTRUCT A 17 X 20 DECK, FINDING UNDER 6-4.2 THAT THE CONSTRUCTION WILL NOT BE SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. SECONDED BY DAVE JONES. ALL MEMBERS VOTED TO APPROVE THE MOTION WITH THE EXCEPTION OF PAT DUNN, WHO ABSTAINED FROM VOTING.

MILK STREET INDOOR ARENA: The Board discussed with Bob Nelson the drainage problems, which have occurred since heavy rains last week. The flooding was draining down onto two particular neighboring back yards lots, according to Chairman Pennoyer. Two proposals were mentioned by Pennoyer: One was to dig up the road and set up a new culvert, or clean up the stream more than what has been done already. The Building Inspector will send a letter to the owner, Mr. Shaw Butler, making sure that the Board of Health, Conservation Commission and Planning Board receive correspondence relating to the request to resolve the drainage problems.

GAYBROOK GARAGE/CLASS II LICENSE: Mr. Stan Collinson came to the Board for permission to sell used cars at his Western Avenue Gas Station. The business is "grandfathered" and is already existing as a garage with repairs, and gas sales. The Board of Selectmen has issued the Class II License upon approval by this Board. Gil Guerin questioned whether or not this approval would be more detrimental than the existing use by adding cars for sale. W.Burnham noted that under 6-3.29a, the property is a *nonconforming use, preexisting* and is *consistent* with its present use. Mr. Collinson will be erecting a fence to separate the cars for sale, and repair cars from the main road.

MOTION: WESTLEY BURNHAM MOVED THAT THE BOARD HAS REVIEWED THE CLASS II APPLICATION FOR STAN COLLINSON OF GAYBROOK GARAGE. THE PRESENT USE IS GRANDFATHERED UNDER THE PRESENT ZONING BYLAWS. THE CLASS II USE WILL NOT SUBSTANTIALLY CHANGE THE PRESENT USE. SECONDED BY GEORGE STAVROS. ALL IN FAVOR OF THE MOTION WERE SHELDON PENNOYER, GIL GUERIN, BRIAN FEENER, DAVID JONES, WESTLEY BURNHAM AND GEORGE STAVROS. PAT DUNN ABSTAINS FROM VOTING. THE MOTION PASSES.

TURTLE BACK ROAD SUBDIVISION: Peter Van Wyck presented the Board a new Engineer on the project: Mr. Thomas Neve, Civil Engineer and Land Surveyor. Mr. Neve will be working on the subdivision road, aware of the Agreement for Judgement, the time factor, and will also work with Larry Graham, the Town's Technical Review Agent. Mr. Neve is working on a set of plans, using Larry Graham's report, and noted the recent changes approved by the Planning Board (Modification of the Agreement of Judgment dtd. April 15, 1998). Westley Burnham noted that those changes were the only deviations acceptable to the Board. Pennoyer agreed, unless there are minor changes in accordance with drainage issues. The deadline of the subdivision road completion is in October of this year. Mr. Neve will return to the Board on August 5th at 7:30 P.M. to bring forward a Plan.

PUBLIC HEARING OF SUBDIVISION OFF WESTERN AVENUE/FOLSOM AND WOODMAN OWNERS, APPLICANT ROBERT BRADLEY. Chairman Pennoyer opened the Public Hearing at 8:00 P.M. George Stavros, Clerk read the Public Hearing Notice. The D.P.W. and Board of Health submitted comments. A letter from Michael Davis and Natalina Davis wrote to state that they had no objections to the subdivision of land of Folsom and Woodman who abut their property on Western Ave. Application requests proposed development consisting of construction of two single family dwellings and required on-site utilities. Landscape type is Wooded Plain. Minimal clearing is proposed to site the buildings and to install waste disposal system. An overgrown, preexisting, access road from Western Ave. is being cleared to affect access to the site. Driveway construction will be mainly along the preexisting roadway. No Waivers from Appendix A are requested. (See Attached List of Waivers.)

Robert Bradley has Drainage Calculations that will be forwarded to the Planning Board. He plans to build one house for himself, and sell the other lot. He is proposing that the roadway be a driveway, the first twenty feet be paving and the rest be lint-pack. Gil Guerin noted that the drainage calculations be noted as impervious material for the hottop. 3" of lint-pack and six inches of gravel. Bradley noted that if the whole roadway were paved, the drainage calculations would be a far greater issue. Gil Guerin stated that paving the roadway was in his opinion, the way to go, considering the past experiences with other subdivision roads that did not pave.

Joseph Wakeman, an abutter, noted that he had no objection to the proposed subdivision. Jonathan Janes, who has the Essex Storage Business on 227 Western Ave. stated that he is also in support of the Subdivision, but wants to be on the record to publicly state that his existing business must be well-lit at all times, and must be plowed with the winter storms. It is understood by Mr. Bradley, Folsom, and Woodman, that this is the case. Mr. Janes will receive a copy of the approved Minutes of this evening, as well as the final Decision of the Subdivision.

The Board stated that they were waiting from the Conservation Commission's Comments, and the Drainage Calculations from the Applicant. Burnham moved to close the Public Hearing noting the above.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING FOR SUBDIVISION OFF WESTERN AVENUE, OWNERS DAVID FOLSOM AND LEONARD WOODMAN, APPLICANT IS ROBERT BRADLEY. SECONDED BY GIL GUERIN. VOTING TO APPROVE THE MOTION: CHAIRMAN PENNOYER, W.BURNHAM, D.JONES, G.STAVROS, G.GUERIN, B.FEENER. PAT DUNN VOTES PRESENT. THE MOTION PASSES.

CONTINUATION OF PUBLIC HEARING OF STORY HILL SUBDIVISION: Chairman Pennoyer opened the Public Hearing, and the Clerk read the notice. John Judd gives the Board copies of a revised plan with drainage calculations. Larry Graham would not be present for the hearing this evening, but would have the materials hand-delivered the next day. John Judd of Gateway Consultants noted that the changes included elimination of one lot (lot4), and re-alignment of the road, vertically. Closed drainage system is proposed, with curbing on the road, and a detention basin adjacent to

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Fax #	281-5748	Fax #		

Page Three of Planning Board Minutes of June 17, 1998, continued...

Martin Street and the proposed roadway. Some grading has been straightened out. Four waivers listed on the cover sheet requested that no sidewalks be added, a waiver for street lighting, and street slope grading and street trees. A re-alignment of the cul-de-sac has been added, as well. Mr. Graham's comments have been addressed, sheet by sheet. The sites of the dwellings have been closer to the road to decrease the drainage going toward the abutting properties. A dry well has been installed to mitigate drainage (toward Prospect St., S.E. direction).

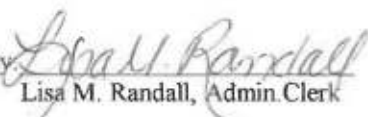
Mark Osburn asked if the drainage would change, or be any worse than it is now. Pennoyer mentioned the "no cut" zone for some of the trees on the properties could be requested by the Board, and H.L. Graham Associates would be presenting the Board with the technical review of this revised plan.

In conclusion, the changes to the Definitive Plan were deemed to be less of an impact than the original presentation. The required Town Departments will receive a Memorandum about the proposed changes and copies of the Plan will be distributed upon request.

MOTION: PAT DUNN MOVED TO CLOSE THE PUBLIC HEARING OF STORY HILL SUBDIVISION AT 9:00 P.M. SECONDED BY GEORGE STAVROS. ALL MEMBERS VOTED TO APPROVE THE MOTION TO CLOSE THE HEARING.

PLANNING BUSINESS: MAPPING/CODING: Pennoyer distributed Maps of the Town of Essex with a request to delineate as many of the "zoning" areas as possible. The Board is endeavoring to decipher locations of Businesses, Commercial Properties, Open Space, Farms, Conservation Land, Two Family Dwellings, Etc. The Board will schedule time during the Work Session on July 15, 1998 to compare distinctions.

The Board, after reading the Public Notices, and noting no further business, Voted to adjourn the Meeting at 9:30 P.M.

Presented by: 
Lisa M. Randall, Admin. Clerk

Attested to: 
George Stavros, Board Clerk

Note: The next scheduled meeting is for Wednesday, July 1, 1998 at the Scout House.

May 6, 1998

Essex Planning Board
Town Hall
Martin Street
Essex, MA 01929

Re: Definitive Subdivision Plan for Land Off Western Avenue owned by
Woodman/Folsom... Book 6594, Page 458.

Dear Mr. Chairman:

The proposed development consists of construction of two single family dwellings and required on-site utilities (septic system). (Septic Plans are currently being planned, subsequent to the numerous testing already performed (Perc test(s) etc.)).

The landscape type is Wooded Plain. Minimal clearing is proposed to site the buildings and waste disposal system(s). An overgrown, preexisting, access road from Western Avenue is being cleared to effect access to the site. Driveway construction will be mainly along the preexisting roadway.

The proposed use seems entirely consistent with the planning goals of the Town of Essex, and will result in the development of two lots from a total acreage of 5.49 acres, one being acres and the other acres.

No waivers from Appendix A are hereby requested.

To follow is a narrative of the Waivers which are requested regarding the Definitive Subdivision Plan submitted by Robert Bradley (the prospective purchaser) for the above-mentioned property:

1. 7.02 Streets and Ways #4a.1. Minimum Width: The Applicant requests that the minimum width be waived at the entrance of the property off of Western Avenue from 44' to 42.59', running northerly to a point where the 44' width can be sustained and the balance of the Road will be 44' in width.
2. 6-01, I, K and L.
3. 6.02, 4. Regarding naming the street; NO Name is anticipated.
4. 6.02, 12. Drainage; The Applicant requests a waiver from the strict compliance with said section. This is a "driveway" serving two dwellings only.
5. 6.03, 5. The only intersection is that of Western Ave. and the proposed Driveway.

6. 6.03, 6, 7 and 8; No catch basins, manholes, pipes and other drainage, or sidewalks are planned to be constructed;

7. 6.04 in its entirety...;

8. 6.06, 2 & 4; Performance guarantee...

9. 7.01, 6, (No Parks are planned); 10, (Electric & communications lines may be above-ground); 13, 14, and 15, (Grasses and natural vegetations are intended to be planted immediately with the construction).

10. The proposed roadway/driveway is intended to be less obtrusive than the minimum requirements. Grades and intersection angles are consistent with the rules and regulations. No extensive shoulders are to be provided except that which is required for the safe passage of car(s) and trucks travelling in opposite directions. No future extension of this roadway is contemplated except for the purposes of access to the proposed two dwellings. Cuts and fills proposed will not exceed Planning Board specifications for grades and sideslopes.

Specifically, the following waivers from 7.02 are requested: 2b, 2c, 2g, 4a2b (to 14' from 20' minimum); 4a6b, (minimal to leave undisturbed the natural occurring vegetation); 4a10, (to two inches); 4b, (No sidewalks); 4c1, (see waiver request #1 above); 4c3b, (Although round turn-around shown, a "Hammerhead" is requested (not paved)); 4g, (The proposed roadway is crowned to provide for sheet flow runoff. No piped drainage is proposed); 4h, (No curbs or gutters are proposed); 4i&j, (Marginal planting shall consist of native vegetation); 4k, (Gravel specifications shall be met, no paving except for the first 20' (feet) from Western Avenue is proposed); 4l, (This is a driveway not a highway); 5, (No street drainage is proposed); 6, (No curbing is proposed); 7, (As the proposed roadway will function as a private driveway, no pedestrian and bicycle easements or amenities are proposed); and 8, (Native trees shall be allowed to grow insofar as they do not interfere with safe passage or maintenance of the roadway).

11. 7.03, (Drainage shall consist of sheet flow from the crowned gravel roadway. No piped or directed drainage is proposed).

12. 7.04, 1a, (A Hydrant is located on Western Ave. in front of the property abutting the Premises herein to the East. Although public water will be connected to the proposed dwellings, no Hydrant is planned); 1b, (Installation will be made with the cooperation and participation of the Town DPW, not necessarily by them); 2b, (Not applicable).

13. 7.05.; (Not applicable, no blocks or additional lots are proposed).

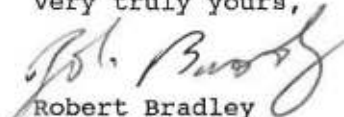
14. 7.06, (The proposed development consists of two single residential lots and a waived access roadway); 4, (The frontage will be along a private street with access to a public street); 6, (Lot lines have followed the outline of the entire 5.49 acres as it abuts neighboring property owners); 7, (Not applicable).

15. 7.07. (No monumentation is proposed, the roadway ownership will remain with the applicant and will be transferred appurtenant to one of the Lots created. Rights to pass and repass shall be granted and defined in the Deed to the remaining lot.

Page three of three.

The Applicant respectfully requests that the preceding be waived as requirements for this submission.

Very truly yours,


Robert Bradley

cc: L. Woodman
D. Folsom
R. Bradley
File...



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA WEDNESDAY, JUNE 3, 1998

- | | |
|----------------------------------|--|
| 7:00 P.M. | MINUTES OF MAY 20, 1998 |
| 7:15 P.M. | BUILDING INSPECTOR REPORT |
| 7:30 P.M. | CLAY MORIN, ENG./ BRINGS PLANS FOR
SUBDIVISION OFF JOHN WISE AVENUE,
PROPERTY OF CRAIG DOYLE |
| 7:45 P.M. | CLAY MORIN, ENG. / PIKE BUILDING ON
WESTERN AVE. FOR ADDITION, OWNER:
JIM CONWAY |
| 8:15 P.M. | PUBLIC HEARING ON STORY HILL
SUBDIVISION (CONT'D. FROM 5/20/98) |
| 9:00 P.M. | DECISION OF SCOT'S WAY SPECIAL
PERMIT, LOT 3 AND LOT 4 - DISCUSS
DRAFT OF DECISION, POSSIBLE VOTE |
| OTHER PLANNING
ISSUES | *ARENA ON MILK STREET - ADDRESSING
CONCERNS OF SOME RESIDENTS
*MAIL
*BILLS PAYABLE/PAYROLL
*PUBLIC HEARING NOTICES - READ
*LETTER FROM BROOK PASTURE LAND
RESIDENTS REGARDING THE ROAD
*LETTER TO DUNN, RE: WOOD CUTTING
BUSINESS |

**TOWN OF ESSEX PLANNING BOARD – MINUTES
WEDNESDAY, JUNE 3, 1998**

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, George Stavros, Brian Feener and Gil Guerin

Absent: Dave Jones

The meeting was held at the Essex Elementary School and was opened at approximately 7:10 P.M.

BUILDING INSPECTOR'S REPORT/ Indoor Arena on Milk Street: Discussion about the size and drainage of the arena recently built on Milk Street gave the Board the chance to hear from the Building Inspector, Bob Nelson about the property. Before discussion by Mr. Nelson, Chairman Pennoyer stated that the applicant should have gone through the Special Permit process as the Choate Street Riding Arena had. This was an error, felt Pennoyer. W. Burnham disagreed. Mr. Nelson stated that Mr. Butler, the owner, would bring a certified plot plan to the Planning Board. The size arena meets the criteria for the setbacks. After meeting with the Planning Board previously, the building had been expanded (16' longer) and approved by the Building Inspector for this expansion. While the building was being erected, the potential runoff from the roof of the arena became a concern to an abutter. Mr. Nelson pointed out that the drainage and runoff is being routed onto Mr. Butler's property. The impervious area created by that building is quite substantial. Drainage is an impact to the neighbors and it is not allowed to go onto an abutting property not owned by the applicant. Mr. Nelson agreed, and noted that Mr. Butler is clearing out a drain pipe that goes under the Milk Street road and across onto Mr. Butler's property. Mr. Nelson will also stay on top of this project. The Board felt that the Conservation Commission and Board of Health ought to investigate the matter, as well. George Stavros will look into the matter with the Chairman of the Conservation Commission, and the Board of Health will be contacted. No action was taken on the matter, and a resident, Mrs. Coose, of 30 Forest Avenue, was present to make the Board aware of her concerns about the possible drainage onto her property. The Board would get a determination from the Building Inspector about any drainage concerns after the building was finished.

SPECIAL PERMIT DECISION OF LOT #3 AND LOT #4 OF SCOTT WAY: Westley Burnham gave the Board copies of a draft Decision of Lots 3 & 4 to read and comment on before voting on the two permits to allow for two buildings, artificial recharge drainage systems, and parking. A public hearing was held on April 1, 1998 (reference Minutes for that date). George Stavros noted that the Conservation Commission has several conditions to meet on this Permit, as well. The draft is similar to the one that was approved on Lot #1, Scott Way. After the Board discussed the draft, the Chairman entertained a Motion.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE SPECIAL PERMIT OF LOT #3, SCOTT WAY, FOR PMC REALTY TRUST OF 239 WESTERN AVENUE FOR THE PROPOSED CONSTRUCTION OF A COMMERCIAL BUILDING ON LOT #3, IN ACCORDANCE WITH THE PLAN SUBMITTED FOR ARTIFICIAL RECHARGE STORMWATER IN ACCORDANCE WITH THE TOWN OF ESSEX BYLAW 6-13.3b.7. SECONDED BY PAT DUNN. VOTING TO APPROVE THE MOTION WERE: CHAIRMAN PENNOYER, WESTLEY BURNHAM, PAT DUNN, BRIAN FEENER, GIL GUERIN. VOTING PRESENT: GEORGE STAVROS. THE MOTION IS APPROVED WITH THE CONDITIONS ALSO RECOGNIZED BY THE CONSERVATION COMMISSION.

(NOTE: PLEASE SEE COPY OF DECISION OF LOT #3, ATTACHED)

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE SPECIAL PERMIT OF LOT #4, SCOTT WAY, FOR PMC REALTY TRUST OF 239 WESTERN AVENUE FOR THE PROPOSED CONSTRUCTION OF A COMMERCIAL BUILDING ON LOT #4, IN ACCORDANCE WITH THE PLAN SUBMITTED FOR ARTIFICIAL RECHARGE STORMWATER IN ACCORDANCE WITH THE TOWN OF ESSEX BYLAW 6-13.3b.7. SECONDED BY PAT DUNN. VOTING TO APPROVE THE MOTION WERE: CHAIRMAN PENNOYER, WESTLEY BURNHAM, PAT DUNN, BRIAN FEENER, GIL GUERIN. VOTING PRESENT: GEORGE STAVROS. THE MOTION IS APPROVED WITH THE CONDITIONS ALSO RECOGNIZED BY THE CONSERVATION COMMISSION.

(NOTE: PLEASE SEE ATTACHMENT OF DECISION OF LOT #4)

CLAY MORIN, ENGINEER FOR CRAIG DOYLE: Mr. Morin came to the Board for discussion about a subdivision of Craig Doyle's property. Soil testing needed to be completed, and there is a list of waivers being proposed. Lot C-2 is 35, 000s.f., and Lot C-1 is 2.5 acres. The existing house has a failed system. There was a question to whether or not the subdivision could propose a shared or common septic system. W. Burnham felt that the BOH would not agree to a shared system on a subdivision. Clay Morin would discuss the matter with Brendhan Zubricki of the BOH. Mr. Morin continued with a question to whether or not a 44-foot width of the road could be waived. It was done previously on another subdivision; therefore it was a possibility. One lot would use the frontage on the new road, and the other lot's frontage would be used on John Wise Avenue. After the soils were tested, the applicant would return with a preliminary with a list of waivers for the Board to consider. Pat Dunn noted that if the Board was going to approve the subdivision road for two lots that would be fine. But if the road ever service other lots in that area using that road. If this were ever to be the case, the process would have to be repeated. The road would need to be upgraded to service extra lots. No action was taken.

CLAY MORIN, ENGINEER FOR 174 WESTERN AVE., E.J. REALTY TRUST, and JIM CONWAY: Mr. Conway owns the building for light assembly of mezzanine safety gates. The applicant came in with two concepts of an addition and parking area. 105,082 s.f. has wetland area, the configuration upland area is 56,000 s.f. The present footage of impervious area is 9,124, which is 15.6 percent as it exists. One was for a building to be built next to the existing building. The existing building would house the business of the safety gates and the new building would be for law offices for Mr. Conway and his wife. No fabrication, no painting. Since this would expand the fifteen- percent coverage, a special permit would need to be approved, with control the quality of runoff, and recharging the water runoff. The buildings would be a total square footage of 7,300. The applicant wanted gravel, but the Board noted that in this area, the Conservation Commission would require pavement. The engineer mentioned that they were proposing a "Holland Swale" for the recharging of runoff. The EPA gave this system a nation wide top award. Another concept would be to build an addition to the existing building, which the Board did not see as advantageous to the residential neighborhood. No action was taken; the applicant would return with the documentation for a Special Permit at a later date.

STORY HILL SUBDIVISION: The Public Hearing was opened at 8:15 p.m., and the Chairman read the Notice. John Judd was given a copy of a letter from Town Counsel that addressed a question from the Building Inspector as whether or not minimum lot frontage can be met by combining the frontage on two non-contiguous public ways. Town Counsel said, "no". (Please reference the attached letter by Brian Cassidy, Esq.) The issue of double frontage was discussed at length and the letter was given to interested residents present at the meeting. Drainage back toward Prospect Street was discussed at a site walk that took place on May 30, 1998 at 9:00 a.m. It was suggested that the runoff from the construction, and the

impervious area be directed back to the proposed "Evan's Way", where it would then be discharged by a drainage system. John Judd noted that the applicant was here this evening to get direction from the Board and Larry Graham. It seemed that after the site walk and the letter from Town Counsel, that a re-drawing would be necessary. Larry Graham also wanted the board to note that on page 3 of Town Counsel's letter, "...Until Parcel B (formerly Lot 2) is reconfigured to meet condition of the 1989 variance decision that it have 150 feet of frontage, the Story Hill Subdivision plan cannot be approved the Planning Board." The Board was faced with a decision to either deny the present subdivision configuration and have the applicant re-submit, or allow the applicant to return with changes that conformed to the subdivision control law and Town bylaws. The applicant could also voluntarily redraw. John Judd, engineer for the applicant felt that a redrawing of the lots was done many times. Westley Burnham felt that this was more than a minor change. He felt that this was a whole reconfiguring, reshaping of all the lots and relocation of the houses. The BOH has commented, as well as other boards, for this particular subdivision. Larry Graham agreed with Burnham, but noted that either decision was acceptable. A withdrawal would necessitate a new application, etc. Pat Dunn felt that if the public hearing would be left open, the public is aware of these changes, why would they need to reapply. Burnham noted that this is a definitive submittal: Waive the fees and have the applicant withdraw without prejudice. Unless the configuration was kept basically the same. Pat Dunn wanted the public hearing to be left open. Pennoyer felt that the applicant should withdraw. John Judd mentioned several times that changes are made on other subdivisions he has done. George Stavros noted that Mr. Judd could have come into the Board with a Preliminary Plan, which would have addressed the concerns before the fact. Bob Nelson suggested that that hearing be kept open. Sheldon Pennoyer recommended that the Public Hearing be kept open.

Linda Osburn of Lot 59, Prospect Street: She commented that the subdivision not create drainage problems for her property. She does not have a problem with water presently, on her land.

William O'Brien of 6 Prospect Street, Lot 60: He had the same issue with regard to drainage and did not want to see water problems on his property, as well.

Mr. Piper of 52 Western Avenue: An abutter of Lot 3, did not want a house up against the adjacent lots. John Judd noted that a reconfiguration would occur because of Town Counsel's letter. No access for a trail was to be designed at the time. (A trail that would allow children to cut through from Evan's Way onto Western Avenue, to get to school)

Jack Good of 85 Martin Street: He was very concerned about the drainage, as he had mentioned during the first public hearing. He has already spent a great deal of money to fix an ongoing drainage problem already existing.

The roadway profile was then discussed at length. John Judd proposed open (country type) drainage, but the Board and Larry Graham were adamant about having a closed drainage system for this road. Westley Burnham wanted to see a seventy-five foot reverse pitch away from the main road. Larry Graham noted that he felt that the eight percent grade did not allow for an open system the time to function. After technical conversation with the engineers, Larry preferred to see as much as 100 feet of three-percent grade or less. A combination of one or two alternative designs was discussed. In conclusion, the Board agreed to hold the public hearing open.

MOTION: WESTLEY BURNHAM MOVED TO HOLD THE PUBLIC HEARING OF STORY HILL SUBDIVISION OPEN UNTIL JUNE 17, 1998 AT 8:30 P.M. SECONDED BY PAT DUNN. IN FAVOR OF THE MOTION WERE: S.PENNOYER, W.BURNHAM, PAT DUNN, B.FEENER, AND GIL GUERIN. GEORGE STAVROS VOTES AGAINST THE MOTION. THE MOTION PASSES.

PLANNING BOARD BUSINESS: Gil Guerin began the discussion by asking the Board their opinions about drafting some changes in the zoning. If a sewer pipe came to the Town, the Board would need to propose some major changes to be in line with the affects of growth potential. Sheldon noted that the

Page Four of Planning Board Minutes of June 3, 1998, continued...

Board would be holding regular public meetings on the first Wednesday of each month, and on the third Wednesday of the month, planning issues would be discussed. Work sessions would take place to bring a plan to the Town showing the actual uses of the Town, or other action deemed necessary.

MOTION: GEORGE STAVROS MOVES TO SCHEDULE THE SUMMER MEETINGS AS EACH FIRST WEDNESDAY OF JULY, AUGUST, AND SEPTEMBER BE ALLOTTED FOR PUBLIC MEETING TIMES. THE THIRD WEDNESDAY OF EACH MONTH OF JULY, AUGUST AND SEPTEMBER BE FOR WORK SESSIONS ONLY, BEGINNING AT 7:00 P.M. TO 9:00 P.M. SECONDED BY PAT DUNN. THE MOTION WAS UNANIMOUSLY VOTED.

The Board, having no further business, adjourned the meeting at 9:30 P.M.

Presented by: *Lisa M. Randall*
Lisa M. Randall, Admin. Clerk

Attested to: *George Stavros*
George Stavros, Clerk

Note: Next scheduled meeting is June 17, 1998

**TOWN OF ESSEX, MASSACHUSETTS
PLANNING BOARD
ACTING AS SPECIAL PERMIT GRANTING AUTHORITY**

WEDNESDAY, JUNE 3, 1998

DECISION ON SPECIAL PERMIT

**TO: PMC REALTY TRUST
239 Western Avenue
Essex, MA 01929**

Affecting the rights of the owner, John and Priscilla Coughlin 239 Western Avenue, Essex, MA 01929, with respect to the use of premises on Lot #3, Scott Way, located on the West side of Scott Way, 900 feet from the Intersection of Western Avenue, record title standing in the name of PMC Realty Trust, 239 Western Avenue, Essex, MA 01929, by a deed duly registered in the Essex County—South Registry of Deeds in Book 12886, Page 112.

Notice is hereby given that following the public hearing on Wednesday, April 1, 1998 on the application in this case as to permit, the Board, as its meeting on Wednesday, June 3, 1998,

VOTED TO GRANT, the proposed construction of a commercial building to be located on Lot 3 of Scott Way. The accompanying plan prepared by Atlantic Engineering, dated 12/2/97, appears to meet the intent of the Town of Essex Bylaw 6-13.3.b.7 in that the plan submitted will artificially recharge stormwater runoff in such a way that will not degrade the surrounding groundwater.

The following conditions shall apply:

1. In accordance with Town of Essex Bylaw 6-13.3b.1 any building constructed or use proposed shall not exceed an estimated on-site sewage disposal flow of 750 gallons per day.
2. The total impervious coverage attributed to buildings, including main and all accessory buildings shall not exceed 4,860 square feet.
3. The total impervious coverage authorized for the remainder of the lot is 18,359 square feet. This total includes the existing roadway, all parking areas, walkways, culverts, etc. "Any material on the ground that does not allow surface water to penetrate." (Ref. Essex Bylaws definition 6-3.18)
4. No below grade loading docks will be permitted.
5. The property shall be used only for the following uses:
 - Light manufacturing.
 - Office space.
 - Research and development.
 - Storage/Warehouse.
6. In no event shall the property be used for the storage of any septic handling trucks or equipment or for the storage of any hazardous waste. Nor shall it be used for any use which has the potential of introducing noxious, hazardous, or unpleasant odors into the atmosphere.
7. The applicant shall produce a statement of approval from the Essex Conservation Commission stating their approval, and any conditions or restrictions which they require prior to this Special Permit becoming in full effect. Any additional conditions or restrictions shall be added to this permit as an addendum and filed with the Registry of Deeds accordingly.

8. An "As-Built" plan is to be filed with the Board showing all impervious coverage. This plan is to be in the Board's possession prior to occupancy by any tenants or transfer of title for this property.

Our finding is based on the testimony received at the Public Hearing held on April 1, 1998, and our own determination that the site meets the minimum requirements for commercial development.

The site is located within the "Water Resource Protection District" as defined in the Town of Essex Bylaws, and therefore is subject to extra scrutiny with regard to potential impact on available groundwater supplies.

Approval of this proposal is not to be interpreted as certification of the engineering solution by the Essex Planning Board (acting as the Special Permit Granting Authority). Any liability for inadequate performance of the proposed groundwater recovery system shall remain with the property owner.

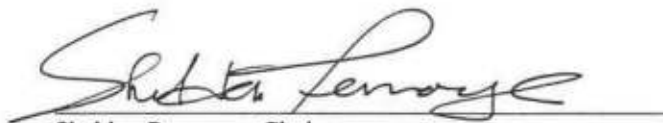
Approval of this plan does not constitute approval of any building siting, except that any building proposed to be built shall be located within the confines of the area delineated "proposed building". The proposed use and exact location of the building shall conform to the applicable Bylaws of the Town of Essex. This determination shall be made at a later date and time.

This Special Permit is not in effect until the applicant has filed a certified copy of the Decision with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this Decision will be available at the Essex Town Clerk's office and from the Essex Planning Board within ten (10) days of the date of this Decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A M.G.L., and shall be filed within twenty (20) days after the date of filing this Decision with the Essex Town Clerk.

**ESSEX PLANNING BOARD ACTING AS
SPECIAL PERMIT GRANTING AUTHORITY**


Sheldon Pennoyer, Chairman


George Stavros, Clerk

**CERTIFICATE BY THE TOWN CLERK FOR FILING
OF THE DECISION IN THE REGISTRY**

This is to Certify that Twenty (20) Days have elapsed since filing of the above Decision with this office and no appeal has been filed and denied in the case.

TOWN CLERK OF ESSEX, MASSACHUSETTS

**TOWN OF ESSEX, MASSACHUSETTS
PLANNING BOARD
ACTING AS SPECIAL PERMIT GRANTING AUTHORITY**

WEDNESDAY, JUNE 3, 1998

DECISION ON SPECIAL PERMIT

**TO: PMC REALTY TRUST
239 Western Avenue
Essex, MA 01929**

Affecting the rights of the owner, John and Priscilla Coughlin 239 Western Avenue, Essex, MA 01929, with respect to the use of premises on Lot #4, Scott Way, located on the West side of Scott Way, 1300 feet from the Intersection of Western Avenue, record title standing in the name of PMC Realty Trust, 239 Western Avenue, Essex, MA 01929, by a deed duly registered in the Essex County—South Registry of Deeds in Book 12886, Page 112.

Notice is hereby given that following the public hearing on Wednesday, April 1, 1998 on the application in this case as to permit, the Board, as its meeting on Wednesday, June 3, 1998,

VOTED TO GRANT, the proposed construction of a commercial building to be located on Lot 4 of Scott Way. The accompanying plan prepared by Atlantic Engineering, dated 12/2/97, appears to meet the intent of the Town of Essex Bylaw 6-13.3.b.7 in that the plan submitted will artificially recharge stormwater runoff in such a way that will not degrade the surrounding groundwater.

The following conditions shall apply:

1. In accordance with Town of Essex Bylaw 6-13.3b.1 any building constructed or use proposed shall not exceed an estimated on-site sewage disposal flow of 750 gallons per day.
2. The total impervious coverage attributed to buildings, including main and all accessory buildings shall not exceed 4,860 square feet.
3. The total impervious coverage authorized for the remainder of the lot is 18,359 square feet. This total includes the existing roadway, all parking areas, walkways, culverts, etc. "Any material on the ground that does not allow surface water to penetrate." (Ref. Essex Bylaws definition 6-3.18)
4. No below grade loading docks will be permitted.
5. The property shall be used only for the following uses:
 - Light manufacturing.
 - Office space.
 - Research and development.
 - Storage/Warehouse.
6. In no event shall the property be used for the storage of any septic handling trucks or equipment or for the storage of any hazardous waste. Nor shall it be used for any use which has the potential of introducing noxious, hazardous, or unpleasant odors into the atmosphere.
7. The applicant shall produce a statement of approval from the Essex Conservation Commission stating their approval, and any conditions or restrictions which they require prior to this Special Permit becoming in full effect. Any additional conditions or restrictions shall be added to this permit as an addendum and filed with the Registry of Deeds accordingly.

8. An "As-Built" plan is to be filed with the Board showing all impervious coverage. This plan is to be in the Board's possession prior to occupancy by any tenants or transfer of title for this property.

Our finding is based on the testimony received at the Public Hearing held on April 1, 1998, and our own determination that the site meets the minimum requirements for commercial development.

The site is located within the "Water Resource Protection District" as defined in the Town of Essex Bylaws, and therefore is subject to extra scrutiny with regard to potential impact on available groundwater supplies.

Approval of this proposal is not to be interpreted as certification of the engineering solution by the Essex Planning Board (acting as the Special Permit Granting Authority). Any liability for inadequate performance of the proposed groundwater recovery system shall remain with the property owner.

Approval of this plan does not constitute approval of any building siting, except that any building proposed to be built shall be located within the confines of the area delineated "proposed building". The proposed use and exact location of the building shall conform to the applicable Bylaws of the Town of Essex. This determination shall be made at a later date and time.

This Special Permit is not in effect until the applicant has filed a certified copy of the Decision with the Registry of Deeds. Certification that the twenty (20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this Decision will be available at the Essex Town Clerk's office and from the Essex Planning Board within ten (10) days of the date of this Decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A M.G.L., and shall be filed within twenty (20) days after the date of filing this Decision with the Essex Town Clerk.

**ESSEX PLANNING BOARD ACTING AS
SPECIAL PERMIT GRANTING AUTHORITY**


Sheldon Pennoyer, Chairman


George Stavros, Clerk

**CERTIFICATE BY THE TOWN CLERK FOR FILING
OF THE DECISION IN THE REGISTRY**

This is to Certify that Twenty (20) Days have elapsed since filing of the above Decision with this office and no appeal has been filed and denied in the case.

TOWN CLERK OF ESSEX, MASSACHUSETTS

RONAN, SEGAL & HARRINGTON

ATTORNEYS AT LAW

FIFTY-NINE FEDERAL STREET
SALEM, MASSACHUSETTS 01970-3470

(978) 744-0350
FAX (978) 744-7493

COPY

RECEIVED

JUN 02 1998

TOWN OF ESSEX
BOARD OF ~~PLANNING~~

FILE NO: 160.9A

Planning Dept.

JAMES T. RONAN (1922-1987)
JACOB S. SEGAL
MARY PIEMONTE HARRINGTON
GEORGE W. ATKINS, III
BRIAN P. CASSIDY

OF COUNSEL
HEATHER S. RAMSEY

June 1, 1998

FAXED and MAILED

TO: Robert Nelson
Building Inspector

FROM: Brian P. Cassidy
Town Counsel

SUBJECT: Subdivision Control Law - Adequacy of Frontage and Access
Story and Martin Street

You requested an opinion whether minimum lot frontage can be met by combining the frontage on two non-contiguous public ways. For the reasons set forth below the answer is **no**.

I. FACTS

In March of 1989 John W. Story was granted a variance from the minimum frontage requirements of the Essex Zoning By-law to allow the subdivision of a parcel of land located at 91 Martin Street into three lots. Lot 2 had 40 feet of frontage on Western Avenue and Lot 3 had 47.3 feet of frontage on Martin Street. The Zoning Board of Appeals (ZBA) decision imposed the following condition on its approval of the variance: "Any future subdivision of Lot 1 shown on said plan must provide adequate frontage for lots 2 and 3, in order to make them conforming lots under current zoning ordinances (150 feet)."

A subdivision plan entitled Story Hill Subdivision proposing to divide Lot 1 into three new lots and reconfigure Lots 2 and 3 has been submitted to the Essex Planning Board. The subdivision plan creates a cul de sac named Evans Way with five lots. Lot 3 from the 1989 ZBA decision, labeled as Parcel A on the Story Hill plan, has 150 feet of frontage on Evans Way and complies with the condition of the 1989 ZBA decision. Lot 2 from the 1989 ZBA decision, labeled as Parcel B on the Story Hill plan, has 110 feet of frontage on Evans Way. A new Lot 3 on the Story Hill plan has only 110 feet of frontage on Evans Way. Due to the shape of Lot 3, it is less than 110 feet wide at the 25 foot setback.

Both Parcel B and Lot 3, each have access to Western Avenue via a 40 foot wide neck. The question is whether the additional 40 feet can be combined with the 110 feet each lot has on Evans Way to meet the minimum frontage requirement. The answer is no.

II. FRONTAGE

It is a maxim of zoning that there can only be frontage on one street. Rohan, Zoning & Land Use Control, § 42.03 [1]. Both the Subdivision Control Law (G.L. c. 41, § 81P) and the Essex Rules and Regulations Relative to Subdivision Control (Essex By-laws, Appendix A, hereinafter referred to as "the Subdivision Rules"), provide that every lot in a subdivision shall have frontage on "a way". The term "a way" denotes only one way, not multiple ways. "Such frontage shall be at least such distance as is then required by zoning or any other ordinance or by-law of the Town." Subdivision Rules, Essex By-laws, Appendix A, Section 2, Definitions, p. 3. The Essex By-laws require a minimum lot frontage of 150 feet for single family residential lots. Essex By-laws, 6-6.2 (a) 1.

"Lot Frontage" is defined in the Essex By-law as follows:

"The front of the lot shall be construed to be the portion nearest the street. For purposes of determining yard requirements on corner lots, all sides of the lots adjacent to the streets shall be considered frontage and yards shall be provided as indicated under "yards" in this section."¹

The "rear" lot line "is the opposite and most distant from the front lot line." Under the Essex By-law, by definition, you cannot have two front lot lines, except for purposes of yard set backs in the case of corner lots. In this case neither lot is a corner lot.

¹ The By-law states that "Except as specifically designated herein, all words in this chapter shall carry their customary dictionary meanings." Essex By-laws, 6-3.1. "Frontage" is defined as "1. Linear extent of the front: the frontage of a lot. 2. The fact of facing a certain direction; outlook, exposure." Funk & Wagnalls New Comprehensive International Dictionary of the English Language, p. 508 (1973 Ed.).

A. Parcel B (formerly Lot 2)

The ZBA expressly conditioned the 1989 variance on Parcel B, formerly Lot 2, as having 150 feet of frontage on a way when Lot 1 was subdivided. As shown on the Story Hill Subdivision plan, Parcel B has 110 feet of frontage on Evans Way. This does not meet the condition set forth in the 1989 ZBA decision. Parcel B must meet that condition in order for Lot 1, as it appears on the 1989 Plan, to be subdivided. That is, the Planning Board **cannot** approve the pending Story Hill Subdivision plan unless Parcel B, formerly Lot 2 of the 1989 plan, is reconfigured to have 150 of frontage on a way.

B. Lot 3

Lot 3 is created from Lot 1, as it appears on the 1989 Plan. Lot 3 has 110 feet of frontage on Evans Way. Because of the configuration of Lot 3 it is less than 110 feet in width measure 25 feet back from the front lot line on Evans Way. It can be argued that since Lot 3 extends from Evans Way to Western Avenue, either side could be the frontage. That is correct, however only one side can be the frontage. As presently configured, neither meets the 150 foot frontage requirement.

Lot 3 cannot be a building lot, unless the owners obtain a variance because it does not meet the lot frontage requirement. In my opinion, it is doubtful that it can meet the legal requirements for a variance. The Massachusetts Appeals Court has held that "a landowner will not be permitted to create a dimensional nonconformity if he could have used his adjoining land to avoid or diminish the nonconformity." (emphasis added). Planning Board of Norwell v. Serena, 27 Mass.App.Ct. 689, 690 (1989) *aff'd*. 406 Mass. 1008 (1990). The owner of adjoining parcels cannot avail himself of this preexisting nonconforming lot exception unless he includes adjoining lots held in common ownership to minimized the nonconformity. Sorenti v. Board of Appeals of Wellesley, 345 Mass. 348, 353 (1963). The landowner can eliminate the non-conformity by creating four (4) lots on Evans Way which conform with the 150 foot frontage requirements.

III. CONCLUSION

Until Parcel B (formerly Lot 2) is reconfigured to meet condition of the 1989 variance decision that it have 150 feet of frontage, the Story Hill Subdivision plan cannot be approved by the Planning Board.

The owner has the capability to create a subdivision that conforms with the zoning requirement that each lot in the subdivision has 150 feet of frontage on a way.

cc Essex Planning Board ✓
Essex Board of Selectmen



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD
WEDNESDAY, MAY 20, 1998

7:00 P.M.

Minutes of May 6, 1998

7:15 P.M.

Building Inspector Report

*Discussion of proposed, light-precision grinding business off 67 Southern Ave.

7:30 P.M.

Scott Patrowicz for Steven Wedlock, Discussion of Old Manchester Road

8:00 P.M.

Public Hearing of Story Hill Subdivision

Other Planning Business

*Hunter's Place, letter by L. Graham

*Election of Officers

*Complaint of Dunn Woodworking at Western Avenue

*Public Hearing Notices

*Community Response Line, a new toll free information and referral serv.

*Land Court - Common Driveways

*Board of Appeals Decision at Wedgewood Pharm., re: Post Office

*No. Shore Reg. Planning - Meeting May 27th in Wenham

*Mail

*Bills Payable

copy to all Bd memb

copy to all Bd member

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 20, 1998**

Attendees: S.Pennoyer, Chairman, P.Dunn, D.Jones, Gil Guerin, and George Stavros
Absent: W.Burnham and Brian Feener

The meeting was held at the Essex. Elem. And Middle School and opened at approximately 7:15 p.m.

**MOTION: PAT DUNN MOVES TO APPROVE THE
MAY 6, 1998 MINUTES AS WRITTEN. SECONDED
BY DAVE JONES. VOTING IN FAVOR: P.DUNN,
D.JONES, S.PENNOYER. G.STAVROS VOTES
PRESENT. THE MOTION PASSES.**

(Gil Guerin enters, 7:30 p.m.)

BUILDING INSPECTOR/BOB NELSON: Adrienne Perry, for 67 Southern Avenue discusses a proposed use of a garage behind the home for a light precision grinding business. He was present to get input from the Board as well as neighbors. Mr. Perry was proposing to have five employees, build a bathroom, plant trees around the property to exclude any views from abutting houses, and hot top a path for parking. He noted that there would be no noise or external fans, but there would be a delivery truck no more than three times a week for small parts coming in and out of the garage. Sheldon Pennoyer read the *Home Occupation* under *Section 6-6 Land Use Regulations* stating that Mr. Perry exceeded the criteria required for a home occupation. It clearly stated that there shall be no more than two employees. Also noted was the lot coverage that would probably be exceeding a maximum 25 percent. Discussion continued on whether or not the home occupation or commercial use of the building has been abandoned. Bob Nelson noted that it would be difficult to contest this issue. Mr. John Killam of 43 Addison Street, an abutter, was opposed to the idea of the business. He felt that traffic on such a narrow street was already a problem. Mr. Cliff Ageloff of 44 Addison Street agreed that this proposed business was not an appropriate location, but if all of the home occupancy bylaws were being met legally, he would have to accept the decision. In conclusion, Mr. Perry went from the meeting understanding the process and was given a copy of the *Home Occupation* bylaw. No action was taken by the Board.

SCOTT PATROWICZ FOR STEPHEN WEDLOCK/OLD MANCHESTER ROAD: Mr. Patrowicz came to the Board for discussion only of plans for subdividing property off Southern Avenue. A plan would be presented for a subdivision road which would include a request for several waivers; one of them being the length of the road. No action was taken at this time.

HUNTER'S CIRCLE SUBDIVISION: Marilyn and John Heath appeared before the Board for a change in the Covenant regarding the subdivision approved in November of 1998. It was agreed that the Heaths would release one lot and secure an amount of \$14,000 for a cost estimate of the road and improvement construction. (See Larry Graham Letter dated May 18, 1998 for construction cost estimate.) Lot 1 would remain as part of the Covenant. A notarized letter with signatures of the Board reads: "The requirements for the construction of ways and municipal services, as described in the Covenant dated November 25, 1998 and recorded in the Essex South District Registry of Deeds, Book 14472, Page 576 has been partially completed to the satisfaction of the Essex Planning Board to adequately serve the enumerated lots shown as Lots 2, 3 and 4 on Plan entitled "Plan of Land, Map 4, Parcel 108, Wood Drive, Essex, Massachusetts prepared for John and Marilyn Heath, 83 Western Avenue, Essex, Massachusetts 01929" dated April 14, 1997, recorded with said Registry, Plan Book 320, Plan 49 and therefore, said Lots 2, 3, and 4 are hereby released from the restrictions as to sale and building specified in said Covenant." (See continuation of discussion for this applicant. A Motion is to follow, allowing the release.)

STORY HILL SUBDIVISION – PUBLIC HEARING: The hearing began at approximately 8:00 p.m., and Chairman Pennoyer read the public hearing notice. **John Judd of Gateway Engineering** gave a description of the definitive plan of "Story Hill Subdivision", which consists of five new house lots, including three parcels, on eight acres. The property is located off Martin Street. The approximately 550 feet of roadway, "Evan's Way", would include a cul de sac, servicing five proposed building lots. Each

Page Two of Planning Board Minutes of May 20, 1998, continued...

new home would be serviced by on-site disposal systems for septic and would gain access to town water. Proposed driveways in various configurations off of "Evan's Way", the roadway would be approximately twenty feet wide of pavement within a forty-four foot right of way. The Town's Technical Review Agent, Larry Graham, reviewed the proposal for country drainage. It was noted that there were some issues relating to this proposal, and Mr. Judd would be able to address this during the hearing.

Gil Guerin had a question about a parcel that was not included in the subdivision. Specifically, Mr. Guerin asked if the parcel was going to be built upon, and what the square footage included, and if this parcel was needed for the land area. The parcel, "Parcel A" and "Parcel B" had previously come before the Zoning Board of Appeals regarding the subdivision of this property. The property had limited frontage and did not meet the frontage requirements at that time. Under subdivision approval by the BOA, they required that the frontage be gained off a new road if and when the remainder of this lot is subdivided, the property shown as "Parcel A" is now showing the required frontage. At this time, they were not proposing to build on this property - it is owned by Mr. Story's son. The area is 1.25 acres. The proposed frontage off of this road comes to approximately 160 feet.

Mr. Pennoyer wanted it noted that the issues that exists with the downtown area with respect to septic problems, he felt that maybe this site would be suitable for a central system for septic. This was not feasible, however. Mr. Pennoyer felt that Prospect Street and Walnut Park has a different character and quality as to what types of buildings are built on them. They have homes, which face the front of the street, and streets that go through. Although Chairman Pennoyer was not recommending that this street go through (to the other side, to Western Ave.), but he was not in favor of the type of homes being proposed, which are a very different character from the rest of the neighborhood, being Walnut Park, Prospect St., and Martin St. He felt that maybe the road was proposed in such a way that would include as many lots as possible. The frontage on two of the lots that was taken from two different roads - Western Ave., and "Evan's Way". The "double-frontage" gives the subdivision five full lots.

Pat Dunn commented that the road and the type of homes did not necessarily fit the area. She did not see Chairman Pennoyer's point about the character of the homes. She did not agree that the subdivision had anything to do with the two streets on either side of the subdivision. Sheldon's point was reiterated concerning the character of the existing neighborhoods in relation to the placement of the proposed "Evan's Way" and the layout of the five lots.

Gil Guerin brought up the point that when new lots are being built, drainage issues upon the abutters is a major issue, including how the drainage will be flowing from "Evan's Way", onto Martin Street. As a planning board member, he was going to be very receptive to the issue of the drainage. Mr. Guerin also brought up the issue of "double frontage". He did not feel it was legal, but the Building Inspector, Bob Nelson, would be investigating this further. Mr. Guerin added further that this type of project should not be happening right now, in lieu of the fact that the "core area" of town is subject to the septic problems and management thereof. The type of homes was not an issue for him personally; it was the issue of the sewer problem, and drainage.

Larry Graham, Technical Review Agent for the Town, began his presentation of his review, noting that the hearing would remain open, as Chairman Pennoyer stated earlier in the Hearing. Mr. Graham did note that he was not clear as to whether the "double frontage" was allowed, but added that in 1989 the lot was one lot, Lot 79 and was divided into three lots, (Lot 1, Lot 2, and Lot 3) none of the three lots had the necessary amount of frontage, and the decision of the Zoning Board of Appeals was that if Lot 1 was ever further divided, that frontage would be given to the remaining Lots 2 and 3. The question he had with respect to the plan presented now and that decision with respect to the Lots (2 and 3) having combined frontage of one hundred and fifty feet is given to Parcel B (formally Lot 2) by giving one hundred and ten feet off Evan's Way and forty feet at Western Ave. Mr. Graham felt that it was the Zoning Officer's purview to interpret whether this was the intention of the Zoning Board of Appeals Decision. Further, Mr. Graham stated that what was then Lot 3, now known as Parcel A, a total of about one hundred and sixty feet of frontage on proposed Evan's Way and existing Martin Street, but it doesn't give the one hundred

and fifty feet along two of the streets. He was not fully concerned about that, Mr. Graham has seen many, many zoning bylaws that allow to include the entire frontage on the corner lot, some zoning bylaws say that you have to have it on both streets, some say that you have to have it (frontage) on one or the other. There are three possibilities there. In the proposed subdivision the designer has created Lot 3 by using the forty feet of frontage on Western Avenue, and the one hundred feet of frontage along the cul de sac of Evan's Way. Mr. Graham deferred to the Building Inspector for a decision on whether or not that is a legal lot under the Zoning Bylaws. Mr. Graham felt that neither Lot 3 or parcel B have the minimum lot width (25 feet). Parcel A does, however. Mr. Graham did have a concern about drainage that would come from off of the proposed road (Evan's Way), onto Martin Street. A twenty foot road is planned and on each side of that pavement is a two foot wide shoulder and 6 inches deep. The drainage would go to the stone shoulder and exfiltration beneath that stone shoulder and into the soil. Mr. Graham felt that the eight- percent grade and two percent side slopes would not allow the water to sit there long enough to create the exfiltration. He felt that the water would run through onto Martin Street. His other issues with the drainage were the site issues that were mentioned in three different areas. One was the drainage at the cul de sac would possible shed off across, onto Lot 2. Grading was fishing downward from the proposed house location and he was concerned about the Byman property, and either side of Byman (Map 36, Lot 60) and the Osburn property. Another concern was the overland flow from Lot 1 in the southeasterly direction toward Rutherford (Map 36, Lot 80) and as Parcel A might be divided and some flow across toward Finnon (Map 36, Lot 78). Mr. Graham suggested that some due considerations be given for some easements and swale, sediments, traps, some detention areas that will slow that water down and give it a chance to infiltrate into the ground. The Plan hasn't given anything with silt erosion and sediment control, which is required by the Regulations and DEP Storm Water Management Policy and standard practice and permitting for development. We need this for the construction and final build out (post construction). Mr. Graham suggests that the eight percent grades should consider curbs and conventional storm drains. After the collection, the water is going to have to be treated both for sediment and silt removal, and pollutant removals from roadway runoff. There is a beautiful culvert shown so that it doesn't end up washing across Martin Street - There has to be collection, clean up, detention and the ultimate discharge, which Mr. Graham describes as the boxed culvert. Mr. Graham's last main issue is Evan's Way comes down at eight percent grade, and the last 30 feet comes to a three percent grade. The regulations state that only fifty feet be required of a three- percent grade prior to the edge of pavement of Martin Street. Mr. Graham suggested that as much as 100 feet of three percent of grade or less be considered by the Board (realignment both horizontally and vertically). Waivers may be necessary to accomplish the longer leveling area at the base of the road. John Judd interjected and disagreed with Mr. Graham's calculations of the leveling area requirements. He stated that he has seventy-five feet of three percent, which is a leveling area acceptable in the regulations. In terms of the profile on sheet three of the plan, you can see the existing profile grade and the proposed profile grade, and may be looking at some excessive cuts if you increase this. He suggested a workshop session to show work being done on the grade.

Pennoyer mentioned the double-frontage issue, and if the building inspector finds that this is not allowable, and you down to the four (lots) it would, perhaps, open up some opportunities to do a couple things: One, the steep grading along the right as you go up along the road. Two: The houses not fronting the street, that the possibility of bringing the buildings closer to front the street by using buildable areas within the lots might open up the opportunity to also deal with this drainage problem on the lower side of this plan, because the houses set back from the road, there's no way to deal with the drainage that goes to the neighboring property. Closer houses will minimize the clearing. He felt that the work needed to fix the drainage and to construct the buildings would cause a lot of clearing. Mr. Graham stated that the sites of the homes are not necessarily where the building would be constructed. Once the Board approves the plan, the applicant could place the homes anywhere within the buildable section of the lots created. Soil testing may have been a factor of the placement of the sites. No waivers are requested, and John Judd was amendable to working with the Board and the neighborhood in planning this subdivision. He will work with the D.P.W. and Mr. Graham with issues of drainage, as well.

Chairman Pennoyer opened the hearing up to entertain discussion from concerned residents:

The **applicant, Scott Boches** said that he has come before the Board a few months ago and thought that the Board had told him that he already had frontage on (Lot 3), and could use the frontage of Western Avenue as the balance. He noted that there were not going to disturb the strip of land on Western Avenue to create a road or driveway. Gil reminded him that the Board was looking at this from a zoning perspective, and that it does show two fronts. Mr. Boches said that the way this strip of land was now, he was not even going to touch it (Lot 3). Gil Guerin did not remember the complete answer to this frontage issue, and felt that there were septic issues in town, he did not like the subdivision the way it looks. Sheldon was not opposed to the subdivision, but felt that there was a lot of tree cutting. John Judd noted that there could be some "no cut" easements on this subdivision. Also, the "double-frontage" issue was going to be addressed with Town Counsel. A site walk was proposed.

Mr. Brad White of Walnut Park was not opposed to the subdivision, but felt that the septic issue in the Town was a major issue. This subdivision would bring more of a burden to the Town, but his main concern was the drainage issue. He felt that the Board should spend time and be "tough as nails" when dealing with the run off. He has been a victim of a drainage problem before and found that land owners were on his or her own if there was ever a problem with the abutters' drainage. He was concerned of the grade of the road, as well.

Mr. Jack Good of 85 Martin Street was equally concerned about the drainage. He has spent a good deal of time and money to repair damage from run off of the abutting property. He has built a retaining wall, and has also passed his septic inspection and was worried that additional homes being built next to his property would cause run off from roofs, and parking area. The house to be built on Lot 1 would be abutting him. He wondered if the run off from this property fell onto his, would it affect his septic system. John Judd noted that he would work with all parties to be sure to detain the water.

MOTION: GEORGE STAVROS MOVES TO CONTINUE THE PUBLIC HEARING UNTIL THE JUNE 3, 1998 MEETING AT 8:00 P.M. SECONDED BY PAT DUNN. ALL MEMBERS PRESENT VOTED TO CONTINUE THE HEARING. THE MOTION PASSES.

SITE WALK FOR THE PROPOSED DEFINITIVE SUBDIVISION IS SCHEDULED FOR SATURDAY, MAY 30, 1998 AT 9:00 A.M. NO RAIN DATE.

HUNTER'S PLACE: The Heath's were asking the Board for permission to adjust the Covenant dated November 25, 1998 and release Lots 2, 3 and 4. The requirements for the construction of ways and municipal services have been partially completed to the satisfaction of the Board (with the opinion of Larry Graham, see letter in file). The Board will keep Lot 1 for insurance.

MOTION: GEORGE STAVROS MOVES TO APPROVE THE RELEASE OF LOTS 2, 3, AND 4 FROM THE RESTRICTIONS AS TO SALE AND BUILDING SPECIFIED IN THE COVENANT DATED 11/25/97 AND KEEPING OF LOT 1 IN SAID COVENANT, AS STATED IN PART OF THE RECOMMENDATIONS OF THE TECHNICAL REVIEW AGENT, LARRY GRAHAM OF GRAHAM ASSOCIATES. THE REQUIREMENTS FOR THE CONSTRUCTION OF WAYS AND MUNICIPAL SERVICES HAS BEEN PARTIALLY COMPLETED TO THE SATISFACTION OF THE BOARD TO ADEQUATELY SERVE THE ENUMERATED LOTS SHOWN AS LOTS 2, 3, AND 4 ON PLAN ENTITLED "PLAN OF LAN, MAP 4, PARCEL 108, WOOD DRIVE, ESSEX, MA, PREPARED FOR JOHN AND MARILYN HEATH, 83 WESTERN AVE., ESSEX, MA 01929" DATED APRIL 14, 1997 RECORDED WITH SAID REGISTRY,

**PLAN BOOK 320, PLAN 49. SECONDED BY DAVE JONES.
ALL MEMBERS PRESENT VOTED TO APPROVE THE
MOTION. THE MOTION PASSES.**

ELECTION OF OFFICERS: The Board discussed the election of officers for this year, and it was unanimously voted that Sheldon Pennoyer would remain as Chairman, and Gil Guerin serve as Co-Chairman. George Stavros was endorsed as the Clerk:

**MOTION: PAT DUNN MOVED TO APPROVE THE APPOINTMENT
OF SHELDON PENNOYER AS CHAIRMAN, GIL GUERIN AS
CO-CHAIRMAN, AND GEORGE STAVROS AS CLERK. DAVE
JONES SECONDS THE VOTE. ALL MEMBERS PRESENT
VOTED TO APPROVE THE MOTION. THE MOTION PASSES.**

(Pat Dunn removes herself from the table for the next discussion.)

DAVID DUNN'S WOODCUTTING BUSINESS OFF WESTERN AVENUE: The Board discussed a written complaint by Marguerite Collins of Patriots Landing. The letter was sent to the Selectmen's Office who in turn passed it on to the Planning and Board of Health Departments. She was concerned about noise coming from the business, especially on a Sunday, and concerns about the oil that may be going into the ground from the machines. The business was found to be "grandfathered", and the land-use was not in violation of the bylaws. The Board, however, frowned upon Mr. Dunn working there on a Sunday. It was also noted that excessive noise was the purview of the Board of Health. No action was taken; a letter may go to Mr. Dunn.

PLANNING ISSUES/DISCUSSION: Gil Guerin felt that it was necessary to begin planning workshops for action relating to Planning, Zoning, Lot Sizes, etc. Sheldon agreed, as the Master Plan was a goal for the Board. As the sewer treatment plans go underway for the Town, it was noted that a tight infrastructure would be necessary. The "core area" was discussed in length, specifically, what a septic treatment system would do to that area. Lot sizes could be decreased for that area only, and the planning issues for the rest of the Town were to be a future topic. It was determined that it would be necessary to adopt special workshops dedicated for planning issues only.

Site Plan Reviews: The Board discussed the need to possibly implement a "site plan review" before making decisions about building sites, etc. This would help the Board to better understand the projects proposed by applicants.

The Board decided to continue talks about special workshops at the next scheduled meeting, due to time constraints. Having no further business, the Board adjourned the meeting at approximately 9:50 p.m.

Prepared by:

Lisa Bendaef

Attested to:

[Signature]

The next scheduled meeting is for June 3, 1998.

Reminder: The site walk for Evan's Way is Saturday, May 30th at 9:00 a.m.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX – PLANNING BOARD AGENDA

WEDNESDAY, MAY 6, 1998

- | | |
|-----------|---|
| 7:00 P.M. | MINUTES OF 4/1 AND 4/15 |
| 7:15 P.M. | BUILDING INSPECTOR REPORT |
| 7:30 P.M. | CRAIG DOYLE/ DISCUSSION ABOUT
PROPOSED SUBDIVISION |
| 8:00 P.M. | PLANNING BOARD BUSINESS <ul style="list-style-type: none">• Story Hill Subdivision Update• Mail• Public Hearing Notices• Conomo Point Planning Update• Lot 3 and Lot 4 Scot's Way/Update• Payroll Voucher• Bills Payable Voucher• Grant/D.H.C.D. |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 6, 1998**

Attendees: S.Pennoyer, Chairman, W.Burnham, Dave Jones, Brian Feener, Gil Guerin, Joe Ginn
Absent: Pat Dunn

The meeting was held at the Essex Elem. And Middle School and opened at approximately 7:05 p.m.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE APRIL 1, 1998 MINUTES AS WRITTEN. SECONDED BY BRIAN FEENER. VOTING IN FAVOR: W.BURNHAM, S.PENNOYER, D.JONES AND B.FEENER. THE MOTION PASSES.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE APRIL 15, 1998 MINUTES AS WRITTEN. SECONDED BY DAVE JONES. VOTING IN FAVOR: W.BURNHAM, S.PENNOYER, D.JONES, AND BRIAN FEENER. THE MOTION PASSES.

(Joe Ginn enters.)

BUILDING INSPECTOR/BOB NELSON: Application of Mark and Thomas Shea of Shea Brothers, 242 John Wise Avenue, Map 21, Lot 5, Lot Size, 7 Acres. Demolish existing structure in need of major repair that is now 30x40, and replace with a two-story modular structure within the same footprint, being 28x40 and 28' in height. Has Board of Health approval and an approval from Conservation Commission, including an Order of Conditions.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE BUILDING PERMIT FOR MARK AND THOMAS SHEA OF 242 JOHN WISE AVENUE FOR DEMOLITION OF THE EXISTING 30X40 STRUCTURE, AND REPLACE IN ITS SAME FOOTPRINT A TWO-STORY 28X40 MODULAR BUILDING. THE APPLICANT HAS BOARD OF HEALTH APPROVAL AND AN ORDER OF CONDITIONS WITH THE CONSERVATION COMMISSION. FINDING THAT UNDER 6-4.2 OF THE ESSEX BYLAWS, THAT THE PROPOSED ALTERATION IS NOT SUBSTANTIALLY MORE DETRIMENTAL THAN THE EXISTING NONCONFORMING USE TO THE NEIGHBORHOOD. SECONDED BY DAVE JONES. ALL IN FAVOR: D. JONES, W.BURNHAM, B.FEENER, S. PENNOYER. JOE GINN VOTES PRESENT. THE MOTION PASSES.

VILLAGE MARKET: Mr. Nelson explained to the Board that the owners were proposing a window being constructed to serve as a take-out for ice cream. The Board did not see any problems about the proposed work; discussion only, no action was taken.

(Gil Guerin enters.)

CRAIG DOYLE/SUBDIVISION OFF JOHN WISE AVENUE: Mr. Doyle came to the Board for discussion about a proposed two lot subdivision off John Wise Avenue. A plan surveyed by James L. Klopotoski, PLS. Of Survey Assoc. and engineered by Morin Eng. Shows two lots, Lot C-1 being 2.4155 acres with an existing dwelling, and Lot C-2 being 33,524 s.f., with a proposed 44' way at 170 John Wise Avenue. Lot C-2 will have a right of way easement. During the May 20th meeting, Mr. Doyle will return with an application for a definitive plan. A public hearing will be scheduled at that time.

(Gil Guerin removes himself from the table for the next discussion only.)

ROBERT BRADLEY, APPLICANT FOR SUBDIVISION OFF WESTERN AVENUE: Attorney John Guerin formally submits a Definitive Subdivision Plan by applicant, Robert Bradley of 20 Millbrook Road, Beverly, MA 01915. Owners of the land are Leonard Woodman of Main Street, Essex, and David Folsom of Eastern Ave., Essex. Book 6594, Page No. 458, approximately 5.49 acres, Location and description of property is for Lots 1 and 2 and area encompassing roadway as shown on the accompanying plan entitled, "Definitive Subdivision in Essex", dated 4/14/98 by Vernon J. LeBlanc, PLS., of 161 Holton Str., Danvers, MA 01923. Attorney Guerin submitted the required amount of copies of the application, the plans, the abutters list, and the fee required for the frontage created on the road. Several waivers have been requested (please see attachment to these Minutes.)

MOTION: WESTLEY BURNHAM MOVES TO HOLD A PUBLIC HEARING FOR THE DEFINITIVE SUBDIVISION PLAN FOR ROBERT BRADLEY, APPLICANT, OF 20 MILLBROOK ROAD BEVERLY, MA, FOR PROPOSED SUBDIVISION PLAN OF LAND OFF WESTERN AVENUE OWNED BY LEONARD WOODMAN AND DAVID FOLSOM, BOOK 6594, PAGE 458. SAID PUBLIC HEARING WILL BE SCHEDULED FOR WEDNESDAY, JUNE 17, 1998 AT 8:00 P.M. SECONDED BY DAVID JONES. IN FAVOR OF THE MOTION WERE: W.BURNHAM, S.PENNOYER, D.JONES, B.FEENER AND JOE GINN. GIL GUERIN VOTES PRESENT. THE MOTION PASSES.

STORY HILL SUBDIVISION: The Board made note that H.L. Graham Associates, Inc. will be present for the May 20th public hearing for Story Hill. Also, the revolving account has been established for payment for Technical Review Agent expenses. The Board of Health and the D.P.W. has responded to the Subdivision; these responses will be addressed at the public hearing.

CONOMO POINT PLANNING COMMITTEE: Westley Burnham and Sheldon Pennoyer have written letters to address the March 16, 1998 Memo from the CPPC. Both letters were written and it was agreed that Mr. Pennoyer will combine the two and submit the response to the CPPC. Sheldon's response noted that from continued discussion by the Board, there were concerns over the legal issues of selling certain lots due to insufficient area, frontage and building setbacks. The Board will respond by reporting that in their opinion, a subdivision of the salable lots could be handled by: 1) Combining multiple lots to make a conforming lot to today's standards, 2) Determine that the lots in their present configuration are legal (they have been determined to be grandfathered lots.) Further, the Board agreed that the plan presented leaves the point vulnerable to excessive vandalism, forcing the Town into spending money to police the area. Possibly retaining several houses on the point could help to control this problem. The date of July 1, 1998 to submit the results of septic testing and the findings on December 15, 1998 will determine the present recommendation of the Conomo Point Planning Committee. In conclusion, the Board agreed that the final plan for Conomo Point should implemented to include or increase Town waterfront access. Sheldon would address the Board's concerns during a scheduled CPPC meeting on May 13, 1998.

The Board said "goodbye" to **Joe Ginn** this evening, as it was his last meeting after serving ten years on the Planning Board. His efforts during the past decade were immensely appreciated and he will be missed.

The Board, having no further business, adjourned the meeting at approximately 8:40 P.M.

Presented by:



Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

Wednesday, April 15, 1998

- 7:00 P.M.** **BUILDING INSPECTOR REPORT**
- 7:30 P.M.** **RECESS FOR PUBLIC HEARING OF THE BOARD OF APPEALS ON THE PETITION OF GUERIN REALTY TRUST FOR CERTAIN VARIANCES TO ALLOW THE CONSTRUCTION OF AN ADDITION AND TO ACCOMMODATE THE USE OF THE BUILDING AT 4 MARTIN ST. AS A U.S. POST OFFICE. THE MEETING WILL BE HELD AT THE SCOUT HOUSE.**
- 8:15 P.M.** **LOWE LAND FARM – DISCUSSION WITH PETER VAN WYCK AND KEN HILDONEN REGARDING CONFLICT RESOLUTION**
- 8:45 P.M.** **TURTLE BACK ROAD – DISCUSSION CONCERNING CHANGES TO THE ROAD**
- OTHER PLANNING BUSINESS:**
- *DISCUSSION OF CONOMO PT. PLANNING**
 - *PUBLIC HEARING NOTICES – REVIEW**
 - *REVIEW H.L. GRAHAM'S CONSULTATION FEE ESTIMATE, RECORD OF PROCEEDINGS-NOTICE OF DECISION, MEMO FROM BOARD OF HEALTH – ALL RELATED TO STORY HILL SUBDIVISION**
 - *CORRESPONDENCE**
 - *BILLS PAYABLE**
 - *DISCUSSION OF GRANT APPLICATION**

**TOWN OF ESSEX – PLANNING BOARD MINUTES
WEDNESDAY, APRIL 15, 1998**

The meeting was held at the Essex Elementary and Middle School on Story Street and began at approximately 7:00 p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Gil Guerin, Joe Ginn, Dave Jones, and Brian Feener

BUILDING INSPECTOR REPORT/BOB NELSON: Building application for **Harold Pratt** of 194 Southern Avenue, Map 6, Lot 3, 2.75 acres, for a fourteen foot addition. The size will change from 28x30 to 28x44. No action was taken by the Board.

Application of **Shaw and Polly Butler** of 9 Milk Street, Map 10, Lot 25. The addition will be to enlarge the kitchen, add closets and a bath downstairs. Second Floor: Turn small existing bedroom into hall and bath and add larger bedroom. House will still only have four bedrooms. Dimension 24x16. Approved by the Board of Health, and the Conservation Commission. No action was taken by the Board.

Application of new dwelling of **Philip Caponigro** of 93 Choate Street, Subdivision of Boundary Farm, lot size of 5.3 acres, three car garage, 44x32, Map 16, Lot 11. Approved by the Board of Health, meets all minimum standards and setbacks. There is an Order of Conditions with the Conservation Commission and a barn on abutting property is to be destroyed by 4/30/98.

MOTION: GIL GUERIN MOVES TO APPROVE THE BUILDING PERMIT FOR PHILIP CAPONIGRO OF 93 CHOATE STREET, MAP 16, LOT 11, FOR 5.3 ACRES. THE APPLICANT IS PROPOSING TO BUILD A SINGLE FAMILY RESIDENCE WITH A THREE-CAR GARAGE. THE APPLICATION HAS BOARD OF HEALTH APPROVAL AND APPROVAL OF THIS BUILDING PERMIT IS CONTINGENT UPON CONSERVATION COMMISSION ORDER OF CONDITIONS BEING MET. REMOVAL OF A BARN ON ADJACENT PROPERTY BY APRIL 30, 1998 IS REQUIRED AS PER THE OCTOBER 15, 1997 PLANNING BOARD MOTION, AS THE BARN DOES NOT MEET THE SETBACK REQUIREMENTS. THIS APPLICATION IS ALSO CONTINGENT UPON DPW APPROVAL. THE PROPOSED DWELLING MEETS ALL THE REQUIRED SETBACKS AND GUIDELINES OF THE TOWN OF ESSEX BYLAWS. SECONDED BY WESTLEY BURNHAM. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

The Chairman entertained a Motion to recess at 7:30 p.m. in order to attend a meeting by the Board of Appeals at the Council of Aging/Scout House on Pickering Street. The Motion was Moved, Seconded and Voted.

At approximately 8:00 p.m., the Chairman entertained a Motion to return to Open Session to continue the meeting. The Motion was Moved, Seconded and Voted. (Gil Guerin is absent at this time.)

PETER VAN WYCK/LOWE LAND FARM: Both Peter Van Wyck and Ken Hildonen were present for discussion of Lowe Land Farm. Attorney John Conan represented Mr. Hildonen and commented that the parties were willing to open discussion of the Appeal that concerns accessing the property in question. Attorney Conan would try to resolve the matter and would contact the Planning Board with any progress.

PETER VAN WYCK/TURTLE BACK ROAD SUBDIVISION: Mr. Van Wyck's letter of April 6, 1998 regarding Modification of Right of Way easement Areas and Agreement for Judgment was noted by the Board, who in turn had requested the advice of Town Counsel. Specifically, Mr. Van Wyck has asked

(Gil Guerin enters.)

Page Two of April 15, 1998 Planning Board Minutes, Continued...

for three reliefs and/or waivers, and has delineated these requests on "Exhibit A", a copy of a plan by SFC Engineers, a "conceptual lot layout" map:

1. Area No. 1: Between Stations 2.5 and 6.0, pursuant to D.E.P. Notice of Intent 21-164.
2. Area No. 2: Between Stations 11.0 and 13.5, for the Protection of Natural Features in accordance with Board Regulations 6.05 © and 6.05 (7); and for increased lines of sight pursuant to regulation 7.02 (1) and (4)
3. Area No. 3: Between Stations 13.0 and 15.0 for the same reasons articulated in Area No. 2 above.

The Planning Board reminded Mr. Van Wyck of the time frame that he had in order to finish the Subdivision Road, and upon the advice of Town Counsel stated by Sheldon Pennoyer, the Board made the following:

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE MODIFICATION OF THE RIGHT OF WAY EASEMENT AREAS FOR THE TURTLE BACK ROAD SUBDIVISION OFF TURTLE BACK ROAD, ALLOWING FOR RELIEF BETWEEN STATIONS 2.5 AND 6.0 AS SHOWN ON THE PLAN SUBMITTED WITH THE WRITTEN REQUEST DRAWN BY SFC ENGINEERING DATED FEB. 16, 1998 FOR PETER VAN WYCK OF TURTLE BACK ROAD. THE BOARD APPROVES THIS MODIFICATION BASED ON THE PLANNING BOARD'S DETERMINATION THAT THE MODIFICATION IS MINOR AND NECESSARY DUE TO CONFLICTING REQUIREMENTS BY THE ESSEX CONSERVATION COMMISSION AND D.E.P. REQUIREMENTS AS STATED IN THE NOTICE OF INTENT 21-164. THE NECESSARY FILING THROUGH TOWN COUNSEL WITH THE LAND COURT SHALL BE REQUESTED. FURTHER, IN RESPONSE TO PETER VAN WYCK'S REQUEST FOR AREA NO. 2 BETWEEN STATIONS 11.0 AND 13.5, AND AREA NO. 3 BETWEEN STATIONS 13.0 AND 15.0, RELIEF REQUESTED IS DENIED BASED ON INADEQUATE NEED. SECONDED BY JOE GINN. MEMBERS VOTING TO APPROVE THE MODIFICATION WERE: SHELDON PENNOYER, CHAIRMAN, WESTLEY BURNHAM, PAT DUNN, BRIAN FEENER, JOE GINN, AND DAVID JONES. THE MOTION PASSES.

Scottie Robinson of Turtle Back Road requested the copy of a Form A (approval not required) for the Lots 22 and 23 of Peter Van Wyck's property.

The remainder of the Revolving Account of Mr. Van Wyck needs to be determined, as Larry Graham will be notified of the changes as soon as the Plans have been forwarded to the Board by Mr. Van Wyck.

STORY HILL SUBDIVISION: The Planning Board was in receipt of H.L. Graham Associates Consultation Fee Estimate. This included an Initial Review Estimate and Continued Permitting Review Estimate. The Planning Board decided to notify the Applicant of the fee structure and the requirement to implement a revolving account with the Town Accountant. Larry Graham will be informed that he does not need to attend the May 20, 1998 Public Hearing of the Story Hill Subdivision.

CONOMO POINT PLANNING COMMITTEE: The Planning Board decided to respond to the Memo as stated during the April 1, 1998 Meeting. Most members attended the April 13th meeting with the Board of Selectmen and the Fair Solution Committee. The Board agreed that some lots should be retained, some should be sold, and some land should be retained for adequate access. The Board did not decide which lots

Page Three of Planning Board Minutes of April 15, 1998, continued...

should be kept, as the Septic issues would need to be solved. As far as a Zoning point of view, it was agreed that some lots would need to be rezoned in order to be Title v approved. Some of these Title V lots would be sold. The present configuration is currently grandfathered from the Zoning Bylaws as referenced by Town Counsel. The expenses to maintain the property by the town residents needs to be clarified, as well as Economy of Scale. The Board decided that a letter relating the above concerns would be forwarded to the Conomo Point Planning Committee.

The Board, having no further business, adjourned the meeting at 9:40 p.m.

Presented by

Lisa M. Randall

Attested to:

Stella J. J.

Note: The next scheduled meeting will be for May 6, 1998, at 7:00 p.m.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD

AGENDA

WEDNESDAY, APRIL 1, 1998

7:00 P.M.	MINUTES OF FEB. 18, 1998 MINUTES OF MARCH 18, 1998
7:15 P.M.	BUILDING INSPECTOR
7:30 P.M.	**PLANNING BOARD BUSINESS
8:00 P.M.	PUBLIC HEARING, SCOT WAY LOT 3
8:30 P.M.	PUBLIC HEARING, SCOT WAY LOT 4
9:00 P.M.	PETER VAN WYCK TURTLEBACK ROAD

** Reminder that there is a meeting with the Selectmen and Fair Solution Committee on April 13th at 8:00p.m. at the School

Address a response to the Conomo Point Planning Committee re: action relating to the planning of Conomo Point

Letter from Senator John Kerry

Letter from Peter Van Wyck re: Low Land Farm

Update on the Grant Program mentioned at the 3/18/98 meeting

**TOWN OF ESSEX - PLANNING BOARD MINUTES
WEDNESDAY, APRIL 1, 1998**

The meeting was held at the Essex Elementary School on Story Street and began at approximately 7:05 p.m. Attendees: Westley Burnham, Sheldon Pennoyer, Chairman, Pat Dunn, Brian Feener, Gil Guerin and Joe Ginn. Absent: David Jones

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE MINUTES OF MARCH 18, 1998, AS WRITTEN. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTE TO APPROVE THE MOTION.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE MINUTES OF MARCH 4, 1998, AS WRITTEN. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTE TO APPROVE THE MOTION.

BUILDING INSPECTOR REPORT: Bob Nelson, Building Inspector requests a copy of the Water Resource Protection District Map. Mr. Nelson requested some extra time at the April 15th meeting for a number of applications he is presenting to the Board. He will be scheduled for 7:00-7:30 p.m.

LOWE LAND FARMS: Peter Van Wyck has requested by written letter to have the Planning Board discuss a proposed resolution between Mr. Ken Hildonen and Mr. Van Wyck concerning legal access by Mr. Hildonen through Peter Van Wyck's property. Mr. Hildonen's driveway passes over Mr. Van Wyck's land. Mr. Van Wyck would like to "... Improve the visual appearance of the land between the street and stone wall that borders Hildonen's property. Visual improvement also comes with a better sight distance from the crest of the street to the subdivision road..." (from 3/23/98 letter by Mr. Van Wyck) Westley Burnham agreed to speak to Ken Hildonen and have him come in to a Board meeting on April 15th at approximately 8:15 p.m.

JOHN GUERIN/WEDGEWOOD PHARMACY: Attorney Guerin reminded the Board that a Public Hearing is scheduled to take place on April 15, 1998 at 7:30 p.m. at the Scout House/Senior Center. The Board agreed to hold a recess in order to be present for the hearing. The recess will begin at 7:30 p.m. until 8:15 p.m.

(Joe Ginn and Gil Guerin enter. Gil refrains from discussion on the below appointment.)

JOHN GUERIN/PROPOSED SUBDIVISION OFF WESTERN AVENUE: Attorney Guerin asked the Board for additional information concerning the proposed roadway of a subdivision for Leonard Woodman and David Folsom. Attorney Guerin will be asking for waivers from the Board and acknowledges the procedure for the Technical Review Agent and the performance guarantee. The plans will be submitted in the form of a Definitive Plan at a later date.

(Gil Guerin returns to the table.)

(Joe Ginn removes himself from the table for the next two Public Hearings.)

PUBLIC HEARING OF PMC REALTY TRUST FOR SCOT'S WAY, LOT 3:

The Public Hearing Notice was read. Approximately ten to fifteen concerned citizens were in attendance. Sheldon Pennoyer reminded the audience that the reason for the Public Hearing for Special Permit was for the Impervious Lot Coverage of over Fifteen Percent (or 2,500 s.f.). Lots 3&4 are in the Water Resource Protection District. The hearing was to determine whether or not the applicant meets the required criteria in the Essex Zoning Bylaws under *6-13 WATER RESOURCE PROTECTION DISTRICT*, and showing also under *6-13.7* that the system for artificial recharge of stormwater that will not degrade groundwater quality.

Page Two of April 1, 1998 Planning Board Minutes continued...

Attorney Paul Shea summarized the applicant's intention to construct a 9720 SF building with required parking. The septic system has already been installed. The setbacks are approved by the zoning bylaw descriptions. Estimated sewage flow of 750 gallons per day, the proposed building would be two and one-half stories, which includes a basement. Parking shown is thirty spaces. The applicant would be proposing the same limitations as Lot #1 which was previously approved. (light manufacturing, office space, research & development, and storage. See 12/29/97 Decision on Special Permit).

Bob Lynch, from Atlantic Engineering explained in detail the engineering aspects of the Stormwater Management Regulations and the proposed work to be done for the treatment of stormwater. "Plan A" of Lot 3 - Scot's Way shows existing contours, proposed contours, proposed catch Basin A, existing edge of pavement, proposed spot elevation and proposed siltation barrier. Mr. Lynch explained further that a four bay system is used to slow water down, using more sediments. Flow runs to infiltration basin, lined with gravel, loam and seed on top. Water goes slowly into it. There is an emergency spill way if water flows out - into grass. This reduces peak flow, infiltrating all the necessary flow. Gil Guerin asked how the run off water was calculated - Mr. Lynch explained the details and set of criteria that basically takes the square footage of hydrological surfaces and soils. This calculation includes "natural" impervious area, as well.

Sheldon Pennoyer opened the meeting to the public where Mr. Mark Boden of One Story Lane, Hamilton made comments about an existing company already abutting his property. He was also concerned of chemicals used in the proposed building of Lot 3, which may in the future infiltrate the delicate ground water there. He felt that if the applicant were to get permission to build on the property, who would then maintain the compliance of prohibited uses within the building. Attorney Paul Shea commented that the applicant had several other properties that he maintained and has a myriad of safe guards. PMC Realty Trust (the applicant, John Coughlin) did not accept tenants that were not responsible in their usage of his buildings. It was also brought to the attention of the public that the regulations to operate a business in the Water Resource Protection District are very tight. The future usage of the proposed building was repeated to the public.

Dennis McDermott of 120 Blueberry Lane has a home behind Quinn Brothers, another property of PMC Realty Trust. He was concerned that there was a potential problem there already, regarding tires and trash. Mr. Coughlin agreed to look into the matter with Mr. McDermott. Peter Bachini of Blueberry Lane was concerned about the potentials of air and noise pollution. PMC Realty realized that there was no answer to who would be the "end user" of the building, but it was noted that the user would need to get approvals from all Town Boards before any permits were given.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING OF LOT #3, SCOT'S WAY. SECONDED BY PAT DUNN. ALL MEMBERS VOTED TO CLOSE THE PUBLIC HEARING EXCEPT JOE GINN, WHO ABSTAINS FROM VOTING. THE MOTION PASSES.

(Joe Ginn abstains from discussion or voting of Lot #4, Public Hearing)

PUBLIC HEARING - LOT #4, SCOT'S WAY: Chairman Sheldon Pennoyer opens the Public Hearing at approximately 8:45 p.m. on the Application of PMC Realty Trust. The Public Hearing Notice was read. Attorney Paul Shea explains that the proposed building on Lot #4 mirrors the building of Lot #3. It sits on existing solid ledge, the road is existing, and will be two stories, less than 35 feet in height. Parking will be for twenty, figuring for three handicap spaces, as well. The lot is 60,000 s.f., and the applicant is asking for the maximum of 750 gallons per day on the septic. The building will have no truck bays. The restrictions of the usage of the building was repeated and read by Westley Burnham (See 12/29/97 Decision of Lot #1). Bob Lynch repeated the technical aspects of the recharge system and answered several questions related to the run off of the building. Mark Boden repeated his concern about a company allegedly infringing upon

the Wetland area at Scot's Way. This was addressed by John Coughlin again, who would meet with Mr. Boden to investigate the situation.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING OF LOT #4, SCOT'S WAY. PAT DUNN SECONDS THE MOTION. ALL MEMBERS VOTED TO CLOSE THE PUBLIC HEARING, EXCEPT FOR JOE GINN, WHO ABSTAINS FROM VOTING. THE MOTION PASSES.

Note: The Board has Ninety Days in which to make its Decision (on or before June 29).

PETER VAN WYCK/LOWE LAND FARMS: Mr. Van Wyck had presented a letter requesting that the Lowe Land Farm Subdivision issue between he and Ken Hildonen be reconciled. The March 23rd letter from Mr. Van Wyck states that "Mr. Hildonen needs a legal access to his property. His driveway passes over my land. I would like to improve the visual appearance of the land between the street and stone wall that borders Hildonen's property. Visual improvement also comes with a better sight distance from the crest of the street to the subdivision road. You may recall this issue was a concern of the Planning Board when the traffic study was written." Westley Burnham agreed to speak with Mr. Hildonen to see if he would be willing to come to a meeting to resolve this issue.

PETER VAN WYCK/TURTLE BACK ROAD SUBDIVISION: Mr. Van Wyck was reminded by the Board that if he wanted to have relief on specific changes to the Road, that they were to be in writing. This would then enable the Board to ask Town Counsel to determine whether relief could be granted and was within the guidelines set by the Agreement for Judgement. Peter Van Wyck agreed that a set of plans would be submitted, but he wanted the Board to agree to the changes he has requested. Westley Burnham repeated that no changes would be accepted until they were put in writing and accepted by the advice of Town Counsel. Mr. Van Wyck was reminded also that the deviations he was asking for was on the approved plan (1987 Klopotoski's Plan), which was an approved plan by the Court. Mr. Van Wyck agreed to have his requests delivered to the Board, in writing. He will be present at the next scheduled meeting of April 15, 1998.

CONOMO POINT PLANNING COMMITTEE/RESPONSE TO MEMO: The Board discussed the Memo dated March 16, 1998 which asks the Planning Board, "1. Does the Planning Board agree with our proposal to retain all the land north of Robbins Island Road for use as a park and waterfront facility by the whole Town?" 2. "If the answer to question 1 is yes, what plan would the Planning Board support to dispose of the remaining Town land? Rezone an overlay district so that the remaining leased lots can be sold as currently configured with less disruption to current tenants? Reconfigure lots to comply with existing zoning bylaws? Retain all the land? Any other idea you may have." The Planning Board was not prepared to give a definite answer at this time, and wanted to see more detailed facts, including which properties were Title v approved. The issue of the DPW's ongoing maintenance for a park was discussed, and the Board did not have all of the information for this idea. Brian Feener noted that the leases were not due until the year 2011. The Town would vote on what was to become of the Point at that time. Westley Burnham noted the DEP Consent Order to satisfy the requirements of title v at the Point. Many issues would need further discussion before the Board would comment on the Memo by the Conomo Point Planning Committee. The Board tabled the matter until after the April 13th meeting scheduled with the Board of Selectmen and the Committee for a Fair Solution at Conomo Point. This meeting would take place with the combined Boards. The Fair Solution Committee was going to present their argument for selling the properties to the tenants.

Page Four of April 1, 1998 Planning Board Minutes, continued...

The Board, having no further business, Moved to adjourn the meeting at 10:00 p.m.

Present by *Lisa M. Randall*

Attested to *[Signature]*

Note: Next scheduled meeting is for April 15, 1998 at 7:00 p.m.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MARCH 18, 1998

- | | |
|------------------|---|
| 7:00 P.M. | MINUTES OF 2/18/98 & 3/4/98 |
| 7:15 P.M. | BUILDING INSPECTOR
UPDATE AND RWAY FARM ON
CHOATE STREET

JOHN GUERIN FOR WOODMAN
AND FOLSOM, OFF WESTERN AVE
FOR SUBDIVISION ROAD. |
| 7:30 P.M. | JOHN JUDD/GATEWAY ENG. FOR
DEFINITIVE PLAN OFF MARTIN
STREET |
| 7:45 P.M. | PETER VAN WYCK: SUBDIVISION
ROAD |
| PLANNING ISSUES: | *Grant from EOEI/Planning Issues
*Selectmen's Meeting on 4/13/98
at 8:00 p.m./Fair Solution Comm.
*Letter by resident re: Northern
Essex Ltd.
*Update of Opinion of Maple Street
Lots 34, 34a, 34b
*Manchester's Public Hearing on
"Limited Commercial District"
*Public Hearing Notices
*Current Mail
*? Memo from Conomo Pt. Planning]
Committee
OTHER |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MARCH 18, 1998**

Present: Westley Burnham, Pat Dunn, Joe Ginn, David Jones and Brian Feener
Absent: Sheldon Pennoyer, Chairman, and Gil Guerin

The meeting opened at approximately 7:05 p.m.

**MOTION: PAT DUNN MOVED TO APPROVE THE FEBRUARY 18, 1998
MINUTES AS WRITTEN. SECONDED BY DAVE JONES. ALL MEMBERS
PRESENT VOTED TO APPROVE THE MOTION.**

The Minutes of March 4, 1998 were tabled.

BUILDING INSPECTOR/BOB NELSON: Came before the Board to explain that Melanie Burnham of 26 Lufkin Point Land wanted to build an open deck, yet this would increase the nonconformity of the building. Both the rear yard and left side were nonconforming, and the Board cannot vote to approve extending the nonconformity. Ms. Burnham would have to resolve the issue with the Board of Appeals.

ATTORNEY JOHN GUERIN FOR WOODMAN/FOLSOM, DISCUSSION ABOUT DEFINITIVE SUBDIVISION PLAN: John came to the Board with plans to provide a definitive subdivision plan for Leonard Woodman and David Folsom. The property is off Western Avenue. John was looking to create two lots, and would be asking for only one waiver - one foot waiver of the forty-foot wide common driveway servicing the two lots. It would be approximately 710 feet from Western Avenue. A total of about 3 and ½ acres. Twenty-five foot setback at the circle for each lot. Deed Book 6594, Page 458, Plan Book 128, Plan 5, Plan Book 252, Plan 76, Plan Book 311, Plan 55. Attorney Guerin will return to the Board with the appropriate documents to set the Public Hearing for the Subdivision.

JOHN JUDD, GATEWAY ENGINEERING: Mr. Judd provided the Board with a Definitive Subdivision Plan called "Story Hill Subdivision", Map 36, Lots 79, 79A and 79B. The site is located off Martin Street, between Prospect St. and Walnut Park. The property consists of approximately 8.1 acres (including 3 parcels). The proposed road is approximately 500 feet in length and is proposed with an open swale drainage system. No waivers are requested for the plan.

**MOTION: BRIAN FEENER MOVES TO HOLD A PUBLIC HEARING
FOR THE DEFINITIVE SUBDIVISION PLAN CALLED "STORY
HILL SUBDIVISION", BY SMB DEVELOPMENT OF 5 DOW DRIVE,
HAVERHILL, MA 01832, BOOK 9533, PAGE 562, LAND OWNER
IS JOHN STORY OF 20 HAMLIN AVENUE, HAMILTON, MA.
THE SUBJECT PROPERTY IS SITUATED BETWEEN MARTIN
STREET AND WESTERN AVENUE. HEARING IS SCHEDULED
FOR WEDNESDAY, MAY 20, 1998 AT 8:00 P.M. SECONDED BY
PAT DUNN. ALL MEMBERS PRESENT VOTED TO APPROVE
THE MOTION TO HOLD A PUBLIC HEARING.**

RWAY FARM MOTION:

**BRIAN FEENER MOVES TO APPROVE THE SITE PLAN OF RWAY
FARM GREENHOUSE LOCATED AT 69 CHOATE STREET, MAP 16,
LOT 9, AS OWNED BY PETER FORTUNE. LOT SIZE IS 17 ACRES. THE
BUILDING IS FOR A GREENHOUSE PRODUCING SALABLE
PLANTS AND OR PLANT PRODUCTS TO BE SOLD THROUGH
WHOLESALE METHODS. THE BUILDING IS 156 X 150 X 22
COVERING 16,320 S.F. OF FLOOR SPACE. THE APPLICATION**

HAS BOARD OF HEALTH APPROVAL, AND MEETS THE MINIMUM REQUIREMENTS OF THE TOWN OF ESSEX BYLAWS. SECONDED BY PAT DUNN. VOTING TO APPROVE THE SITING WERE: DAVE JONES, WESTLEY BURNHAM, BRIAN FEENER, AND PAT DUNN. JOE GINN ABSTAINS FROM VOTING. THE MOTION PASSES.

FORTUNE PALACE RESTAURANT: Bob Nelson makes the Board aware that a building permit has been granted for the existing structure. No additional seating.

TURTLEBACK ROAD/PETER VAN WYCK: Attorney Robert Cole was present with Mr. Van Wyck to discuss the Road and the right of way. A summary was given by Cole addressing issues relating to three highlighted areas on a map. The Conservation Commission also gave the Planning Board a Memo dated 2/18/98 with attached Superceding Order of Conditions issued by the Department of Environmental Protection. In this Order, the Conservation Commission highlighted Paragraph 27: "no activity, including but not limited to the clearing, cutting or pruning of vegetation, shall take place within any Area Subject to Protection Under the Act nor *within thirty (30) feet* of the boundary of the Bordering Vegetated Wetland." Attorney Cole addressed a request from Mr. Van Wyck that two trees on a portion of the right of way be saved. Adhering to this request will change the line of sight and meander out of the right of way. Mr. Van Wyck noted that he wanted to enlarge the easement area of the road, and proposed to deed the portion of land that flows outward, as well. Westley Burnham noted that whatever changes were being asked would have to be addressed by Town Counsel, noting the Agreement for Judgment. Therefore, Attorney Cole agreed to put in writing, station to station, each change that Mr. Van Wyck is proposing. Mr. Van Wyck would be returning to the Board on April 1st at 7:30p.m.

OTHER BUSINESS:

PLANNING FOR GROWTH/COMMUNITIES CONNECTED BY WATER GRANT PROGRAMS: The 1998 round program is available for planning to provide the most effective way to balance economic growth with the protection of natural resources. The program will be further investigated by the Board.

An anonymous letter was acknowledged by the Board relating to the activities at Northern Essex Ltd. On John Wise Avenue. No action was taken since there were no signatures to address a response.

Public Notices were read noting meeting dates from abutting Towns in relation to changes in their By Laws.

A Motion and cover letter filed with the Land Court in the Henderson/Bartlett action was noted by the Board. No action was necessary; informational only.

Conomo Point Planning Committee: A memo from the Committee asks two questions of the Planning Board:

1. Does the Planning Board agree with our proposal to retain all the land north of Robbins Island Road for use as a park and waterfront facility by the whole Town?
2. If the answer to question 1 is yes, what plan would the Planning Board support to dispose of the remaining Town land? Rezone an overlay district so that the remaining leased lots can be sold as currently configured with less disruption to current tenants? Reconfigure lots to comply with existing zoning bylaws? Retain all the land? Any other idea you may have.

Meeting Date: A request from the Fair Solution at Conomo Point Committee requested that the Planning Board meet at the Selectmen Meeting on Monday, April 13, 1998 at 8:00p.m. Currently, Brian Feener, Pat

Page Three of Planning Board Minutes of March 18, 1998, continued....

Dunn, and perhaps Joe Ginn and Dave Jones have committed their time to attend. It will be held at the Essex Elem. School.

Update of Town Counsel's opinion of Maple Street, Lots 34, 34a and 34b has been tabled.

Public Hearing Notices by the Conservation Commission were read.

There being no further Planning Board business, the Board moved to adjourn the meeting at approximately 9:00 p.m.

Presented by:



Attested to:



Note: The next meeting is scheduled for April 1, 1998.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, MARCH 4, 1998

- | | |
|-----------------|--|
| 7:00 P.M. | Minutes of Feb. 18, 1998 |
| 7:15 P.M. | Building Inspector Report |
| 7:25 P.M. | PMC Realty Trust for Lot 3 and Lot 4
Application for Special Permit |
| 7:30 P.M. | Conomo Point Planning Committee
Discussion of Proposal |
| 8:30 P.M. | Planning Issues: Review of Accepted
Ways by the Town |
| Other Business: | Accts. Payable Bill
Payroll Voucher
Flood Plain Bylaw (copy of proposed
by-law by the Town Manchester to
review and discuss) |

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MARCH 4, 1998**

The meeting was held at the Essex Elem. And Middle School and began at approximately 7:15P.M.
Attendees: Sheldon Pennoyer, Chairman, Pat Dunn, Brian Feener, Gil Guerin.
Absent: Westley Burnham, Joe Ginn and Dave Jones.

MINUTES of February 18, 1998 will be tabled until the next scheduled meeting.

BUILDING INSPECTOR/BOB NELSON: RWAY FARM GREENHOUSE RANGE PROJECT, 69 Choate Street. John Guerin, Bob Nelson, and applicants Peter Fortune, Robert Fortune and Karl Kohring discussed plans to construct a greenhouse. Mr. Fortune is a great-nephew of the late Evelyn Bartlett, owner of Bothways Farm. Karl Kohring is a former employee of the Farm, and has many years of greenhouse experience. They provided the Board with a Mission Statement: "The purpose of the greenhouse is to create an environment conducive to the production of salable plants and or plant materials to be sold through wholesale markets." Since there were several residents present, the Planning Board held a lengthy discussion about the greenhouse, its traffic, and usage of chemicals for the producing of the plants. Karl Kohring explained that the 90' x 156' greenhouse would have three bays, a propagation house and a head house (for storage). A 160' setback from choate street was shown on the plan available. Traffic would be minimal: Pick up and delivery only: four trips a day for the truck, and no pick up or delivery during evening hours. There would be only one supplier coming in: Griffin Supply from Tewksbury, one or two times per month. Peter and Karl assured the residents that they were not interested in a large scale business, and would be continuing the same values as Bothways Farm. They were agreeable to possible educational opportunities for school visit like the Bothways Farm had. Sheldon noted that this operation would create far fewer vehicles than a residential home would, as traffic studies conclude that residential properties pose higher traffic patterns than this proposed greenhouse would.

A question of pesticides use was asked and Karl explained that only organic and botanical pesticides would be used. A fertilizer such as "Miracle Grow" would be used. The same treatments as Bothways Farm. Pat Dunn noted that such uses are overseen by State Standards: The retailers have strict guidelines to follow. In conclusion, Peter Fortune reiterated to the public that he wanted to keep a dialogue open, and was available for further discussion for any interested residents. He acknowledged that the traffic issue was a main concern, and would work with the residents to resolve any future problems that may arise. The applicants would return on the 18th of March with their building permit.

PMC REALTY TRUST: LOT #3, LOT #4, SPECIAL PERMITS: Atlantic Engineering brought forth two applications for Special Permits under Section 6-13.7, of the Zoning bylaw, Water Resource Protection District.

MOTION: S.PENNOYER MOVES TO HOLD A HEARING SCHEDULED FOR WEDNESDAY, APRIL 1, 1998 AT 8:00P.M., FOR P.M.C REALTY TRUST, 239 WESTERN AVENUE, ESSEX, MA FOR A SPECIAL PERMIT UNDER SEC. 6-13.7, OF THE TOWN OF ESSEX ZONING BY-LAW, WATER RESOURCE PROT. DIST. SAID LAND IS SITUATED AT LOT #3 - SCOTT WAY. THE APPLICANT IS PROPOSING CONSTRUCTION OF A 9720 SF BUILDING (4860 SF FOOT PRINT) WITH REQUIRED PARKING, WALK WAYS, DRAINAGE SYSTEMS, UTILITIES, AND ALL ASSOCIATED GRADING. ESTIMATED SEWAGE FLOW OF 750GPD. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

MOTION: S.PENNOYER MOVES TO HOLD A HEARING SCHEDULED FOR WEDNESDAY, APRIL 1, 1998 AT 8:30 P.M., FOR P.M.C. REALTY TRUTS, 239 WESTERN AVE., ESSEX, MA FOR A SPECIAL PERMIT UNDER SEC. 6-13.7, OF THE TOWN OF ESSEX ZONING BY-LAW, WATER RESOURCE PROT. DIST. SAID LAND IS SITUATED AT

LOT #4 - SCOT WAY. THE APPLICANT IS PROPOSING CONSTRUCTION OF A 9720 SF BUILDING (4860) SF FOOT PRINT) WITH REQUIRED PARKING, WALK WAYS, DRAINAGE SYSTEMS, UTILITIES, AND ALL ASSOCIATED GRADING. ESTIMATED SEWAGE FLOW OF 750GPD. SECONDED BY BRIAN FEENER. ALL MEMBERS VOTED TO APPROVE THE MOTION.

CONOMO POINT PLANNING COMMITTEE: Jim Witham, Chairman of the Committee, and several Committee members were present to discuss their findings for the future of Conomo Point. They showed a map which delineated lots, marsh area, roads, soil tests, ledge, flood plain zoning, etc. After discussing the septic issues at the Point and the determination that there was no economical feasibility for a septic system there, Mr. Witham, together with Ed Neal, felt that the purpose of the meeting was to discuss the planning issues, as opposed to the septic issues. Mr. Witam noted that the Town voted last year to cease leasing the Town owned property in the year 2011, and not selling a portion of the Point. After a comparative study with town-owned waterfront property in Essex and neighboring communities, the CPPC (Conomo Point Planning Committee) found conclusively that "Essex is the only waterfront town north of Boston that has not yet secured land to meet the water-related needs of its citizens. The demand for waterfront access is increasing both within the Town and the region. Continued access for Essex residents to the end of Crane Beach and to Gloucester beaches is not guaranteed. There is no direct access to Essex Bay in either Gloucester or Ipswich. In the pas Essex residents had virtually unlimited us of and access to the water. Today use is restricted by private ownership, both commercial and residential. We live in a riverfront community with diminishing opportunity to use the river." Further findings were explained and tabulated by a handout which included Waterfront Facilities, Boating Facilities, and Income Data. All material given supported the consensus of the CPPC that is was best for the entire Town and the public to keep all land north of Robbins Island after 2011, and sell South of Robbins Island of what can pass Title 5. Charlie Burnham gave the Board a detailed accounting of what other Towns are facing as they struggle with maintaining open space. It was also noted that if the open space north of Robbins Island were utilized creatively, revenue could be provided from its own resource for maintenance. A comparative income data sheet dated 1996 of the surrounding communities showed the incomes from boat excise tax, moorings, parking, beach/launching. Conclusions about Conomo Point specifically were discussed, as it "is in the center of a designated Area of Critical Environmental Concern (ACEC) which is comprised of 28,000 acres of salt marsh, the largest marsh north of Long Island, NY. It is the closest launching point to the clam flats, moorings and ocean. It is the Town's only year-round, deep water access and offers the only all-tides swimming. Conomo Pt. Overlooks the most beautiful estuary north of Boston. It is the perfect place for a public waterfront facility. Retaining a section of town-owned land at Conomo Point for the use of all Town citizens would be an incomparable gift to ourselves and to future generations." (comprised from data given to the Planning Board from the CPPC)

In conclusion, the CPPC wanted the Board to think about its recommendations so that in the future, when it was time for the Town residents to make a decision on the fate of Conomo Point. The CPPC felt that all department boards should be able to address the Town for the purpose of completing the task that was directed by Town Residents. It was apparent that the Town's best interest would be to keep a portion of the property for some sort of recreational facility.

The Board thanked Jim and his members for their concise information. Sheldon will continue as a member of the CPPC and Gil Guerin will attend meetings that Sheldon would not be present for. It was previously thought that Sheldon could step down and appoint Gil, but this decision was not feasible at this time. Sheldon would be the voting member for the Planning Board on the CPPC Board.

Page Three of Planning Board Minutes, March 4, 1998, continued...

MAPLE STREET - MAP 36, LOTS 34, 34A AND 34B (GARCIA KIMBALL'S FORMER LOTS):
The Building Inspector and the Assessors have requested that the Planning Board look into a situation with the Lots there. Specifically, they were requesting that a review of a copy of a plan dated 3/10/92 and filed at the Registry of Deeds on 6/22/92, Plan Book #276, Page 4, for the Lots 34, 34A & 34B. As all lots are joined as one, the Board of Assessors and Building Inspector question how one Lot (Lot 34A can be removed from the parcel, as is shown on the "as-built" foundation plan. Sheldon will address the question for Town Counsel to comment.

PHILIP HERR AND ASSOCIATES: Are in the process of disbursing material generated during past planning efforts. A letter of request will go to Mr. Joseph Carroll asking to forward Essex Maps and Graphics.

ACCOUNTS PAYABLE: The Board approved payment of office supplies purchased.

PAYROLL VOUCHER: The Board approved payment of the payroll voucher.

COPY OF TOWN'S ACCEPTED WAYS: A copy of the Town's accepted Ways will be distributed to all Board members for their files.

MOTION: PAT DUNN MOVED TO ADJOURN THE MEETING AT APPROXIMATELY 10:00 P.M. SECONDED BY BRIAN FEENER. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION.

Presented by



Attested to:



Next scheduled meeting is March 18, 1998 at 7:00 P.M.



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

TOWN OF ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 18, 1998

THIS MEETING IS BEING HELD AT THE COUNCIL OF AGING
LOCATED ON PICKERING STREET

7:00 P.M.	MINUTES OF 2/4/98
7:15 P.M.	BUILDING INSPECTOR REPORT
7:30 P.M.	M A P C - CAROL KOWALSKI
8:30 P.M.	SCOTT PATROWICZ ENGINEER
8:45 P.M.	TURTLEBACK ROAD SUBDIVISION
9:00 P.M.	PLANNING ISSUES
	OTHER BUSINESS:
	Board of Health letter: Reply relative to "Master Plan"

ESSEX PLANNING BOARD MINUTES

WEDNESDAY, FEBRUARY 18, 1998

The Board met at the Council of Aging/Scout House on Pickering Street and began at 7:05 P.M.
Attendees: Sheldon Pennoyer, Chairman, Pat Dunn, Westley Burnham, Dave Jones, Joe Ginn, Brian Feener and Gil Guerin.

BUILDING INSPECTOR: Bob Nelson noted that the Conomo Point deck situation with Cindy VanHamersvilt was being acted on; Bob felt that the deck will be taken care of and will be removed from the property of Laurinda Durie.

(Sheldon Enters)

MOTION: W.BURNHAM MOVES TO APPROVE THE FEBRUARY 4, 1998 MINUTES AS WRITTEN. SECONDED BY BRIAN FEENER. VOTING IN FAVOR: DAVE JONES, SHELDON PENNOYER, W.BURNHAM, BRIAN FEENER. VOTING PRESENT: PAT DUNN AND JOE GINN. (GIL GUERIN ABSENT FOR THE VOTE.)

(Gil Guerin Enters)

MAPC/CAROL KOWALSKI: Carol, a "subregional specialist" of the Metropolitan Area Planning Council, and a member of the North Shore Task Force, came to discuss the MAPC's role with the North Shore Communities. She serves this area and shed light on several services available to the Town of Essex in relation to the "Master Plan" that the Planning Board was working toward. She discussed how a GIS (Geographic Information Software) Analysis could map the Town and color code various keys - The "Build Out Analysis" shows what has been built, zoning districts, and other data requested. Westley noted that the Board was interested in a key showing "present uses" and "accepted ways". Title 5 was an issue now, and the Board realized the possibility of potential growth in the "Core Area" of Town. Joe Ginn was interested in a map that would delineate "what land left, and what could be utilized". He and Sheldon mentioned the vast areas of land in Town. In conclusion Carol noted that she may be able to provide the Town with a base map for no cost. There is presently a map of the Town that the Water Dept. has, but it is not formulated for the GIS system. This would be costly, but it was noted that the Essex County Registry is working with the Water Dept. map to have the lots configured accurately.

Carol left the Board some pamphlets describing services: Metropolitan Data Center, Transportation Services, MAPC GIS Lab, Metroplan 2000, and Legislative Services. She also gave copies of *The Zoning Act - 3-95 MGL, Ch.40A*, and *The ANR Handbook*. Westley recommended acquiring copies of *The Planners Guidebook*, which she would look into. The Board was grateful for her informative discussion and would continue to work with her as she was willing also to give the Board some funding information that would help the Town defray costs of the project.

SCOTT PATROWICZ: Engineer for Kim Pedersen and Stephen Wedlock regarding land on Old Manchester Road. The property consists of 3.8 acres, three lots. Scott wanted to open discussion regarding an access with easements, or improving the road to the specifications of the Town - The two want to subdivide and put in a proper access road - ANR - using Old Manchester Road with a private driveway with an easement on the property. The Board read the Approval Not Required bylaw, and determined that Old Manchester Road was an inadequate existing way. Therefore, Westley felt that the Road would need to be upgraded for adequate use, which lead the Board to feel that this would open the road up to further developing - a situation the Board and the applicants were not comfortable with. The Board did not agree that the applicants could use the road for frontage and create a driveway adjacent to the road with a buffer in between.

Page Two of Planning Board Minutes, 2/18/98, continued...

Helen Bethell and Martha Hoar, members of the Manchester Conservation Trust were present and were not in favor of a subdivision road being built as there are sensitive vernal ponds and endangered species along this area. Ms. Bethell felt that a driveway access along the road would be more suitable to the area. Sheldon disagreed.

In conclusion, the Board noted that if the lots were to be subdivided, then it was within the regulations to demand that the road be built for a full subdivision - a choice no one on the Board wanted to realize. No action was taken, but the Board is investigating a 1980's decision about the lots in question. There may be a clause preventing any further division of the lots.

TURTLEBACK ROAD - ANR: Attorney Robert Cole was present to provide the Board with plans to create an Approval Not Required. Former Lots 22 and 23 are being created into one, using the TurtleBack Road Cul de Sac as frontage.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE ANR SUBDIVISION PLAN FOR PETER VANWYCK OF TURTLEBACK ROAD, ESSEX, AS SHOWN ON THE PLAN BY GLOUCESTER SURVEY ASSOCIATES, DATED 2/8/98, SHOWING THE CREATION OF LOT 27 AS HAVING 3.7 ACRES, FORMERLY KNOWN AS LOTS 22 & 23, DELINEATED IN THE AGREEMENT FOR JUDGMENT DATED 10/8/96. THE SECOND LOT CREATED (PREVIOUSLY BEING LOTS 24, 25 AND 26 ON THE PLAN REFERENCED IN THE AGREEMENT FOR JUDGMENT) HAS A BALANCE OF PROPERTY OF APPROXIMATELY 27 ACRES. THE SECOND LOT CREATED ALSO INDICATES FRONTAGE ON TURTLEBACK ROAD CONSISTING OF 98 LINEAR FEET, WHICH IS LESS THAN THE REQUIRED 150 FEET. THEREFORE, THE BALANCE OF THE LAND OF THIS LOT IS DEEMED UNBUILDABLE IN ITS PRESENT CONFIGURATION ON SAID PLAN. SECONDED BY PAT DUNN. VOTING TO APPROVE THE MOTION WERE: SHELDON PENNOYER, WESTLEY BURNHAM, DAVE JONES, BRIAN FEENER, GIL GUERIN, PAT DUNN AND JOE GINN. THE MOTION TO APPROVE THE ANR PASSES.

The Board adjourned the meeting at approximately 9:45 P.M.

Presented by



Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, FEBRUARY 4, 1998

- 7:00 P.M. MINUTES OF JANUARY 21, 1998
- 7:15 P.M. BUILDING INSPECTOR REPORT - *Cancelled*
- 7:30 P.M. TOWN COUNSEL / TURTLEBACK ROAD
Attorney Robt. Cole / Peter Van Wyck
Discussion of Lots 22, 23, and Road
- 8:00 P.M. ✂ FLOOD PLAIN BYLAW: Discussion about changes
in language of bylaw
- 8:30 P.M. OTHER BUSINESS:
North Shore Task Force meeting on Feb. 12, 1998
MAPC - JAN. 29, 1998 letter, re: NEXTEL DECISION
FEB. 19 - Annual Report DUE!!!

**ESSEX PLANNING BOARD MINUTES
WEDNESDAY, FEBRUARY 4, 1998**

The Board met at the Essex Elem. And Middle School at approximately 7:00 p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Dave Jones, Gil Guerin, Brian Feener.

Absent: Pat Dunn, Joe Ginn

BUILDING INSPECTOR: Bob Nelson, having no planning issues pending, was absent for this evening's meeting. He will be present during the next scheduled meeting.

STANLEY COLLINSON: The linen copy of the registered land on 89 Choate St. Was signed by the Board. On October 15, 1997, the Board approved a lot change on this plan. Land Court Plan 39176C, Lots 10 and 11.

**MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE
JANUARY 21, 1998 MINUTES AS WRITTEN. SECONDED BY
DAVE JONES. MEMBERS PRESENT VOTING ON THE
MOTION: S.PENNOYER, DAVE JONES, AND
W. BURNHAM. B. FEENER VOTES PRESENT.
THE MOTION PASSES.**

(Gil Guerin enters.)

TURTLEBACK ROAD: Attorney Brian Cassidy was present at the meeting along with Atty. Robt. Cole, for Peter Van Wyck. Peter came to the Board with a plan dated 1/30/98, signed by James Klopotoski, with the intention of creating an Approval Not Required, using the Cul De Sac as frontage, combining Lots 22 and 23 into one. After a brief discussion about the frontage required (the cul de sac shows approximately 148 feet of frontage; adjustments will be made to create enough frontage from Lot 25 of PVW's property). The parties agreed that when the plan was drawn correctly, and a bond had been established for the cost of the road, the Board would sign the plans for the ANR. It was mentioned that H.L. Graham Assoc. would be working on the project to create a cost for the performance guarantee for the entire road. Attorney Robert Cole would notify the Board when the plans were ready.

FLOOD PLAIN BY-LAW CHANGES: The Board will be given a copy of the new maps available from FEMA. After then, the by-law can be written for an article in the Town warrant. Changes are mostly clerical only, as new regulations have been instituted by FEMA in relation to homes/businesses being in or near the delineated flood plains.

PLANNING ISSUES: The Board discussed in length, the work necessary to create a "Master Plan" for the Town. Westley noted that it may not be necessary to create a committee, as most of the technology is available for these purposes, and he recognized that the Town Boards as a whole, should be a part of this process. Issues relating to "ways in existence", residential and commercial properties to be designated by a "color code" system was entertained, and the discussion led to subjects relating to the future of the Town. In conclusion, Sheldon was asked by the Selectmen to be present on the 23rd of February to discuss the issues of this project. Westley Burnham was willing to be a participant at this meeting, as well.

MAPC: The Board was reminded that a meeting with Carol Kowalski will be scheduled for February 18th at 7:30 p.m.

Page Two of Feb. 4, 1998 Minutes, continued...

CONOMO PLANNING COMMITTEE: Sheldon has asked Gil Guerin to replace him on the Conomo Planning Committee. Gill agreed to commit for a short period of time. The meetings are held every 2nd and 4th Wednesday.

1997 ANNUAL REPORT DUE ON MONDAY, FEBRUARY 17, 1998

ARTICLES FOR INCLUSION IN THE WARRANT DUE BY 3:00 P.M. ON MONDAY MARCH 9.

There being no further business to come before the Board, the meeting was adjourned at approximately 8:30 p.m.

Prepared by:

Luis M. Randall

Attested to:

Walter A. [Signature]



ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

ESSEX PLANNING BOARD AGENDA

WEDNESDAY, JANUARY 21, 1998

- 7:00 p.m. Minutes of January 7, 1998
- 7:15 p.m. Building Inspector, Bob Nelson
- 7:30 p.m. Turtleback Road, Peter VanWyck
Attorney Robert Cole present
- 8:00 p.m. Public Hearing: Dick Carter, Apple Street
for removal of trees for driveway construction
- Other Business: Signing of letter to Attorney General regarding
challenging FCC authority to restrict State and
local authority to regulate cell. comm. facilities.
- Board to Sign *two* invoices from H.L. Graham
Associates, re: Tech. Rev. Agent services
- Letter to Board of Appeals re: Post Office location
project and support of
- Letter by Westley Burnham re: Response of
Ms. Jermain's request for Committee for
"Master Plan"
- Update on Flood Plain by-law by all members
- ANNUAL REPORT DUE ON FEB. 17, 1998
- MAPC "Planners Alert Flyer"

**ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 21, 1998**

The meeting was held at the Essex Elementary and Middle School and began at approximately 7:00p.m.
Attendees: S.Pennoyer, Chairman, W.Burnham, P.Dunn, D.Jones, Gil Guerin and Joe Ginn

MOTION: W.BURNHAM MOVED TO APPROVE THE JANUARY 7, 1998 MINUTES AS AMENDED, BY RE-] PLACING THE WORDS "SOUTHERN AVENUE" TO ANDREWS STREET ON PAGE ONE. SECONDED BY PAT DUNN. MEMBERS VOTING TO APPROVE: W.BURNHAM, DAVE JONES, PAT DUNN AND S.PENNOYER. THE MOTION PASSES.

(Joe Ginn enters, but is not part of the discussion below)

SHAW BUTLER - 9 MILK STREET for request for building application of an Indoor Training Facility for the purposes of training horses. Map 34, Lot 57, Book 12199, page 503, six acres, plan by Donohoe & Parkhurst, Inc., dtd. May 9, 1997. Pole barn, no floor, no plumbing, BOH, Conserv. Comm., approved. Proposed barn will be 160' x 70' with 50' setbacks. Mr. Butler stated that he does not want to encourage a large mass of training; just local equestrians; people in the area. The Board was amendable to the idea; there is already a barn there, with horses. If, however, a change of use were to be proposed, the Board would require any future applicants to come to the planning board.

MOTION: W.BURNHAM MOVES TO APPROVE THE BUILDING APPLICATION FOR SHAW AND POLLEY BUTLER OF 10 MILK STREET FOR CONSTRUCTION OF AN INDOOR RIDING ARENA. DIMENSIONS 160' X 70' WITH THE UNDERSTANDING THAT THE ARENA IS TO HAVE A DIRT FLOOR, NO PLUMBING. BOH AND CONSERVATION COMMISSION APPROVED. IT IS UNDERSTOOD BY THE PLANNING BOARD AND THE APPLICANT THAT A CHANGE OF USE FROM THE INTENDED AGRICULTURAL USE NOW, THE APPLICANT OR FUTURE OWNER WILL COME BACK TO THE BOARD FOR REVIEW. SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION: W.BURNHAM, S.PENNOYER, PAT DUNN, DAVE JONES. JOE GINN VOTES PRESENT. THE MOTION PASSES.

(Joe Ginn returns to the table.)

MASTER PLAN: Westley Burnham has drafted a letter to the Board of Selectmen in response to Ms. Jermain's request to form a committee to develop a master plan for the Town of Essex.

MOTION: PAT DUNN MOVES TO FORWARD THE LETTER BY WESTLEY BURNHAM, AS WRITTEN, TO THE BOARD OF SELECTMEN. SECONDED BY JOE GINN. ALL MEMBERS PRESENT VOTED TO APPROVE THE MOTION. THE MOTION PASSES.

LETTER TO BOARD OF APPEALS, RE: POST OFFICE: Westley Burnham read a draft of a letter to be sent to the Board of Appeals. The Board then agreed to send the letter to the Board of Appeals for the approval for work being proposed at the Wedgewood Pharmacy to house the Post Office.

(Gil Guerin enters at 7:35p.m.)

TECHNICAL REVIEW AGENT INVOICES: The Board agreed to, and signed the two invoices for work relative to the Subdivision at Hunter's Circle and Turtle Back Road. The invoices will be forwarded to the Town Accountant to pay from the revolving account of each applicant.

TURTLE BACK ROAD/SUBDIVISION: Peter VanWyck's attorney, Robert Cole was present to request that the two lots, 22 and 23 be released according to the Agreement for Judgment, paragraphs two and three. He recanted the meetings in the past where the Tech. Review Agent and Town Counsel were present, and conversations he had with Town Counsel. Robert Cole was of the understanding that Peter has finished the road up to the lots, knowing also that the road was built at Peter's own risk, knowing that perhaps the road would be ripped after the inspection of the Tech. Review Agent. He explained that a modification of the Agreement was necessary as the road would have to be moved according to the Conservation Commission's requirement to be away from wetlands. He noted that if need be, the road would be moved with an easement into Lot 25. Sheldon and the Board felt that a performance guarantee had to be in place for the whole road, "phase I and phase II", before the lots could be released. Mr. Cole did not agree that this was the case. Sheldon said that Brian Cassidy said that a performance guarantee would have to be in place for the entire road. The Board and Robert Cole were frustrated at this point. Westley pointed out that this construction has not been handled by Peter in accordance to the Subdivision Rules and Regulations. The road was completed without the inspection by the Tech. Review Agent.

Robert stated that he wants to have the Tech. Rev. Agent put a cost on the portion of the road, and it would be ripped up in the Spring, if not to the correct specifications. Sheldon wants the cost put together for the Bond for the entire road. Robert Cole disagrees. He wants the cost for the first portion of the road, as if it was already completed. Gil Guerin stated that there was no lien on this road with PVW. Joe Ginn was frustrated that Town Counsel speaks to Sheldon, who then speaks to the Board, Robert Cole speaks to Town Counsel, who then speaks to the Board; Joe Ginn wants Town Counsel present for any meetings that have to deal with PVW and his attorney. Robert Cole got up from the meeting stating that Land Court would have to settle this argument. Sheldon stated that he would talk to Brian, and have Brian come to a meeting where this can all be worked out. The Board took no action at this time, for releasing the two lots.

8:00P.M. PUBLIC HEARING FOR DICK CARTER, APPLE STREET:

The public notice was read by the clerk. Sheldon noted that the issue this evening was for the cutting of the trees only, as stated in the newspaper. Many residents were present for the following discussion and decision.

Dick Carter explained that he needed to remove three trees on a scenic way, being on Apple Street. He wanted to build a new bridge on his property at the old rail road track, using the existing piers. The located of the bridge was amendable to the DEP, and the Water Ways regarding CH.91. Essex Tree Warden, Bruce Julian has seen the trees and felt that it was within reason to cut them. There were small trees of similar kind (maple) that will grow nicely in that area.

Kimberley Jermain, of Apple Street questioned whether the plan submitted was a compilation of information; not a plan showing data from a survey. She was concerned that the trees to be cut were not part of the parcel. Sheldon reminded her that this issue was not about frontage. The trees to be cut are a part of the "way". He quoted the MAPC tape, and the "Shade Tree Act" which was created, in fact, for the DPW purposes; so that trees would not be cut randomly, on the "scenic way". It is however, the shade tree act is not to be dealt with private owners of property and access to the public way. Kim repeated her concern: "Is this a valid plan"? She questioned whether Dick owned the land that he wants to put the bridge on. She states, "Can you, as a Planning Board, be sure, that that plan, which was once used for an ANR with 300 feet of frontage, no sale, no change in the property, and then appeared before the Appeals Court a year and one half later, with only 20 ft. of frontage, verified, and signed by the owner, are you looking at a plan that represents what's there. There has not been, from my understanding, a current survey of that property,

and I am saying to you that the owner one year told you there were 300 feet of frontage with the same plan stamped by the same surveyor, and he also told the Board of Appeals that there was only 20.34 feet of frontage. Which is it. How much frontage is there, and do those trees lie within the property. She wanted the survey plan verified.

All other residents present, including Attorney Paul Shea, who did work on the title for this, as did Ralph Pino, the Assessor, he was certain that this was a legitimate, certified plan. John Janes, who lives across from Dick, had no problem with what he was proposing. Ed Neal noted that for safety issues, it was a good idea to relocate the bridge. Dick has the driveway permit, also. Ed Perkins, Chairman of the Conservation Commission approved the cutting of the trees. Donald Metcalf stated emphatically that the Engineer that did this plan did his also, as an abutter to the property in question. He has known Mr. John Goodwin for over thirty years. He is competent and capable.

MOTION: WESTLEY BURNHAM MOVES TO CLOSE THE PUBLIC HEARING AT 8:25 P.M. SECONDED BY PAT DUNN. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE THE MOTION. MOTION PASSES.

MOTION: WESTLEY BURNHAM MOVES TO APPROVE THE REMOVAL OF THREE TREES ACCORDING TO MGL CH. 40, SECTION 15.C OF THE SCENIC WAYS ACT, AUTHORIZING DICK CARTER TO REMOVE THE TREES BEING INSPECTED BY THE TREE WARDEN, FOR THE PURPOSE OF CLEARING FOR ACCESS TO HIS PROPERTY. SECONDED BY PAT DUNN. MEMBERS VOTING TO APPROVE: P.DUNN, S.PENNOYER, J.GINN, W.BURNHAM, DAVE JONES AND GIL GUERIN. THE MOTION PASSES.

The Board discussed planning issues relating to the meeting at MAPC that Sheldon recently attended, and The Wedlock/Pedersen property was also discussed; Sheldon has some information relating to an ANR that was passed, which states that the property could not be further divided. He would give the Board more information on this.

TBE and PVW was discussed again, and Joe Ginn raised the issue of Town Counsel being present during all Peter VanWyck/Turtle Back Road meetings.

MOTION: JOE GINN MOVES THAT NO APPOINTMENTS BE MADE WITH PETER VANWYCK AND HIS ATTORNEY, UNLESS THE BOARD HAS TOWN COUNSEL PRESENT. SECONDED BY DAVE JONES. IN FAVOR OF THE MOTION: S.PENNOYER, J.GINN, W.BURNHAM, D.JONES, GIL GUERIN AND PAT DUNN. THE MOTION PASSES.

MOTION: W.BURNHAM MOVES TO ADJOURN THE MEETING AT 9:00 P.M. SECONDED BY PAT DUNN. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE THE MOTION.

Presented by: Lisa Randall

Attested to:





ESSEX PLANNING BOARD

Town Hall 30 Martin Street Essex, Massachusetts 01929 - 1219

AGENDA

WEDNESDAY, JANUARY 7, 1998

7:00 p.m. Minutes of 12/17/97 and 12/22/97
7:15 p.m. Building Inspector. Bob Nelson
7:30 p.m. Steven Wedlock - Old Manchester Road. Discussion of property
7:45 p.m. Cynthia Van Hamersvelt, Conomo Point
CANCELLED

added to
the agenda: Peter VanWyck/Turtleback Road: Dick Tomiaolo in for release of two lots.

Other: Discussion of Flood Plain District By-Law Changes as an Article for the Warrant. Inclusion due March 9, 1998.

Annual Report Discussion: Due Feb.17, 1998

**CAPITAL BUDGET IS DUE JAN. 12TH
QUARTERLY DEPARTMENT HEAD
MEETING.**

**OPERATING BUDGETS AND EXPLANATION
OF INCREASES DUE JAN. 15TH TO TOWN
ACCOUNTANT**

Letter by K. Jernain re: Master Plan.

**ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 7, 1998**

The meeting was held at the Essex Elem. And Middle School and started at approximately 7:00p.m. Attendees were: Sheldon Pennoyer, Chairman, Westley Burnham, Dave Jones, Gil Guerin, Pat Dunn, Brian Feener and Joe Ginn.

Gil Guerin leaves table for the next discussion.

JOHN GUERIN, ATTY./WEDGEWOOD PHARMACY-POST OFFICE. John explained that the application for the Wedgewood Pharmacy would go before the Appeals Board to get a Variance for the building on Martin Street. Currently, there is an agreement between the Guerins and the Postmaster to create space for the Essex Post Office. John showed the Board a site plan which needs a variance for the setbacks, and addition to the building. The Board was in support of the action to have the Post Office at the Wedgewood Pharmacy location. John had the support of the Board, and Westley would draft a letter to the Appeals Board to promote the new post office building.

Gil returns to the table.

JAY HAVIGHURST of 10 Winthrop Street came to the Board asking that the site plan of Steve Boches (previously, the Garcia Kimball lot) be looked at - He felt that the house was being located in a different location than was originally planned. The Building Inspector was present for the discussion and noted that another parcel was purchased along with the original lots, and if the site was in a completely different location, he agreed that the applicant must come to the board. But it looked apparent that the house may have changed its location in a small way, which can be considered, if it was not more than a few inches. The lot was deemed a buildable lot, and Jay was told by the Board that if he wanted to pursue the matter about it being a legal lot, then the matter must be addressed by an attorney at his cost. No action was taken.

BOB NELSON, BUILDING INSPECTOR: DONALD AND MELANIE BURNHAM, of 26 Lufkin Point Lane. Replace a home of 24x34 which had fire damage. Building is not increasing footprint, but two bedrooms would be built upstairs. Map 20, Lot 30 & 31B. No action was taken by the Board, but Joe Ginn noted that if the foundation was to be replaced, a certified engineer should be hired. Bob reported that the same foundation would be used to repair the home.

CELLULAR-ONE- CELL TOWER ON 15 TREE HILL ROAD - Bob explained that the Cell Tower was ready to be built, a building permit would be issued and the conditions of the decision for the tower would be forwarded to Bob.

CYNTHIA CARCO-VANHAMERSVELT - CONOMO POINT ROAD: Since Ms. Vanhamersvelt has cancelled the appointment for this evening, Bob will send her a letter stating that as the zoning enforcement officer, he would be giving her 60 days to cut the back of the deck, and detach the deck from the house. She was also responsible for restoring the lawn of Ms. Laurinda Durie (87 Conomo Pt. Road). He would seek the permission of the Selectmen to be prepared to hire a contractor to do the job if she was not willing. The expense would be hers.

STEVEN WEDLOCK/KIM PEDERSON - OLD MANCHESTER ROAD ^{Andrews Street} Scott Patrowicz of Patrowicz Engineering, gave the Board an overview of the area off ~~Southern Ave.~~, where Old Manchester Road continues to a dirt road, and has several trails - the Road is an old way, once used to travel to Manchester. It is a private road with public access and several public easements. The road has since been gated toward the Manchester side, since it was used to dump cars, trash, etc. The couple wishes to divide their property into three lots, which would be the Approval Not Required. The Board had several concerns in mind, one being the issue of the Road. If it is now blocked by the gate, would it still be considered a way. The future of that area was discussed, and the board had questions relating to future growth. The possible potential of growth in that sensitive area was a concern. Joe Ginn noted that in the 1980's, the property may have had some conservation commission requirements. This would be investigated. The couple came to the board for an informal discussion only, and wanted to know the minimum standards of the road, which

Page Two of the January 7, 1998 Minutes, continued...

they wanted to keep as a gravel road. No action was taken this evening, but the Board would be contacting Town Counsel to ask if the road is a terminated existing way. A date of February 18, 1998 at 8:30pm was announced for further discussion.

TURTLEBACK ROAD - DICK TOMAILOLO - Dick came in place of Peter VanWyck asking for the formal release of the lots 22 and 23 on Turtleback Road. Sheldon informed Dick that Town Counsel has advised against the release of the lots. There is currently no bond in place for the remainder of the road and no cash bond for the 1st part of the road that is to be properly coated next spring. And since there was no certification from the Technical Review Agent on the road, or drawings to determine what/how the road has been built, the Board was not going to approve the lots. No action was taken.

1998 OPERATING BUDGET AND CAPITAL BUDGET - The Board approved the 1998 operating budget which would remain the same as last year. The Capital Expense that the Board was going to push forward was the request of a laptop, with an asking price of \$2,000.00

MOTION: JOE GINN MOVE TO APPROVES THE DECEMBER 17, 1997 MINUTES AS WRITTEN. SECONDED BY BRIAN FEENER. IN FAVOR OF THE MOTION WAS: J.GINN, P.DUNN, D.JONES, B.FEENER AND G.GUERIN. SHELDON AND W.BURNHAM VOTE PRESENT. THE MOTION PASSES.

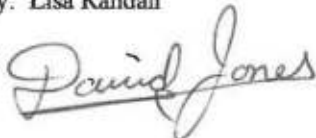
MOTION: GIL GUERIN MOVES TO APPROVE THE DECEMBER 22, 1997 MEETING WITH THE AMENDMENT TO THE MINUTES TO REFLECT THAT THE MOTION OF DICK CARTER FOR A HEARING ON JAN.21, 1998 BE CORRECTED: IT SHOULD STATE THAT IT IS A PUBLIC HEARING, NOT A SPECIAL PERMIT. SECONDED BY DAVE JONES. ALL IN FAVOR OF THE MOTION TO APPROVE WITH CHANGES WERE: S.PENNOYER, P.DUNN, D.JONES, GIL GUERIN, AND BRIAN FEENER. W.BURNHAM AND J.GINN VOTE PRESENT. THE MOTION PASSES.

LETTER FROM KIMBERLEY JERMAIN, RE: MASTER PLAN: Mrs. Jermain was requesting that the Selectmen appoint a committee to work with the Planning Board to develop a "master plan" (MGL Ch.41, Sec. 81-D) for developing. The Board agreed that this was an issue of importance and would take the steps necessary to see that this issue be resolved. W.Burnham would draft a letter to the Selectmen on this request.

MOTION: DAVE JONES MOVES TO ADJOURN THE MEETING AT 10:00P.M. BRIAN FEENER SECONDS THE MOTION. ALL MEMBERS VOTED UNANIMOUSLY TO APPROVE THE MOTION.

Presented by: Lisa Randall

Attested to:



**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, DECEMBER 15, 1999**

7:30 p.m.

Building Inspector Report

7:45 p.m.

**Horsley and Witten, Planning
Consultants/James Witten, Esq.**

Other Business:

- Liberty Road Subdivision/Correspondence from HL Graham Assoc.
- Vote to hold weekly meetings from January on/Bylaws
- Ltr. From EOEI/Special Procedure: Phase I Report
- Dames and Moore Letter/Potential Vendors of treatment systems
- Memorandum from Kopelman and Paige/ANR and Subdivisions
- Special Town Meeting – Adoption of previous Bylaw changes
- Minutes of December 1, 1999
- Vote for Expenditure for transferring Telephone to P.B.Office
- Mail
- HL Graham Invoices to be signed by Board
- HL Graham – two letters to review regarding TBRd.

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 15, 1999**

The meeting was held at the EEMS on Story Street and opened by the Chairman.
Attendees: Westley Burnham, Chairman, Sheldon Pennoyer, Brian Feener, Walter Rich, Elisabeth Shields, and Gil Guerin.
Also in attendance: Kelly Whalen, Engineer at Dames and Moore
Absent: George Stavros

John Witten of Horsely and Witten: John Witten, a Planning Consultant who is subcontracted through Dames and Moore Engineering, came before the Board to assist with issues regarding certain bylaws needing to be drafted in order to go before Town Vote in May. The bylaws would outline the service district of the wastewater facility plan, which is being instituted as a result of a Consent Order by the State regarding compliance with Title V Sewer Laws.

Chairman Burnham started the discussion by explaining his understanding of what the Board needed from Mr. Witten. He was interested in obtaining the services of Mr. Witten in order to come up with a series of bylaws that would define the sewer district overlay and additional land use bylaws within the district. Mr. Witten commented that since Kelley Whalen has already addressed the service areas, a series of drafts needed to be written and agreed upon by the Board. Assessments, districts, and tie-ins through zoning should be drafted through a general bylaw.

The overlay district did not need to go through zoning. It can be a wastewater treatment district adopted as a map by the Town, explained Mr. Witten. This should be tied into the facilities plan, preventing changes "ad-hoc".

Administering the sewer district expansion was discussed, and Kelly Whalen explained that the facilities plan being asked for is already eighty percent full and twenty percent is already calculated for a cushion. A *permit to discharge* is limited by State law, and the Town could not increase the discharge unless it would improve the quality of the river. This would limit growth by design. The concern, to all, was the in-fill of existing lots not yet developed, within the sewer district. It was a point made that the Town should not allow a build-out of these existing lots through a rezoning.

Sheldon Pennoyer noted that this district that was designed by Dames and Moore should possibly encourage growth within the center of Town, and not the outer edges of the core area of the Town. There are many undeveloped acres in an/around the Lufkin Street and Eastern Avenue areas which concerned him.

The discussion lead to the potential establishment of a district within the core area, in order to encourage the flow to remain within the center of Town. Kelley Whalen explained how the calculations of a build-out analysis of the whole sewer service area was done by single family dwellings of existing and potential lots, according to existing bylaws. To stop some of the development in areas with larger lots, Mr. Whalen noted that

the bylaw would state that the sewer would not include any new streets or new subdivision roads. The total capacity was calculated for the in-fill of development, noted Whalen.

Chairman Burnham asked about a mechanism to deal with additional expansion or additional flow for a particular lot, assuming the DPW/Water Dept. would be the authority over the tie-ins for each dwelling, and Title V would be the determining factor if the dwelling would not tie-in. An overlay district, or special permit granting authority could be implemented as a mechanism for any additional tie-ins – The DPW would need to be part of the process, as well. The assessment for effluent was calculated as residences (150 gpd per single family use). The flow rate would be the determining factor for sewer use. In the EIR Report, a certain amount of reserve is retained for municipalities (schools, town hall, etc). An increase of a certain percentage requested by a resident who is pre-existing conforming or pre-existing nonconforming would need to know in advance, what the pro-rata flow rates are. The Bylaw will reference the facilities plan.

Mr. Witten explained that a general bylaw creating a sewer district needs to be adopted. If this was adopted by a zoning bylaw, it would be harder to enforce the bylaw. Town meeting would address the general town bylaw for a district, budgeting, betterment fees. The overlay map would be the only zoning issue, which would need the public hearing showing a map – lot for lot, etc. The district would be determined by the adopted map and the surface water discharge permit.

In closing, the map will be accurately drawn and the bylaws would be ready by March. Mr. Witten will be in touch with Town Counsel at Kopelman and Paige for the drafting of the general bylaw, etc.

Turtle Back Road Extension: The Agreement signed by both parties, Peter Van Wyck, and the Planning Board, agreed that the deadline to finish the subdivision is December 1, 1999. Sheldon Pennoyer has spoken to Town Counsel's Kopelman and Paige, specifically, Ilana Quirk, Esquire, who recommended that the Planning Board vote to have Town Counsel send a letter to Peter Van Wyck requesting a Cease and Desist on the road. Mr. Van Wyck must then resubmit the plans for a new subdivision. Town Counsel felt that the Board has diligently worked with Mr. Van Wyck, and the records show this. Walter Rich questioned the enforcement of a Cease and Desist, and the civil suit regarding the Prestons. The Town holds the lots, yet cannot sell them. There are being held in the Agreement for the completion of the road.

Motion: Elisabeth Shields moves to recommend to Town Counsel Implement the Cease and Desist Order to Peter Van Wyck in Relation to the property at TurtleBack Road Extension.

Page Three of Planning Board Minutes of Dec. 15, 1999, continued...

Walter Rich asked if there were alternatives to this decision. If a commitment is made for a Cease and Desist, the matter is dealt with at the next meeting. The other option would be to do nothing, but the Board did not agree that this was the way to go.

Seconded by Gil Guerin. All members voted unanimously to Approve the Motion. The motion passes.

Planning Board Office/Telephone Expense: A telephone will be installed in the planning board office.

Motion: Sheldon Pennoyer moved to have the Board spend One hundred dollars to install a telephone in the Planning Board office at Town Hall. Seconded by Elisabeth Shields. All members voted to approve the motion.

Meeting Schedule for 2000:

Motion: Sheldon Pennoyer moved to approve the scheduled meeting dates of December 15, 1999 to June 2000. Seconded by Gil Guerin. All members voted to approve the Motion.

Work Session Meeting: Wednesday, January 12, 2000.

Motion: Chairman Burnham entertained a motion to hold a work session meeting for Wednesday, January 12, 2000 at 7:30pm. Seconded by Elisabeth Shields. All members voted to approve the Motion.

A letter by Edwin Howard was given to the Planning Board regarding the Sea Meadow Retail Store located on Main Street. This matter will be referred to the Building Inspector.

The Board, having no further business, adjourned the meeting.

Presented by:

Lisa Randall
Lisa Randall, Admin. Assist.

Attested to:

Elisabeth Shields
Elisabeth Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, DECEMBER 1, 1999**

7:30 p.m. Building Inspector Report

8:00 p.m. Public Hearing for 36 Story Street,
Definitive Subdivision of Joan Bucklin

Other Planning Business:

- Discussion regarding Wastewater Facility Sewer Bylaws
- Minutes of November 17, 1999
- Mail
- Bills Payable
- TurtleBack Road
- ConCom Notices
- Board Of Appeals Mtg. 12/8/99 re: 57 Southern Ave.
-

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, DECEMBER 1, 1999**

The meeting was held in the cafeteria at the EEMS on 12 Story Street and opened by the Chairman, Westley Burnham.

Attendees: Westley Burnham, Chairman, Sheldon Pennoyer, Betsy Shields, Walter Rich and Gil Guerin. Absent: Brian Feener and George Stavros

Building Inspector Report:Evan's Way/SMB Development: For siting of a single family dwelling on Map 36, Lot A on Evan's Way. 26x38 house with 16x25 garage. Siting was previously denied because of incorrect calculations on plan for size of dwelling. The application has BOH and ConCom. Approvals.

Motion: Sheldon Pennoyer moves to approve the Building Permit Application for Scott Boches of SMB Development, 5 Dow Drive, Haverhill, MA for the siting of a single family dwelling being 26x38 with 16 x 25 garage. Dwelling is located on Assessor's Map 36, Lot A on Evan's Way and meets the minimum requirements of the Town of Essex Bylaws. Seconded by Betsy Shields. All members present voted to approve the Motion.

60 Pond Street/O'Connell: Lot located on the corner of Wood Drive and Pond Street, Map 5, Lot 29A consisting of 2.56 acres. Plan was previously denied, as Wetland calculations were not delineated. Plan now shows 87,000 SF of upland area, approximately three percent of impervious surface. The application has BOH and ConCom approvals.

Motion: Sheldon Pennoyer moves to approve the Building Permit Application for a siting for Philip and Paula O'Connell, on the corner of Pond Street and Wood Drive, for a single family dwelling, Lot 29A, Map 5, having 2.56 acres, and the impervious coverage area is three percent, seeing that the siting meets the minimum requirements of the Town of Essex Bylaws. Seconded by Walter Rich. All members present voted to approve the Motion.

(Elisabeth Shields removes herself from the Table for the next discussion, being an abutter on Apple Street.)

Donald Metcalf/118 Martin Street: This property had a dwelling previously demolished and removed and currently has a dwelling located on the property and meets lot area requirements. The application has BOH and ConCom approvals. Assessor's Map 33, Lot 19, with frontage on Martin Street.

Motion: Sheldon Pennoyer moves to approve the siting of a single family dwelling for Donald Metcalf, 118 Martin Str., Assessor's Map 33, Lot 19, The site had three dwellings where one was removed. This is the replacement of the third dwelling. The site contains more than 90,000 SF and

has required frontage on an existing way on Martin Street. The setbacks for the streets and sidelines meet all of the minimum requirements of the Town of Essex Bylaws. Plan shows approvals from BOH and ConCom. Seconded by Walter Rich. All members present Voted to Approve the Motion, except Elisabeth Shields, who abstains from Voting. The Motion passes.

(Elisabeth Shields returns to the Table.)

Liberty Road/Robert Bradley Subdivision: Application for siting of a single family dwelling for Jeffrey Lawler, for Lot 1, being 2.31 acres having frontage on Liberty Road, Assessor's Map 8. This plan shows eleven percent of impervious area for a 42x32SF home. Has BOH and ConCom approvals, with an easement on adjacent lot for septic and utilities.

Motion: Sheldon Pennoyer moves to approve the siting of a single family dwelling for Jeffrey Lawler, County Homes, 114 Hartz St., Beverly, MA, for siting at Liberty Road, Map 8, Lot 1, having 2.31 acres. Plan shows eleven percent impervious area, and meets the minimum standards of the Town of Essex Bylaws. Seconded by Walter Rich. All members present voted to approve the Motion.

PUBLIC HEARING OF DEFINITIVE SUBDIVISION PLAN OF JOAN

BUCKLIN/36 STORY STREET: Chairman Burnham opens the Public Hearing at 8:00p.m. and reads the Public Hearing Notice published in the *Gloucester Daily Times* as required.

Attorney Miranda Gooding for Joan Bucklin (applicant is not present for hearing due to winter travel to Florida) explains that the plans drawn by Vernon J. LeBlanc, PLS of 161 Holten Str., Danvers, MA show four lots, yet the subdivision includes an existing dwelling on Lot 1, and a road, being Lot 4 which would be the access to the two lots proposed for single family dwellings on each.

Attorney Gooding explained the two easements on the plan: One is an easement from Lot 1 to provide the forty-four feet wide right of way as listed in section 7.02 4.a.1 of the Subdivisions Rules and Regulations. In addition, a maintenance agreement for the Lot 4 road, being a private roadway is being requested.

Attorney Gooding presented a revised list of Waivers for the Board:

Section 6.04-Requirement for Construction Plan. "A substantial portion of the information requested in this section is shown on the Subdivision Plan and Street Plan submitted to the Board."

Section 7.01(10) – Requirement for Underground Utilities. "In light of the small size of the proposed subdivision, the expense and construction of underground utilities would be excessive."

Sections 7.02(2)(j) and 7.02(4)(c)(3)- Requirements for Turnaround at end of Dead-End Street. "A hammerhead at the intersection of the driveways is proposed, which shall provide adequate access and turnaround capability for emergency vehicles."

Sections 7.02(4)(a)(1) and 7.02(4)(c)(1)-Minimum Width of Right of Way. "The proposed right of way will have a minimum width of 44 feet for its length, except at the intersection of Story Street where the width is only 39.92 feet; however, the balance of the required 44 feet will be achieved at Story Street by virtue of an easement over Lot 1 until the point where the width of the way is 44 feet. The easement is shown on the Subdivision Plan."

Section 7.02(4)(a)(2)-Minimum Width of Pavement. "The applicant proposes a 14-foot wide paved surface in lieu of the 20-foot minimum required under this Section."

Section 7.02(4)(a)(6)-Minimum Width of Shoulders. "The applicant proposes that shoulders shall be provided for to the extent reasonable in light of the paved width of the road and the proposed drainage swale, and to the extent necessary to provide safe access for emergency vehicles."

Miscellaneous Requirements. "Waivers from the following requirements are requested in light of the small scale of the subdivision, and the applicant's intent to maintain the natural vegetation on the site to the maximum extent feasible:

7.02(4)(b)-Sidewalks	7.02(4)(I)-Esplanade Area, Topsoil, Seeding	
7.02(4)(j)-Seeding	7.02(6)-Curbing	
7.02(7)-Pedestrian and Bicycle Circulation Systems		
7.02(8)-Trees	7.05-Blocks	7.06-Lots
7.07-Monuments		

Ms. Gooding mentioned also that Mr. Randall Huger of Rand Associates Consulting, Inc. was present to explain drainage concerns, particularly the Department of Public Works comments concerning the drainage, which Mr. Huger feels he has addressed on the plans shown this evening.

Chairman Burnham read the comments presented by the Town Departments:

Conservation Commission: Approval with modification: "The Conservation Commission feels the roadway must meet ALL subdivision rules and regulations, with the plan showing a minimum of 16 feet of pavement, with all drainage systems and drainage calculations to be sufficient for a 100-year storm. All utilities should be shown on the plan. This roadway is in the buffer zone, and therefore, the Commission will have jurisdiction over the final construction."

Board of Health: Approval: "Soil testing performed on 8/27/98 suggests that plans for on-site wastewater disposal systems will likely be approved when submitted in the future. However, it is not possible to predict the actual outcome until plans are submitted and review. The Board has no other comments."

Department of Public Works: Denial: "1. The common drive of 14' is too narrow and is substandard to the 20' recommended width. 2. The drainage swales shown are high maintenance problems. 3. The grade will allow water to drain directly onto Story Street.

4. No water shown. 5. No fire protection. 6. Proposed road passes through Lot 4. 7. Story Street is a scenic way.

Fire Department: Approval: "Add a fire hydrant at end of way."

Police Department: Approval: "No objections from a public safety standpoint."

Board of Selectmen: A letter addressed to the Planning Board: "Would you please advise, in writing, how this meets the front yard requirement."

Chairman Burnham asked how the applicant meets the standards for frontage, which is the capability of front yard setback of twenty-five feet. The requirements of the Town Bylaw 6-3.25 *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 the lot adjacent to the streets shall be considered frontage, and yards shall be provided as indicated under "yards" in this section." **The front yard on Lot 1 does not show the minimum twenty-five feet required in setback.** This infraction cannot be waived; it does not meet the zoning requirements and therefore, this plan is not acceptable. Chairman Burnham explained the difference between a waiver and a variance to residents present for the hearing.

Board of Selectmen Chairman, Rolf Madsen explained that because of the Sewer issues the Town is being faced with, adding more development in the "sewer district" should be done cautiously. The septic treatment plan will only allow for a certain amount of connections. Adding more lots for connection will directly impact the Town's capacity for existing lots. Chairman Madsen also cautioned the Board on accepting waivers for subdivisions because of this issue. Sheldon Pennoyer agreed with these issues, adding that perhaps only one additional lot is allowed.

James Knowlton of Western Avenue, an abutter, was concerned that this subdivision was in close proximity to his well. The Board assured Mr. Knowlton that the Board of Health has strict guidelines regarding setbacks to wells.

Frances "Pat" Dunn of Story Street felt that this new subdivision on Story Street posed a danger to children who pass by each day on their way to school. The Board acknowledged that this was an issue to be concerned with.

After discussion regarding the matter of the front yard zoning requirements,

**Motion: Sheldon Pennoyer moved to close the Public Hearing.
Seconded by Betsy Shields. All members present voted to
Approve the Motion.**

The matter of whether the applicant withdraws the plans or if the Board denies the plan was discussed.

Motion: Sheldon Pennoyer moves to accept a letter requesting the Withdrawal of the subdivision plan of Joan Bucklin, without Prejudice. Seconded by Betsy Shields. All members voted to Approve the withdrawal.

Minutes:

Motion: Sheldon Pennoyer moves to approve the November 17, 1999 Minutes as written. Seconded by Walter Rich. All members present Voted to approve the Motion.

Sewer District Bylaws: The Board discussed the issue of drafting the bylaws needed for the next Town meeting. Horsley and Witten will be meeting with the Board on December 15th for guidance. Timing was essential, as public hearings and publication of the Warrant need to be in place for the Town's Annual meeting in May. Weekly planning meetings will be scheduled after the 15th of December until the bylaws are ready for submission. Chairman Burnham will not be present for the January 5, 2000 meeting.

Special Town Meeting: The Planning Board will submit the bylaw changes **Flood Plain District 6-12, 6-3 Definitions (6-3.23 LOT), 6-13 Water Resource Protection District (6-13.3a and replace 6-13.3b.7)** to the Board of Selectmen for Town vote. This Special Town Meeting is tentatively scheduled for the last Monday in January.

Coastal Zone Management: Elisabeth Shields is in contact with Andrea Cooper, who is willing to assist the Board with matters concerning the proposed bylaw changes in relation to the sewer district. Ms. Shields will update the Board on this matter.

Site Plan Review: Sheldon Pennoyer will study this matter again, and bring forth a proposal for a **site plan review bylaw** for the Town to accept at a later date. This bylaw will be to set minimum standards for submittals, where a Special Permit will be required for specific projects that will have a substantial impact on neighborhoods. This involves additional, detailed information on site plans, as well.

TURTLEBACK ROAD EXTENSION TO SUBDIVISION: This evenings meeting is consequently the date that the subdivision for the Turtleback Extension will be completed. According to the Agreement for Judgment and the Motion dated January 20, 1999, which states, "**The Agreement for Judgment was mutually agreed to on or about November 1996 by Planning Board and Peter VanWyck. The Plans (being submitted tonight (1/6/99)) the original date of the cover sheet is 8/5/98 and final revision is 1/6/99 by Thomas E. Neve Associates. Approval is subject to the following: (Number 7. The Subdivision Road and the Utilities shall be completed by December 1, 1999. Failing to do so shall make the 1987 Approval Lapse.**"

Mr. VanWyck did not present a request to extend the date of December 1, 1999.

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After a lengthy discussion regarding the lots 22, 23, 24, 25 and 26 that are now being held by the Town and the escrow account for fees for the technical review agent, it was agreed that the Sheldon Pennoyer would be in contact with Town Counsel who will submit a letter with regard to the a vote by the Planning Board that moves that the Agreement for Judgement and Subdivision of Turtle Back Road be null and void. The legal document would then be approved by the Planning Board and forwarded to Mr. VanWyck. In the meantime, the Board agreed that a short letter should go to Mr. VanWyck explaining the vote to render the subdivision null and void and notification that a document will be presented in legal format to finalize the determination.

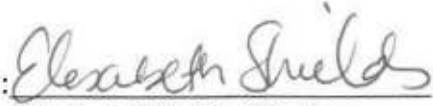
Motion: Sheldon Pennoyer moves to have the Planning Board agree to execute the necessary steps to dissolve the Judgement for Agreement between the Town and Mr. VanWyck. December 1, 1999 ends the authorized extension to the Agreement for Judgement. No further requests or extensions have been received by this Board. Seconded by Gil Guerin. All members present Voted to Approve the Motion.

Motion: Sheldon Pennoyer moves to send a letter to Peter VanWyck stating that the Judgement is expired and the Board will be in touch with Mr. VanWyck after the issues have been review by Town Counsel. Seconded by Elisabeth Shields. All members voted to approve the motion.

57 Southern Avenue/Holland residence: The Board is in receipt of a Board of Appeals hearing notice for Dec. 8th regarding the above address.

The Board, having no further business, adjourned the meeting.

Presented by: 
Lisa Randall, Admin.Assist.

Attested to: 
Elisabeth Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, NOVEMBER 17, 1999**

7:30 p.m.	Building Inspector Report
7:45 p.m.	Paul Pare co-applicant with Robert Bradley for Modification to Liberty Road Subdivision
8:00 p.m.	David Hidden for Subdivision off Icehouse Lane
8:30 p.m.	Peter VanWyck for Turtleback Road

Other Planning Business:

- Board of Selectmen request for information regarding Joan Bucklin Subdivision
- Bills Payable
- Payroll Voucher
- HL Graham Associates Invoices for Approvals
- Interoffice Memo to Board regarding remaining balances of accounts (re:53G/technical review agent account for ongoing inspections)
- Municipal Computer Needs Assessment Final Copy
- Memorandum from BOS re: Millennium Rollover
- Minutes of October 6, 20 and November 3
- Conservation Commission Notices
- Public Hearing Notices from abutting towns
- Mail
-

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, NOVEMBER 17, 1999**

The meeting was held at the EEMS staff lounge on Story Street and opened by the Chairman.

Attendees: Westley Burnham, Chairman, Gil Guerin, Brian Feener, Betsy Shields and Walter Rich.

Absent: George Stavros and Sheldon Pennoyer

(Gil Guerin removes himself from the table as an abutter to the following building permit application.)

Building Inspector Report: 66 Choate Street, building application for new, single family dwelling located on Assessor's Map 12, Lot 6 having 4.32 acres.

Motion: Brian Feener moves to approve the building permit application For Creative Development Associates, LLP of 6 Hamilton Place, Boston, MA 02108, for a single family dwelling located at 66 Choate Street, Essex, Map 12, Lot 6. Application has Conservation Commission, Wetlands and Board of Health approvals. Plan shown Meets all minimum setbacks of the Town of Essex Bylaws. Seconded By Walter Rich. Voting to approve the Motion were: Westley Burnham, Betsy Shields, Brian Feener and Walter Rich. Gil Guerin abstains from Voting. The Motion passes.

(Gil Guerin returns to the table.)

Evan's Way, Lot A – SMB Development: Application for siting of foundation located at the Story Hill Subdivision, Evan's Way. Approvals from Board of Health and Conservation Commission are shown on the application, however, the plan shows incorrect calculations for the proposed single family dwelling. The Board requested that the Building Inspector return the application for correction. No action was taken.

60 Pond Street – Corner of Pond Street and Wood Drive: Applicants, Mr. and Mrs. Philip E. O'Connell for siting of a single family dwelling located at 60 Pond Street, Map 5, Lot 29A. Acreage for property is shown as 2.56 acres. Order of Conditions 21-384. Application shows approval from Board of Health. The Planning Board requested the Building Inspector to return the plan to the O'Connells in order to have the wetlands delineated on the plan. This application is within the Water Resource Protection District and according to the Town's Bylaw 6-13, the plan must show a lot area of at least 40,000 S.F. of uplands. No action was taken.

Liberty Road Subdivision Modification for Additional Lot: Mr. Paul Pare' came before the Board as a co-applicant for the Approved Subdivision at Liberty Road. The plan, drawn by Vernon LeBlanc, dated 9/6/99 and revised 11/4/99 has also the attached plan drawn by Rand Associates Consulting, Inc. dtd. 9/6/99 and revised 11/4/99 which shows Liberty Road profiles. Mr. Pare' and Robert Bradley are requesting that a lot be

Page Two of Planning Board Minutes of 11/17/99, continued...

added to the existing but unfinished road. A letter dated November 11, 1999 details the request to create a third lot on the easterly side of the proposed roadway. Modifications to the Road include the required frontage of the requested additional lot of 151 feet, the increase to fourteen feet of paving, a 1 foot wide level grass area added to each side to serve as a shoulder. The roadway sub-base increasing to twelve inches of compacted gravel, and the depth of loam in the required areas will now be increased to six inches. Modifications to the roadway drainage swale design by adding crushed stone are being proposed. The plan shows a driveway to access the newly created house lot with a culvert under the driveway. Two additional signs will be provided to the Town on Western Avenue indicating the intersecting roadway. The original waivers approved on August 5, 1998 are also being requested.

The Board discussed this application at length a variety of issues, which included the fact that H.L. Graham Associates, the technical review agent acting for the Town, has not given the Board an opinion on the changes to this subdivision road. Mr. Pare' noted that changes made to the road to accommodate the third lot have been implemented. Many of those changes were concerns that HL Graham had detailed in previous comments. Brian Feener felt that this road should have been approved only with the subdivision road requirements – not giving into the waivers requested.

Chairman Burnham commented that this is a "minor" change to the subdivision, being that a lot is being added but the drainage issues are being satisfied.

The road will remain as a private road, maintained by the lot owners; a maintenance agreement will be part of the approval, comments and recommendations from HL Graham, and other language details will be stated within a final modification written and approved at a later date. This includes a notarized statement showing proof of access to the road will be required.

Motion: Gil Guerin moves to approve the modifications of Liberty Road Subdivision as shown on plan drawn 9/6/99 and revised on 11/4/99. Revisions include increasing pavement to fourteen feet, documentation of drainage changes, access to the proposed Lot B, agreement to install street signs as defined in the letter dated 11/19/99. Tentative approval to occur this evening, final approval to occur At the next scheduled meeting drafting new decision to include all Finite details. Final approval pending comments by HL Graham Associates. Seconded by Betsy Shields. All members present voted to approve the Motion.

Approval Not Required for The Kingdom Property located at 211 Western Avenue: Existing lot to be divided into two being shown on a plan drawn by Vernon J. LeBlanc, PLS of 161 Holten Street, Danvers, MA dated 3/22/99. Map 8, Lot 34.

Motion: Gil Guerin moves to Approve the Form A application for The Kingdom (by Joseph P. Wakeman, Agent) of Old Marlboro Road, Dublin, NH 03444, For subdivision of plan of land located at 211 Western Avenue, showing a two-acre parcel to be divided into two lots, one being 89,402 S.F. having frontage on Western Avenue having an existing single family dwelling. Second lot created being 44,469 S.F. showing 151 feet of frontage on Liberty Road. Plan also includes review by DeRosa Environmental Consulting, Inc. stating that no wetlands are present on the properties. Minimum setbacks are within the Town of Essex Bylaws. Seconded by Walter Rich. All members present voted to Approve the Motion.

David Hidden of Ice House Lane: Mr. Hidden was represented by engineer, Clay Morin who described plans to subdivide property with frontage on an abandoned railroad way which leads out to Centennial Grove Road, across from Harry Homan Drive. The railroad way has existing gravel base, approximate depth is not known but the width is believed to be approximately 16 to 21 feet wide. The lots proposed are presently located off Ice House Lane. This proposal would need to go through the subdivision rules and regulation process. No action was taken; discussion only.

Turtleback Road Subdivision/Peter VanWyck: Mr. VanWyck came before the Board seeking approval for a modification to drainage on the road. A detention pond on the Preston's property for removal and drainage to be transferred back onto Mr. VanWyck's property. This includes a relocation of a catch basin now on the south side of the Preston's driveway at Station 3+76, left. The runoff that used to flow to Pond 3(now deleted) will now flow to Pond 4. This will now eliminate the need for a culvert under the Preston's driveway. The detail of a Water Quality Inlet has been added to the revised plan, as well. A change from using a 12-inch reinforced concrete pipe (Class V) to a 12 inch corrugated, smooth interior, ADS pipe is requested.

Mr. and Mrs. Preston, who have a deeded easement with Mr. VanWyck, agreed that the deletion of a detention pond on their property be eliminated. However, they were concerned that within the 11/10/99 letter by Mr. VanWyck's engineer, it states that "installation of the proposed catch basin at Station 3+40, left, and the Water Quality Inlet will require the relocation of existing utilities that service the Preston property." According to Mr. Preston, who provided the Board with a letter from his attorney, "...it was completely objectionable to Prestons, who live in their home, together with their son. It is not permissible for a developer of a subdivision to remove or interrupt the utility service of an existing house already conveyed by the developer...." Further, the letter stated that "...Mr. Preston's land includes an area of 6,857 square feet at the mouth of Turtleback Circle where it intersects with Turtleback Road. This is area is shown with diagonal lines on the plan enclosed. According to the deed from Mr. Van Wyck, this 6,857 square-foot area is subject to an easement reserved for all purposes for which public ways may be used in the Town of Essex. A portion of detention pond Number 1

being built by Mr. Van Wyck extends onto this area.” The Prestons did not agree that Mr. Van Wyck’s easement on this section includes the right to have a portion of the detention basin on this land.

A long discussion regarding the moving of the utilities lead Chairman Burnham and Gil Guerin to state that this was a private matter, yet, the Board would ask that Mr. VanWyck give ample notification to the Prestons and make the inconvenience time as minimal as possible. Mr. Preston stated emphatically that he would not allow Mr. VanWyck to remove or replace utilities on his property. He did not agree with the Board that this was an acceptable practice. It was also discussed that this modification to the plan is a minor detail for which the Board would not hold Mr. VanWyck hostage to. The deadline for this project is December 1, 1999. Chairman Burnham would not agree to hold this issue off further. Brian Feener noted that Mr. Graham has not given the Board a final approval on this request dated 11/10/99. The request this evening was based upon previous comments and recommendations by HL Graham, and Chairman Burnham noted that what was being considered *this* evening was approval of the conceptual changes already presented and discussed with HL Graham. Gil Guerin agreed with Chairman Burnham that this is a drainage issue that is being changed, which appeared to be a better plan, and DEP will also be part of Mr. VanWyck’s process with which he will need to be in compliance with. Mr. Feener would have like to have the final approval on this letter before issuing an approval for the change. Chairman Burnham was not in agreement that this should be held up further; the deviation is relatively minor, the changes have already been before HL Graham.

Motion: Gil Guerin moves to approve the modification for removal of detention Pond 3 and to re-route storm water runoff to detention Pond 4 in accordance with the November 10, 1999 letter and as shown on Sheet 3 of 7, revised 11/10/99, by Thos. Neve Associates. Several details requested shall be dealt with the Clerk of Works and will not be annulled or disapproved by this Board, specifically, the type of material to be used in construction with the drainage piping. Seconded by Brian Feener. All members present voted to Approve the Motion to approve the modification. The Motion passes.

Site visit at 36 Story Street – Proposed Subdivision by Joan Bucklin: The Board scheduled a site visit for Sunday, November 14th on the property located at 36 Story Street.

Minutes:

Motion: Brian Feener moves to approve the October 6, 1999 Minutes as written. Seconded by Walter Rich. All members present voted to approve the Motion.

Motion: Gil Guerin moves to approve the October 20, 1999

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Minutes as written. Seconded by Walter Rich. All members present voted to approve the Motion.

Motion: Brian Feener moves to approve the November 3, 1999 Minutes with the minor spelling errors corrected. Seconded by Betsy Shields. All members voted to approve the amended Minutes.

The Board, having no further business, adjourned the meeting at 10:10 p.m.

Attested to: *Lisa Randall*
Lisa Randall, Admin. Assist.

Presented by: *Elisabeth Shields*
Elisabeth Shields, Clerk

AGENDA
WEDNESDAY, NOVEMBER 3, 1999

7:30 p.m.	Building Inspector Report
7:45 p.m.	Peter Van Wyck, Re: Turtleback Road Subdivision
8:00 p.m.	Mr. and Mrs. Preston, Re: Issues at Turtleback Road Subdivision

Other Planning Business:

- Mail
- Minutes of Oct. 6 and Oct. 20, 1999
- Conservation Comm. Notices
- Liberty Road Subdivision
- Phase 2, Scope of Work
- Thos. Neve Ltr. In response to HL Graham Ltr. Re: Turtleback Road
- HL Graham response to 10/28/99 Thos. Neve Ltr. Re: Turtleback Road
- Discussion of K. Gertsch Ltr. In *Times* dtd. 11/1/99
- New Form for Departments re: Request for Legal Services
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**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, NOVEMBER 3, 1999**

The meeting was held at the EEMS on Story Street in the Staff Lounge and opened by the Chairman.

Attendees: Chairman Westley Burnham, Brian Feener, Gil Guerin, Sheldon Pennoyer, Walter Rich, Elisabeth Shields, George Stavros.

Open Meeting Law Workshop: Elisabeth Shields and Walter Rich attended the seminar. They gave a brief summary of the forum, which they felt was worth the time.

Request for Legal Services Form: The Board of Selectmen requires completion of a form in order to have contact with the Town's Attorney. Forms are on file in the Planning Office.

Building Inspector Report: Evan's Way Subdivision, Lot 1, #3, by SMB Development: The permit was being brought for a siting by the Board, yet it was noted that the foundation has already been built. The developer, Scott Boches of SMB Development will be notified that he must abide by the Town of Essex Bylaw 6-7.2A *BUILDING PERMIT* which states "No building or structure shall be erected, added to, moved, or structurally altered without a permit in writing from the building inspector. No building permit shall be issued until the planning board shall have approved the site plans showing the buildings to be placed thereon and the proposed use there for, except in the case of a variance from the terms of this chapter by the board of appeals in accordance with the provision of Chapter 40A, MGL."

Motion: Sheldon Pennoyer moves to approve the building application For a siting of a single family dwelling for Scott Boches, of 5 Dow Drive, Haverhill, MA, for Lot 1, #3, on Evan's Way, seeing that it meets all Of the required setbacks of the Bylaws of the Town of Essex. The building Application shows approval from the Board of Health, Conservation Commission. Seconded by Gil Guerin. In favor of the Motion: Walter Rich, Sheldon Pennoyer, Gil Guerin, Brian Feener and Elisabeth Shields. George Stavros votes against, and Chairman Burnham Voted Present. The Motion to approve the permit passes.

(Gil Guerin removes himself from the table for the following discussion.)

66 Choate Street: This application was brought before the Board for a siting yet the site plan was not sufficient, and during a 9/22/99 Planning Board meeting the minutes reflected that the Building Inspector was researching a zoning issue with regard to the frontage accessibility on the lot in question. It was not clearly delineated on the plans where an alleged pond is located on the property, as well. George Stavros commented (he is also a member of the Conservation Commission), that this issue was to be addressed, as well. The Board would not act on this application until a full site plan is given, and

delineates where the pond is located. The application has Board of Health and Conservation Commission approvals for the siting of the house, only.

(Gil Guerin returns to the table.)

Turtleback Road Extension/Peter VanWyck: Mr. VanWyck came before the Board to discuss changes regarding a detention pond on the Preston property that would be deleted. He wanted to be able to deed out lots, and did not want the Board to hold up the road because of ongoing litigation between the Prestons and Mr. VanWyck. He has asked his engineer if the pond was necessary; it was approved to be eliminated by HL Graham, answered Sheldon Pennoyer. George Stavros asked what DEP's position was, on deleting the pond. Mr. Stavros noted that Mr. VanWyck was deleting a pond without DEP approval. Mr. VanWyck stated that he would delete the pond on the Preston's property and diverting the drainage to Mr. VanWyck's pond. He repeated that he wanted the ability to deed out lots, by resolving this "one" issue. Chairman Burnham noted that the Agreement was that the road would be built in its entirety before lots would be deeded out. Chairman Burnham added that HL Graham has reviewed the proposed change to eliminate the detention pond on the Preston property and tentatively approved this, although the Board has not been able to review and approve this as a Board, and Chairman Burnham asked if Mr. VanWyck was intending to build the road with this proposed modification. Mr. Van Wyck replied that he would like to keep the detention pond as it is now. He said that the DEP put this detention pond there for a purpose. Mr. VanWyck would like to have the option. Chairman Burnham said that the Board would release lots when the road is completed as previously agreed to. Whether you clear the legal problems with the Prestos and build the road as drawn now, or come back for a set of drawings and request a modification (having HL Graham's input), the bottom line is, it is going to be built according to a plan that is in front of the Board, and approved.

Sheldon Pennoyer, who is the liaison between HL Graham and the Board, described the modification to eliminate detention pond number 3, in a letter dated November 3: "...with the elimination of Detention Pond 3, installation of additional storm drainage, reduction in the size of Detention Pond 1 and some additional modifications to Detention Ponds 1 and 5." HL Graham also stated that additional work should be incorporated: "Inverts to the Preston driveway culverts should be given and the cover and grading of the driveway apron over the culvert closely examined. I appears a rather distinct "hump" in the apron might result in order to cover the 12" culvert pipe." Also detailed in the letter, "...The WQI (water quality inlet) on the 8 1/2 x 11 page with letter should be incorporated into revised plans so it's available to the contractor." The letter concludes by stating that "...other than the above comments we are satisfied with the proposed revisions and revised plans to date... We are monitoring the (little) road and drainage construction work on-going at the site.

Mr. Pennoyer said that Mr. VanWyck has until December 1, 1999 to finish the road. A lot of work is to be done. It was Pennoyer's opinion that no more extensions should be granted; it will need to be started over again. Chairman Burnham repeated that Mr.

Page Three of Planning Board Minutes of 11/3/99, continued...

VanWyck build the road as it stands on the plan or a modified plan be put in front of the road, in writing, and the engineer has already submitted a letter to approve the changes, with some additional work (detention pond changes, etc).

The Board will review the changes, consider a formal request for a modification to remove the detention pond 3 from the plan and installation of additional storm drainage, and reduction in the size of Detention Pond 1 and some additions modifications to Detention Ponds 1 and 5. The issues must be drawn on the plan and submitted in writing.

The Plan was carefully studied, and Sheldon Pennoyer delineated the changes that were being requested on the approved plan. This showed the Board what was actually being changed, making the request for the modification distinct from the approved plan. (Page 2 and 3 of the approved plan dated 1/6/99 by the Planning Board and revised as shown date of 9/20/99 (this revision is not approved by the Board yet.) Sheldon Pennoyer and Chairman Burnham asked that Mr. VanWyck present a **formal submission** for the next meeting. The Planning Board will contact the interested parties, and HL Graham, to let them know that a review for a modification request will take place.

Scottie Robinson of Turtleback Road came before the Board to discuss her concerns about drainage. If the road is not in place, the existing ice and standing water problems will be even more hazardous. She would hope that the drainage on the road be done correctly. This would be a way to adequately improve the problems happening at Turtleback Circle. She also wanted to know why the Board could approve a plan that requires someone's private property being dug up to install a culvert where there is existing pavement of their driveway. Also, what responsibility is the road owner having for maintenance for the upkeep of the total road (Turtleback Road). Ms. Robinson noted that there is now a culvert from VanWyck's side of the road that runs from his pond, underneath the road out toward her property toward the easement on her property but the water runs on her property and her neighbor's property. The road is not a town road it is a private road. Sheldon Pennoyer addressed the drainage on this road: HL Graham was a reputable town agent and he is looking at this road carefully. If the road does not get completed it is not necessarily a benefit for anyone owning property at Turtleback Road. The maintenance on the road as it stands now is between the property owners and Mr. VanWyck. Chairman Burnham noted that the Planning Board now requires a maintenance agreement to all subdivision roads between the landowners.

David Preston of Turtleback Road came before the Board to discuss the Pond located on his property. He felt that the Planning Board had the responsibility to make sure that the developer has proper title that he is claiming. He noted that although Pond 3 is being eliminated, Pond 1 partly exists on his (Preston's) land. Mr. Preston showed that on the plan although shows an easement that is a right of way that gives Mr. VanWyck no authority to build anything including a detention on his property. He felt that if the Board is going to approve a modification on the plan, the Board must take a look again at the ownership. Mr. Preston forwarded the Board a copy of a letter by his attorney stating that the Prestons request that the Board require Mr. VanWyck to have the property bounds

staked by a surveyor and marked in this area, so that the Prestons will be able to confirm the location of the construction in relation to their land. Currently, extensive construction going on in this area includes construction of a detention pond and other construction. The area is not staked out to show the boundaries of Mr. VanWyck's property. Chairman Burnham noted that the assumptions the Board were under through the design process was that the right of way which is shown was put in place in full consideration of any and all structures related to construction of the subdivision. Mr. Preston disagreed. The easement is for passage, Mr. Preston agreed, but it doesn't say anything about building a road on it, draining it, or grading. Mr. Preston was frustrated with the situation and wondered how the Board could have Mr. VanWyck proceed with this project. He firmly stated that the Board not allow work on his property or make any approvals regarding his property. Sheldon Pennoyer and Mr. Preston highlighted the land of Mr. Preston, including the easement. Mr. Preston noted that the easement doesn't actually say whose easement it is, and it was very odd that when these lines changed, his lot size oddly shrunk exactly the size of that easement. He felt that Mr. VanWyck has been representing this as Mr. VanWyck's land. Mr. Neve, engineer for VanWyck has also stated that the original calculations of the plan were wrong; therefore, the change, being the same size of the easement. Mr. Preston stated emphatically, "Do not approve a modification for a subdivision where you are not sure whether or not the developer has title." Mr. Pennoyer asked if the modification were to take work out of your land, would this be going in the right direction?" Mr. Preston agreed. Mr. Pennoyer also noted that this Board has given Mr. VanWyck plenty of opportunity on this project. December 1, 1999 is coming up, and he did not feel that this application be moved forward. This case has been going on for too many years. The project is not more than twenty-five percent done.

Regarding the proposed modification, Mrs. Preston wanted to request that the Town's engineer please address the issue of a large "hump" in the driveway of her property as she has a child in a wheel chair. The Board noted her concern.

Low Land Farm: Sheldon Pennoyer noted that this law suit against the Town was dropped by Mr. VanWyck. Therefore, the attorneys for both sides are working toward moving forward on this application. Drainage issues on abutting properties will need to be corrected and DEP is involved with this project. No action was taken; for information only.

(Sheldon leaves.)

Liberty Road Subdivision: Robert Bradley, owner of the road, has submitted a letter requesting thirteen waivers regarding the Def. Subdivision Plan. The waivers are being requested as modification.

Access to a third lot (from The Kingdom property off Western Ave.) showing design changes, where the third lot was going to be accessed, how drainage swales would be dealt with, was not proposed. Chairman Burnham discussed this whole matter with Mr.

Page Five of Planning Board Minutes of 11/3/99, continued...

Bradley but the letter did not address the third lot that Mr. Pare wants to have frontage and access of. No action was taken on the matter.

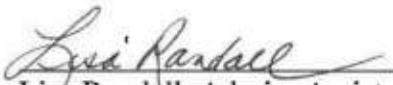
Phase 2 Scope of Work: Planning Board bylaws need to be in place for Town Meeting in May, however, Horsely and Witten, planning consultants working with Dames and Moore has not responded to the September 28, 1999 letter by the Planning Board. Betsy Shields noted that perhaps the Board should delegate the work necessary to start the bylaw framework. Gil Guerin felt that the Board did need help with the bylaws in the form of ideas, reference, or models. Chairman of the Board of Health, Cliff Ageloff is willing to exchange ideas with the Board, according to Ms. Shields. The consultants will be contacted to meet with the Planning Board.

Ms. Shields mentioned that the Mass. Audubon - Wilds of Cape Ann - has a program to help communities curb development via grants, etc. A representative is available to discuss the matter at the Boards' convenience.

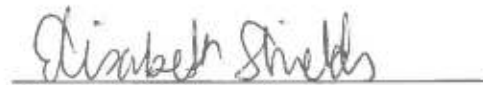
Letter in *The Gloucester Daily Times* by Karin Gertsch dated November 1, 1999: Chairman Burnham discussed the matter and felt that it was his responsibility to respond to the issue and it was decided that if Burnham wished to respond, the Board had no objections. Chairman Burnham showed the Board a draft response and a lengthy conversation took place concerning the Boards' responsibilities and duties, etc.

Form A by Paul Pare: Mr. Pare submitted a Form A for a lot change on 211 Western Ave. (owned by The Kingdom). Map 8, Lot 34. Proposed change will split the total lot into two, both being 1.02, 1.03 acres, respectively. Frontage for The Kingdom lot will remain to the front, on Western Avenue, as there is an existing dwelling with a driveway accessing Western Ave. Mr. Pare is proposing to have frontage on Liberty Road. Since Liberty Road is not an accepted way and the road is not complete or the subdivision does not include a third lot, the Chairman requested that Mr. Pare be contacted to withdraw the plan without prejudice, at this time, until the Liberty Road matter could be resolved.

The Board, having no further business, adjourned the meeting.



Lisa Randall, Admin. Assist.



Elisabeth Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, OCTOBER 20, 1999**

7:30pm

Building Inspector Report

Other Planning Business:

- Definitive Subdivision Application/Joan Bucklin, Story Street
- PMC Realty Trust/65 Eastern Avenue; Storage Units
- Mail
- Payroll Voucher
- Bills Payable
- Email
- Memo from L.Randall, re: Grant
- HL Graham Response to TBR/Neve Letter of 9/28/99
- Ltr. From DPW to Robert Bradley, re: coverage over water main
- HL Graham Invoice for TBR services rendered
- Public Hearing Notices from abutting Towns
- Conservation Comm. Notices
- Ltr. From Karin Gertsch re: 65 Eastern Avenue
- *ANR for SMB DEVELOPMENT AT EVAN'S WAY*
-

**TOWN OF ESSEX PLANNING BOARD
MINUTES, OCTOBER 20, 1999**

The meeting was held at the EEMS on Story St., Staff Lounge, and opened by the Chairman.

Attendees: Westley Burnham, Chairman, Gil Guerin, Elisabeth Shields, Walter Rich and George Stavros. Absent: Brian Feener and Sheldon Pennoyer

Building Inspector Report: 65 Eastern Avenue, South Essex Village, PMC Realty Trust: John Coughlin of PMC Realty Trust has applied for two foundation permits on property at 65 Eastern Avenue for a proposed office building and a 440 unit storage facility, such as the one off Western Avenue in Town. Existing on the property to date is a unit housing retail, restaurants and offices, known as "South Essex Village". Plans dated 9/9/99 and revised 10/4/99 by Gateway Consultants, and "plan of land" prepared by Atlantic Eng. And Survey Consultants dated 6/19/9, Book 252, Page 25 shows Lot A-1 being 20.54 acres, proposing a foundation of 34,000 SF. Lot C-1 shows existing and proposed 24,722 S.F. Lot area = 105,987 S.F. Total proposed parking and existing parking was shown. Proposed will consist of 87 spaces, 68 spaces for office use, retail spaces are 9, and 10 extras are noted on the plan, as well. A *foundation permit* only, was being asked for; the applicant has not decided upon a manufacturer of the storage units. The units will be comparable to other units in Glou., and Essex.

An Order of Conditions and an approval from Conservation Commission was discussed, and stormwater calculations were presented for file. Drainage systems will be adequate, and an additional detention system is being installed on the southerly side of the proposed construction. All roof drains in that area will be drained directly in that catch basin. Other roof drains will be tied into the infiltration drainage area located between the buildings on Eastern Avenue. The plan was scaled back, as well, decreasing the number of storage units as part of an agreement with the Conservation Commission.

The Planning Board read through the Essex Bylaws, Chapter 6-6.5 *Business Land Use*, and 6-5.8 *Off-Street Parking Requirements*, 6-5.9 *Parking Lots*. The Plan shown meets the criteria within the Town's Bylaws, and it was discussed that parking for storage units is not specifically defined. Discussion about whether or not there is adequate parking for each and every unit, were they were to be occupied all at the same time was debated. Mr. Rich felt that if each patron of the units showed all at once, there would not be enough spaces. The majority of the Board compared this storage facility with the one off Western Avenue and noted that it was unlikely that all patrons would show up at once. There is adequate parking for the office being proposed.

The Chairman allowed Karin Gertsch of Haskell Court to comment on the project. She wanted the decision on a vote for the building permit to be postponed until this application could be presented again, allowing more citizens to be notified that this application was coming forward. Chairman Burnham explained that the Conservation Commission held a public hearing weeks ago where an approval was granted. If the applicant has met all of the criteria concerning the planning issues of the bylaws, then he

did not feel that the Board had the right to withhold a decision. A poll was taken and each member except Elisabeth Shields would not agree to hold up this building permit application.

Mrs. Gertsch showed a letter dated 10/20/99 to Mike Able, DEP, Northeast Reg. Circuit Rider, where she asked the State to test drains for pollutants and fecal coliform at 65 Eastern Ave. She believes there are two storm drains at this location as well as a storm drain, which (through a pipe placed under 133) discharges into the property owned by DB Lunken at 64 Eastern Avenue. She asked why the applicant did not use a right of way to access the units through Essex Reach Road, which abuts Mr. Coughlin's property. She was also asking the Board why the applicant was able to use a third floor office space, which she believed this to be not allowable according to the bylaws and previous planning board discussion in 1989 (approximate year). Chairman Burnham did not agree that this was true. The discussion was ended; it was decided that the issues must remain with the foundation permit application. She was advised to go to the Board of Appeals to appeal decisions on building permits.

Motion: George Stavros moves to approve a building application for A foundation permit only, for new building C, for applicant, PMC Realty Trust, 239 Western Avenue, for property located at 65 Eastern Avenue, for proposed construction of 65 x 100 foot storage Building. Foundation Permit Only. 6,500 S.F., Lot C-1, Lot size, 105,987 SF, Plan meets Board of Health, Conservation Commission and Wetlands Approval. Seconded by Gil Guerin.

Discussion was raised by Elisabeth Shields who asked that if residents wanted to comment, what **then**, would be the chances of approval on this applicant? George Stavros noted that the Conservation Commission held public hearings on this application, and residents were given an opportunity to meet to discuss this matter. Mr. Coughlin said that he did meet on several occasions before this plan was brought to the Conservation Commission. Changes were made and agreed to, including scaling down the unit sizes (at the ConCom meeting) and discussion about appropriate lighting (least intrusive). There was also a site walk done on this property. Gil Guerin and Westley Burnham repeated that the public meetings do not mean that the public can come and openly discuss every issue, but that the Chairman can recognize an individual for comment. A public hearing is specific in its meaning: This meeting is to allow the public to comment at this special hearing. Mrs. Gertsch did not give the Planning Board specific bylaw infractions concerning parking or land use violations. Therefore, the Board could not address her other issues, which were not related to planning issues. A poll was taken and each member except Elisabeth Shields would not agree to hold up this building permit application.

Page Three of Planning Board Minutes of October 20, 1999, continued...

The Board continued with the vote on the Motion:

Voting in favor of the approval for the foundation permit of Building C, Lot C-1 was, George Stavros, Gil Guerin, Walter Rich, Westley Burnham and Elisabeth Shields. The Motion carries.

Motion: George Stavros moves to approve the application for a building permit for a foundation permit only, for PMC Realty Trust, 239 Western Ave., for site plan shown at 65 Eastern Avenue, for Lot A-1, lot area 34,600 SF, lot size 20.54 AC, seeing that it has Board of Health, Conservation Commission and Wetlands approvals. For a site plan foundation permit only for Building A, B, E, F, G, H. Seeing that it meets all Town of Essex Bylaws. Seconded by Walter Rich. Voting in favor of the motion was: George Stavros, Walter Rich, Westley Burhnam and Gil Guerin. Voting against was Elisabeth Shields. The Motion carries.

(George Stavros leaves the meeting.)

239 Western Avenue/Quinn Bros.: Discussion only, the Building Inspector noted that an addition to an existing a garage bay that was already approved by ConCom and Planning Board is now being built.

“Temporary Shelter” Structures: (“Quantson Huts”) Mr. Nelson wanted to get the opinion of these ever-popular structures used to shelter boats, cars, etc. He felt that if the structure were to stay up for more than six months, then they should be considered permanent structures. No action was taken by the Board.

Definitive Subdivision Plan of Joan Bucklin at 36 Story Street: A definitive subdivision plan is being submitted for four lots with a total acreage of 3.16 acres.

Motion: Elisabeth Shields Moves to hold a public hearing on November 17, 1999 at 8:00pm. for a Definitive Subdivision Plan of Joan Bucklin at 36 Story Street. Seconded: Walter Rich. All members present voted to approve the Motion.

After a brief discussion, the date was changed.

Motion: Elisabeth Shields Moves to amend the Motion to State that the Public Hearing will be scheduled for Wednesday, December 1, 1999, at 8:00 p.m. for the Definitive Subdivision plan for Joan Bucklin at 36 Story

Street. Walter Rich seconded the amended Motion.
All members present voted to approve the amendment to
The motion. The motion carries.

DPW Letter to Robert Bradley re: Liberty Road Water Main: The Department of Public Works has notified Mr. Bradley that the coverage of the water main located at the Liberty Road Subdivision is inadequate. A copy of this letter will be forwarded to HL Graham Associates.

HL Graham Assoc. Letter to Planning Board re: Turtle Back Road Extension: Mr. Graham has responded to a 9/28/99 letter from Thomas Neve, Engineer for Turtleback Road. Sheldon Pennoyer is in contact with Mr. Graham and will update the Board with details. Mr. Van Wyck is scheduled to meet with the Board on November 3, 1999.

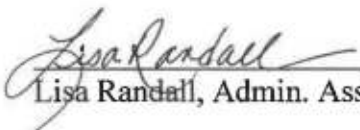
Grant: The balance of an outstanding grant in the amount of 2,181.00 will be used in part for funding for software that Tom Noble, Wastewater Coordinator, is trying to acquire for a digitized map.

Email: Board members having email will soon be able to have their agendas and minutes sent electronically.


SMB Development re: ANR at Evan's Way Subdivision: The Plan submitted this evening shows the correct delineation of the no-cut zone. Lots 2 and 3 are being subdivided and shown as Lot 2A and Lot 3A.

Motion: Elisabeth Shields moves to approve an Approval Not Required for SMB Development of 5 Dow Drive, Haverhill, MA for Lots 2A and 3A at Evan's Way, Story Street Subdivision, Plan by Rural Land Surveys dtd. 7/9/99. Seeing that the no-cut zone has been appropriately delineated, and that the new lots created maintain the minimum requirements of the Town of Essex Zoning Bylaws. Seconded by Walter Rich. All members present voted to approve the Motion.

The Board, having no further business, adjourned the meeting.



Lisa Randall, Admin. Assist.



Elisabeth Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, OCTOBER 6, 1999**

7:30p.m.	Building Inspector Report
7:45p.m.	Robert Bradley, Liberty Road Subdivision Release of Lot; Performance Bond for Road
8:00p.m.	ANR Submitted by SMB Development, for Lot Changes at Lot 2 and Lot3
8:15p.m.	Wastewater Facility Meeting regarding proposed bylaw changes

Other Planning Business:

- Public hearing notices, Conservation Commission
- Public hearing notices, Abutting Towns
- Mail
- Special Permit – Sprint PCS, Draft Decision
- Conservation Commission Memorandum, Re: PMC Realty Trust Site Plan for Storage Sheds, Assessors Map 38, Lot 55B – Eastern Avenue
- Minutes of September 1, 8, 15, 22.
- Turtleback Road Letter by Thomas Neve about Drainage Pond

**TOWN OF ESSEX PLANNING BOARD
MINUTES
OCTOBER 6, 1999**

The meeting was held at the EEMS on Story Str, Staff Lounge and opened by the Chairman.

Attendees: Westley Burnham, Chairman, Elisabeth Shields, Brian Feener, Gil Guerin, Walter Rich and Sheldon Pennoyer.

Absent: George Stavros

Liberty Road Subdivision/Release of Covenant/Cash Deposit for Road: Mr. Robert Bradley came before the Board with a check drawn from the Warren Five Cents Savings Bank, Peabody, MA in the amount of \$42,000.00 to be secured by the Town to cover the cost of completion of Liberty Road. The amount was submitted as per the estimate from the Technical Review Agent, HL Graham Associates. This would now allow the release of the Covenant that holds Lot 1 as surety.

Motion: Sheldon Pennoyer moved to accept the check for \$42,000.00 as required in the Performance Guarantee for the completion of the Road at Liberty Road Subdivision. Seconded by Gil Guerin. All Members present voted to approve the Motion.

Motion: Sheldon Pennoyer moved to have the Planning Board approve the Release Lot 1 at Liberty Road as shown on the Release of Lot in reference to the Covenant dated November 4, 1998, Book 6594, Page 458. Said Lot(s) are shown on a plan entitled "Definitive Subdivision in Essex, MA, Owners: Leonard A. Woodman & David L. Folsom, Applicant Robert Bradley. The Planning Board, has approved receiving the cash deposit in the amount of \$42,000.00 which has been deemed an amount necessary for the completion of the road as specified by HL Graham Associates. Seconded by Brian Feener. All members present voted to approve the Motion.

Minutes:

Motion: Sheldon Pennoyer moved to approve the September 8, 1999, as written. Seconded by Brian Feener. All members present voted to approve the Motion.

Motion: Sheldon Pennoyer moved to approve the September 15, 1999 as amended. Seconded by Walter Rich. All members present voted to approve the Motion.

Motion: Sheldon Pennoyer moved to approve the September 1, 1999 Minutes as written. Seconded by Gil Guerin. All members present Voted to approve the Motion.

Westley Burnham, Chairman wanted the Minutes to reflect that the September 1, 1999 public hearing of the Sprint Special Permit to be added as a carrier on the existing cell tower at Tree Hill Road consisted of four members. In order to vote on a decision for this special permit, the Board would require a two-thirds vote, being five members in all. Members Walter Rich and Elisabeth Shields who were not present for the public hearing were instructed to study the Minutes and materials submitted by the applicant, before voting on the Decision. Both members stated that they were comfortable with the information submitted, to make an informed decision on the special permit application.

Sprint PCS Special Permit Decision: The Board read the draft decision written by Chairman Burnham. It was noted that the existing permit for Cellular One Cell Tower will be referenced along with this decision, noting that the permit will expire on the same date of Cellular One's permit (9/30/07). In addition, any proposed extension to the height, addition of cells, antennas, construction or reconstruction of any portion of the facility will be subject to an amendment of this special permit. The Decision was read by Sheldon Pennoyer and is as follows:

Affecting the rights of the owner, Elizabeth F. Pratt, Trustee of 15 Tree Hill Real Estate Trust, 16 Tree Hill Road, Essex, MA 01929, with respect to the use of premises on 16 Tree Hill Road located on the East side of Belcher Street, Essex, MA 01929, and Cellular One, the owner and operator, acting as agent for the owner of the property concerning all co-location applications.

The record title standing in the name of Elizabeth F. Pratt, Trustee, by a deed duly received in the Essex County—South Registry of Deeds in Book 7552, Page 128.

Notice is hereby given that following a Public Hearing on Wednesday, September 1, 1999 on the application in this case as so to permit, the Board, at its meeting on Wednesday, October 6, 1999,

VOTED TO GRANT the application under Section 6.6-9e of the Zoning By-Law to allow installation of an antennae for use in the relaying of wireless communications. This permit is being issued as an addition to the Special Permit issued to property owner of record Elizabeth F. Pratt, Trustee of 15 Tree Hill Real Estate Trust, 16 Tree Hill, Essex, MA 01929 on August 20, 1997.

This Special Permit is being approved based in part on the following:

The proposal involves addition of a triangular antennae array to an existing tower; said array will be placed at the 130-foot level on an existing 150-foot tower.

The following conditions shall apply:

1. This Special Permit is being issued independently but conditional to a Special Permit issued on August 20, 1997 which allowed the tower construction and initial facilities installation, and is subject to all terms and conditions attached therein. This Permit shall expire on September 30, 2007. At that time a new Permit may be issued based on the continuing need for such a facility. Renewal of the Permit shall be conducted in accordance with all applicable rules in effect at that time. The renewal shall include all parties operating equipment at this location and shall be considered on a single application.
2. The tower and all antennae authorized to occupy the tower shall comply with all applicable State and Federal guidelines concerning radio frequency emissions.
3. This permit shall be attached to the original on file at the Registry of Deeds and annotated as Addendum #1.
4. Fencing shall be provided to control access to the facility, a key(s) to the facility shall be made available to the Fire Chief of the Town of Essex to allow emergency access.
5. The existing on-site vegetation shall be preserved to the maximum extent practicable.
6. Night lighting of the facility shall be prohibited except that required for emergencies and maintenance.
7. Any proposed extension to the height, addition of cells, antennas, construction or reconstruction of any portion of this facility shall be subject to application of an amendment to this Special Permit.
8. Signs shall be limited to announcement, no trespassing, and shall include one stating the phone number of a responsible part available on a twenty-four (24) hour a day basis.
9. A copy of the Federal Communications Commission license to operate this facility is submitted to be included as and attachment to this Permit.

The Planning Board, acting as the Special Permit Granting Authority, finds the applicant adequately substantiated the following propositions in accordance with Appendix B Special Permit Issuance Rules.

1. The proposed use will be in harmony with the general purpose and intent of the Zoning by-law.
2. That the specific site is an appropriate location for such use.
3. That the proposed use as developed will not adversely affect the neighborhood.

Page Four of Planning Board Minutes of Oct. 6, 1999, continued...

Our finding is based on the testimony received at the Public Hearing held on September 1, 1999.

This Special Permit is not in effect until the applicant has filed a certified copy of the Decision with the Registry of Deeds. Certification that the twenty-(20) day appeal period has expired with no appeals having been filed must be obtained from the Essex Town Clerk.

Certified copies of this decision will be available at the Essex Town Clerk's office and from the Essex Planning Board within ten (10) days of the date of this Decision.

Appeals shall be made pursuant to Section 17 of Chapter 40A MGL and shall be filed within twenty (20) days after the date of filing this Decision with the Essex Town Clerk.

**VOTE: Following a Roll Call Vote, members voted to
Approve the Special Permit Decision for Sprint PCS:**

Westley Burnham, Chairman	Voted to Approve
Sheldon Pennoyer	Voted to Approve
Brian Feener	Voted to Approve
Gil Guerin	Voted to Approve
Elisabeth Shields	Voted to Approve
Walter Rich	Voted to Approve

FORM A/Evan's Way Subdivision: Scott Boches, SMB Developers of 5 Dow Drive, Haverhill, MA requested that the Board sign a plan for a lot line change of lots 2 and 3. During discussion of this change, the Board noted that a no-cut zone was drawn incorrectly on Lot 3A, showing a 20foot setback, not 30ft. It was also noted that the Form A and fee had not been submitted. The applicant would be notified to correct the no-cut zone and resubmit.

Growth Management/Essex Wastewater Facility Plan: Gil Guerin presented the Board with a draft letter to the Office of the Secretary of State asking that the Secretary of State's office allow the Planning Board to make future revisions to the final sewer pipe service area. Elisabeth Shields also submitted handouts gathered at the MEPA Office: An explanation of Executive Order 385, Planning for Growth, a memo from John Lipman, Director of Growth Planning on a Comprehensive Wastewater Management Plan for Dracut, MA, and Model Bylaws and Regulations prepared by Cape Cod Commission noting models on land use management.

On September 28th, the Planning Board sent a letter to Dames and Moore consultants for Growth Management, Horsley & Witten, Environmental Services, requesting information relative to five specific items relative to changes to the towns land use bylaws. To this date, nothing has been received back from Horsely and Witten and a meeting with the

Page Five of October 6, 1999 Planning Board Minutes, continued...

CAC on October 13th will take place to possibly vote on approval of delineated sewer service map proposed in the Needs Analysis by Dames and Moore.

The Board, recognizing that they were not given enough time to draw specific conclusions or opinions, voted to send a letter to the Secretary of Environmental Affairs concerning the sewer service map. Board members discussed the Lufkin Street and Western Avenue areas, not convinced that the sewer line should remain the way that it is being presented to the State. Also, not enough time has been allowed to the Planning Board to use the resources of Horsely and Witten to have proposed zoning bylaws drafted in conjunction with the sewer service layout map.

Motion: Chairman Burnham entertained a Motion to have Elisabeth Shields draft a letter to the Environmental Secretary regarding the Wastewater Treatment Facility requesting that they allow additional time for comments by the Planning Board relating to the specific layout as the Board has not completed the proposal and its impact on zoning. The Motion was Moved, Seconded, and unanimously Voted.

Conservation Commission Memorandum Re: 65 Eastern Avenue: The Conservation Commission requested that the Planning Board address parking and fire access at the South Essex Village, 65 Eastern Avenue, owned by PMC Realty Trust. Chairman Burnham has already spoken to Chairman Perkins of the Conservation Commission regarding the matter. To date, a building permit application for storage units and an office building has not been presented to the Planning Board.

The Board, having no further business, adjourned the meeting.

Presented by: 
Lisa Randall, Admin. Assist.

Attested to: 
Elisabeth Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION MEETING
WEDNESDAY, SEPTEMBER 22, 1999**

The meeting was held at the EEMS on Story St. and opened by the Chairman.
Attendees: Westley Burnham, Chairman, Brian Feener, Walter Rich, Brian Feener, Betsy Shields, Gil Guerin, and George Stavros.

Building Inspector: Mr. Nelson discussed the property at Western Avenue, formerly of Walter Redding. Atlantic Animal Hospital is proposing a veterinary hospital, boarding facility, grooming salon and pet food retail outlet at the existing residential home. The Board discussed the change of use, home occupation and prohibited uses of the Town's Bylaws. The Board took no action, but Chairman Burnham noted that all issues needed to be addressed concerning all other departments. Mr. Nelson is drafting a letter to Atlantic Animal Hospital which will include addressing the requirements of each appropriate department.

66 Choate Street: Mr. Nelson is researching issues regarding zoning for this property. He questions the frontage accessibility on a particular lot, as there is a pond located there. Chairman Burnham noted that if the Board were misy represented, a rescission of the decision would be appropriate. No action was taken; Mr. Nelson will get back to the Board.

Regarding Essex Wastewater Facility Plan:

After discussing several scenarios concerning the core area and the extended sewer lines drafted by Dames and Moore's analysis, the Board came up with several items to be reviewed by Horsely and Witten, planners contracted by Dames and Moore. The firm will be able to establish a format that would be acceptable and appropriate for potential adoption by the Town.

The Board's intent is to create an overlay district within the framework of the existing bylaws.

Bylaw would state that there be no new roads or subdivisions served by the sewer line. Only the existing roads within the sewer district will be serviced.

Limiting the expansion rate within the sewer district. There would be "X" amount of hook ups for each year up to ten years.

Limit the remaining undeveloped properties within the "district" to average single-family equivalent flows (EDU) calculated by 150 foot frontage.

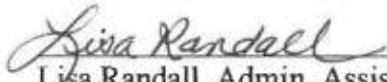
A question will be addressed to Horsely and Witten: Can lots be deliberately counted "in" and "out" of the sewer district? If so, can portions of lots, i.e. 10-acre lot abuts an existing way, can we limit service to this?

A letter will be sent regarding the above. A meeting will be scheduled with Dames and Moore, Horsely and Witten and the Board at the October 6th.

South Essex Village: The Board briefly discussed PMC Realty's proposed storage building units. Parking, lighting, and pavement were issues raised. George Stavros will research this property and get back to the Board. No action was taken.

Ernie's Garage: The garage on Main Street will be coming to the Board of Appeals for a variance on setbacks. The new State regulations mandate changes in the inspection process for automobiles. Ernie's garage will need to increase a nonconformity. The Board took no action.

The Board, having no further discussion, adjourned the meeting.



Lisa Randall, Admin. Assist.



Betsy Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, SEPTEMBER 15, 1999**

7:00 p.m.	Dames and Moore/Horsely & Witten Discussion of Growth Management Building Inspectors Report
8:00 p.m.	Robert Bradley/Liberty Road

Other Planning Business:

- Public Hearing Notices from abutting communities
- Conservation Comm. Notices
- Mail
- CPPC Letter – Response from Planning Board
- August 4, 1999 Minutes – Approve
- September 1, 1999 Minutes – Approve
- Draft Municipal Computer Needs Assessment for Y2K
- Bills Payable
-

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, SEPTEMBER 15, 1999**

The meeting was held at the EEMS on Story St., and opened by Chairman Burnham. Attendees: Westley Burnham, Chairman, Brian Feener, Betsy Shields, Sheldon Pennoyer, Walter Rich and Gil Guerin. Absent: George Stavros.

The newest Planning Board member, Walter Rich, was welcomed by the Board.

Kelly Whalen, Engineer at Dames and Moore, and Tom Noble, Wastewater Coordinator for the Town, and David Folsom, Selectmen: Discussion about Sewer District/Growth Management:

Mr. Folsom, Selectmen for the Town, explained the MEPA process. One issue is that the Town will have to have a program in place to manage growth when the definitive sewer district is established. Along with that growth management is the Town's obligation (under the Consent Agreement with the State) to have a plan in place that will solve the environmental and economic impacts of a sewer treatment system. Controlling the growth for the Town may include purchasing land, or geographical zoning. Chairman Burnham agreed with Mr. Folsom and noted that the Planning Board was addressing the issue for the past year, and had ideas for a proposed overlay district. The "core area" was discussed as being a more densely used area and some zoning bylaw changes proposed that would curtail some growth.

(Planning Consultants Horsely and Witten were not able to attend this evening's presentation.) Kelly Whalen of Dames and Moore explained further the process on how the sewer area was directed. The rationale is based on environmental and economic benefits. The Town now has contaminated storm drains and high rate of septic system failure and soil valuation. The core area was looked at and adding other areas needing environmental clean ups, the areas were then documented upon the development in those areas. Maximum development potential areas were calculated with the current zoning laws. Tom Noble presented the Board with an 8x11 digitized map dated 8/9/99 that delineates the proposed sewer district, or specific town roads that the sewer line will include: Eastern Avenue, "Core Area" (Main Street, South Essex), Spring Street, Story Street, Western Ave. to Centennial Grove, Western Ave. to Hamilton Town Line. The goal was to have a bylaw that allows for some development but does not allow new streets. In order to build the sewage treatment plant, both the state and federal require permits. The project must improve the water quality of the Essex River. Mr. Whalen felt that putting in a sewer system, replacing the failing systems, the water quality of the river would improve. Allowing fifty-acre lots would not improve the quality of the river. Mr. Whalen felt that the state would allow an MPDS (a permit to discharge treated sewer) that will be geared to existing septic systems plus twenty percent. Ten percent will cover the in fill development, and the rest for changes for increases within the district.

Sheldon Pennoyer, looking at the proposed sewer area on the map provided, asked why some areas were included that were undeveloped, as opposed to developed (i.e. Lufkin Street, which has large undeveloped areas.) Mr. Whalen noted that this map could be scaled down. He wanted to go through a few options with the Board to come up with a proposed bylaw, which would be partly consisting of a map. The map would then become official. Going lot by lot would be an option. Tom Noble commented that lots could be left out of the septic treatment system.

Chairman Burnham commented that the map shows the sewer line being in the Water Resource Protection District, taking 50,000 gal./day or so, out of the district and away from the ground water, not recharging the wells. He felt that this would be a problem. Soils are better in this area, he commented, and the failure rate may be lower. The Board was not looking at this area. There are a lot of undeveloped lots there now.

Sheldon Pennoyer felt that the information already generated by the Board should be given to Dames and Moore, and look to the potentials of increased use of the core area. He felt that this would drop the area outside the core area. This may bring the sewer into a tighter area. The increased use in the river would be an issue, though, he noted. Mr. Whalen felt that this would not balance economic and environment outreach.

Mr. Whalen noted that the process was a multi-step project. Once the map was approved, then this step would be completed. The state would eliminate large subdivisions, and the capacity would be limited. A bylaw needed to be instituted to address the large-scale developments, and there are laws regarding sewer volume constraints within the sewer use ordinance.

In closing, Mr. Whalen reminded the Board that the "feeder" streets delineated on the proposed map can be changed. Only existing developed lots would be included in the capacity. The Board would meet on Wednesday, September 22nd at 7:30p.m. to discuss bylaw options and be ready before the final report goes to the Environmental Secretary. The comment period would be from September 22 to October 22nd. The Secretary would then give a Certificate on October 29. That would be the decision of the Secretary. The Board would need to finalize their opinion of the proposed sewer area within the next thirty days. Dames and Moore and Horsley and Witten would be available to the Board for any assistance needed.

Building Inspector Report/Tim Holland: Discussion only. Mr. Holland was inquiring about building an apartment at his Southern Avenue home, attaching the apartment to the main house. This would not be closer to the lot line. There is currently a barn, which was an accessory use, not a dwelling unit. The ten-foot setback for the barn was acceptable, but the change of use requires a twenty-foot setback, increasing the nonconformity of the property. This application would need a Board of Appeals Decision. The Board would not act.

101 Pond Street: Map 5, Lot 19-Anthony Sanchez, property owner. The Board of Health supplied a letter approving the septic design for a single family dwelling on the property. The "camp" which is existing, will not contain plumbing, it will be disconnected and used as an accessory building.

Motion: Sheldon Pennoyer moves to approve the siting for a new, single family dwelling for Anthony and Michelle Sanchez, located at 101 Pond Street, Map 5, Lot 19, seeing that it is an existing lot on a way, with a pre-existing single family camp. The applicant has agreed to disconnect the existing camp and use it solely as an accessory building. Based upon 6-4.2 *Existing Nonconforming Uses*, that the proposed extension or alteration is not substantially more detrimental than the existing nonconforming use to the neighborhood. The Building Application has been approved by the Board of Health and Conservation Commission. Seconded by Brian Feener. Walter Rich voted Present. All other members present voted to approve the Motion.

Western Avenue Property, formerly of Walter Redding: The property is located next to Jan's Encore, and abuts property of John Coughlin. Discussion only. The Building Inspector inquired whether the property could be used as an animal hospital and apartment. The minimum requirement for both business and residence was discussed. The property is currently used as a residence. The bylaws do not exclude the two uses. No action was taken.

Robert Bradley/Liberty Road Subdivision: Mr Bradley came before the Board to ask whether the Board would modify an estimate for completion of the road. The estimate was done by the Technical Review Agent, H.L. Graham Associates. Mr. Bradley was wishing to have lot signed off by the Board, and have the Board agree to modify the amount of requirement for the Bond, which would be in place of the lot held currently. Mr. Bradley felt that the quote was too high by about half of the total amount quoted. He wanted the Board to approve his cost, and vote to release the lot without the surety documents in hand. The Board would not accept his request. Mr. Bradley will return at September 22, 1999 at 7:30pm. with the cash amount or letter or credit for the amount equivalent to Mr. Graham's before the lot will be released.

Motion: Sheldon Pennoyer moves to schedule a work session meeting for Wednesday, September 22, 1999 at 7:30p.m. Seconded by Betsy Shields. All members voted to approve the Motion.

Building Inspector: Mr. Nelson requested that the Board make a determination on the previous discussion regarding Mr. Holland's property on Southern Avenue. Sheldon

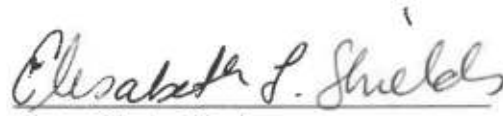
Pennoyer and Chairman Burnham felt that the Planning Board should not advocate approving a variance/relief to the Board of Appeals. Chairman Burnham noted that about the only time he could remember ^{Endorsing} ~~approving~~ a variance was when the Post Office was in the process of acquiring a location at the Wedgwood Pharmacy property. The Board felt that this variance would be a good location for the Town.

Minutes: **Motion: Brian Feener moves to approve the Minutes of August 4, 1999 as written. Seconded by Sheldon Pennoyer. All members voted to approve the Motion.**

The Board, having no further Business, adjourned the meeting.



Lisa Randall, Admin. Assist.



Betsy Clark, Clerk
Elisabeth Shields

**TOWN OF ESSEX PLANNING BOARD
AGENDA**

WEDNESDAY, SEPTEMBER 8, 1999

7:30 p.m.

Discussion concerning the applications for the opening position of Planning Board member.

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, SEPTEMBER 8, 1999**

A meeting was held at the EEMS faulty lounge and began at 7:30 p.m.
Attendees: W. Burnham, Chairman, S. Pennoyer, B. Feener, B. Shields, G. Guerin, G. Stavros.

Purpose: Chairman Burnham described the purpose of the meeting which was to review the five applicants for the Planning Board vacancy. He explained that we were not trying to make any decisions but were gathering to exchange ideas and to discuss the logistics of appointing a new board member. Chairman Burnham announced that the decision making meeting would occur on Monday September 13, 1999 at the Selectmen's meeting in the EEMS media center at 7:15 p.m. Each applicant would have 10 minutes to present themselves and to answer questions the Board and the Selectmen might have. He emphasized that the Board would have to have a quorum present to vote and the applicant with a majority of votes of all Board members and Selectmen present would be awarded the new position.

First Chairman Burnham asked if G. Stavros was planning to resign or stay on the Board. G. Stavros replied that he intended to stay on the Board and to make the meetings. There was some discussion as to how many openings there would be in the spring. S. Pennoyer announced that he was planning on moving and that he would want to stay on the Board until May. He asked if anyone was opposed to that. No one objected but it was decided that we may want to double check what the bylaw said regarding that. The Board also decided that one other person may have a term coming to an end and that we would have to check with Sally Soucy to find out for sure.

The Board read over the applicants' letters and discussed what was important in a new member.

The meeting was adjourned at 8:00.

Attested to: Elizabeth L. Shields
Bryon J. Leane

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, SEPTEMBER 1, 1999**

- 7:30 p.m. Bldg. Inspector Report
Anthony Sanchez-Pond Street
- 7:45 p.m. Public Hearing for PCS Sprint to
be included on cell tower at 15 Tree
Hill
- 8:00 p.m. V.Hendersen for ANR, Southern
Ave.
- 8:30 p.m. ANR of 66 Choate Street
- 8:45 p.m. Turtleback Road/Peter VanWyck
- Other Business:** CPPC: Response to Memorandum
Minutes of 8/4/99
Liberty Road, Bradley
Request from Shelburne Planning Bd
Regarding Mass Landscape
- Inventory Applications for Planning Position
Open Space Comm. Open House
Conserv. Commission Notices
Invoice for Hagstrom-Doyle Subdiv.
Letter by Sarah Dyer
Mail
Abutting Town Notices
MAPC –Buildout Map
HL Graham Invoices

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, SEPTEMBER 1, 1999**

The meeting was held at the EEMS-Media Center, and opened by Chairman Burnham. Attendees: Westley Burnham, Sheldon Pennoyer, Brian Feener, and Gil Guerin. Absent: Betsy Shields and George Stavros

Public Hearing for PCS Sprint/Special Permit: Chairman Burnham opened the meeting and read the Legal Notice published in *The Gloucester Daily Times*. Sprint Spectrum L.P., d/b/a Sprint PCS is submitting an application for a Special Permit for Use under Section 6-6.9e of the Town's By-law, as well as an amendment to the existing Special Permit issued by the Board to Cellular One on August 20, 1997. Sprint is proposing to install antennas on the existing Cellular One telecommunications facility and associated equipment (nine panel antennas at 130 feet to the existing 150 foot monopole and associated base station equipment consisting of five equipment cabinets, a 15kw emergency back-up generator and 320 gallon liquid propane tank). The property is owned by Elizabeth F. Pratt, Trustee of 15 Tree Hill Real Estate Trust.

Jennifer McCook, Consultant, and Margaret P. Franklin, Attorney, both representing Sprint, briefly explained the conditions of the Special Permit granted to Cellular One which specified "that any proposed extension of height, addition of cells, antennas, construction or reconstruction of any portion of this facility shall be subject to application for an amendment to the special permit". Chairman Burnham noted that an amendment to the existing Cellular One Special Permit would need to be drafted, along with the applicants' application. It was noted that Town Counsel will be notified in order to have the language in the Decision drafted in accordance with the existing special permit and the additional Sprint PCS carrier.

Motion: Sheldon Pennoyer moved to close the Public Hearing. Seconded by Brian Feener. All members present Voted to Approve closing the Public Hearing.

Building Inspector's Report: 170 John Wise Avenue/Doyle Subdivision: Application for siting for building. The siting will be approved, but there will not be a Certificate of Occupancy until an as built is given for the road when it is completed.

Motion: Sheldon Pennoyer moves to approve the siting of a single family dwelling for Craig Doyle of 170 John Wise Avenue seeing that the location of the house as shown on the Mortgage Inspection Plan has the minimum requirements of the Town of Essex, Drawing dated 8/22/99 by James Klopotoski. It will also be noted that due to the technicality that the lot has not been released, that no Certificate of Occupancy will be issued until the performance guarantee is re-negotiated. Seconded by Brian Feener. All members present voted to approve the Motion.

Page Two of Planning Board Minutes of 9/1/99, continued...

Building Permit for Ruth Repucci/Bradley Subdivision Road(Liberty Road): The Board will table this Building Permit application until the lot is released or when a performance guarantee for the road.

(Note: Sheldon Pennoyer will not participate in the discussion for the following application, but will remain at the table to fulfill the requirements of a quorum for the meeting.)

180 Southern Avenue/John and Valerie Henderson: Pre-approved subdivision, Book 315, Page 60. Lots have frontage on existing way and meets minimum requirements of the Town of Essex Bylaws. Application for Form A for lot change only, to meet septic system requirements. Plan dtd. 8/10/99 by Matt Hautala, 28 Stockholm Ave., Rockport

Motion: Gil Guerin Moves to approve the Form A Application for a lot line change for John and Valerie Henderson, 180 Southern Avenue. Recorded as Book 315, Page 60. Rear lot line change to include septic system changes, as Parcel "B" being 1.91 acres is being added to the lot. Plan still meets the minimum requirements of the Town of Essex Bylaws. Seconded by Brian Feener. Voting in Favor: Westley Burnham, Gil Guerin and Brian Feener. Sheldon Pennoyer abstains from Voting.

(Note: Due to the requirement of the Registry of Deeds for four signatures on the approved plan, Sheldon Pennoyer's signature is required.)

34 Addison Street/Cliff Ageloff: Map 34, Lot 25, 13,000 S.F., Nonconforming Lot. Applicant seeks to build a 16x24 deck, which will not increase the nonconformity.

Motion: Sheldon Pennoyer moves to Approve the application for siting of a deck under 6.4-2 for application submitted by Cliff Ageloff of 34 Addison Street for 16x24 deck on 4' footings. The lot is a nonconforming lot where the main house has a setback of 10' from the property line, and the deck maintains an 18' dimension from that property line. The Planning Board finds under 6.4-2 Bylaw, the use will be no more detrimental to the neighborhood than its existing nonconforming use. Seconded by Brian Feener. All members present Voted to Approve the motion.

101 Pond Street/Anthony Sanchez: The Board will not approve the building application as the Board of Health has not approved the permit. The Board discussed at length that the property had an existing cottage on it and it was found that the cottage was located on another property. During a Land Court case, the cottage had been moved. It was thought that the deed has a restriction that there would be only one single-family house on the lot. The Board discussed that the cottage can remain as long as it has no plumbing. This would allow a single family dwelling to be built. Chairman Burnham read the bylaws 6.4-2 and 6.4-3 concerning the pre-existing nonconforming uses (grand fathered

Page Three of Planning Board Minutes of 9/1/99 continued...

dwelling; lot had no frontage). Chairman Burnham noted that if the applicant proves the above (the lot existed before the bylaws were in existence), and he can allocate the area within the existing lot as it is, and meets the yard and lot setbacks, then there would be no denying the building permit. The deed restriction to add the cottage as a living space would need to go to the Board of Appeals. No action was taken by the Board.

Motion: Sheldon Pennoyer Moves to hold a Planning Board meeting scheduled for Wednesday, September 15, 1999 and resuming the regular Planning Board schedules. Seconded by Brian Feener. All members Voted to Approve the Motion.

(Note: During the next discussion, Gil Guerin removes himself from the table as an abutter to the property.)

66 Choate Street/ANR: On 6/16/99, the Board approved a Form A on a drawing dated June 4, 1999 for six lots. The plan then came two separate times for modification of lot lines to house changes in septic system locations. Both times the changes were denied because of lot configurations and access to frontage issues. The plan being brought forward tonight changes the configurations of Lots 2, 4, and 5. The Board discussed at length the configuration concerning access to frontage (the lots have access to a common driveway) and the minimum measurements of lot widths.

Motion: Sheldon Pennoyer moves to Approve the ANR Plan submitted by Creative Development Assoc., of 6 Hamilton Place, Boston, MA 02108, for the reconfiguration of Lot Lines on a plan dated. 6/4/99, and revised on 8/31/99 as drawn by Vernon LeBlanc of Danvers, MA. The lot line reconfigurations are for lots 4, 5 and 2. Seeing that the Plan meets the minimum lot requirements for the Town of Essex Planning Board. Seconded by Brian Feener. Voting to approve the Motion: Westley Burnham, Sheldon Pennoyer, Brian Feener. Gil Guerin abstains from Voting.

(Note: Gil Guerin was required to sign the ANR citing the necessity of four signatures needed to record plan at the Registry of Deeds.)

Turtleback Road/Peter Van Wyck: Mr. Van Wyck brought forth a letter to the Board requesting that the Board allow a delay in the construction of the retention pond that is located on the Preston property. He would like the cost of the pond construction to be accounted for in the agreed upon bond that will be in place upon the completion of the road construction and as detailed on the accepted plan of record. Mr. Van Wyck would also like the Board to address lot releases this evening, as well.

Page Four of Planning Board Minutes of 9/1/99, continued...

Litigation papers between the Prestons and Van Wyck was attached to the letter which the Board disagreed with Mr. Van Wyck that the preliminary motion went in the favor of Mr. Van Wyck. Mrs. Preston's attorney has noted that the Court's Ruling denied Peter Van Wyck's Motion for a Preliminary Injunction. Chairman Burnham noted that it seemed to him that there was not enough evidence or enough information based on the plan that Mr. Van Wyck showed them (the Prestons) to understand the extent of the drainage easement that Mr. Van Wyck was planning to construct.

The Board agreed that if a redesigning of the pond is shown and approved by H.L. Graham, this would be amendable. The road is not more than forty percent done at this time. Mr. Van Wyck wanted a ruling on how the lots would be deeded out. Chairman Burnham noted that the Agreement states that when the road is built, the lots would be released. The technical review agent has not reviewed the road to any extent. A July 1999 letter from the DPW stated that there were several issues to address about the water main, as well. The Board would not make any decisions to change the agreement at this time. Mr. Van Wyck was requested to work with the engineer and technical review agent on the project; the Board took no action.

Story Hill Subdivision/SMB Development for Release of Lot One:

Motion: Sheldon Pennoyer moved to Release Lot One for SMB Development, Scott Boches, for lot located at Evan's Way as shown on "Release of Lots" Form dated on 9/1/99. Seconded by Brian Feener. All members voted to approve The Motion.

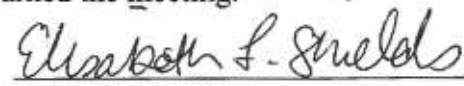
Motion to hold meeting on 9/8/99: The cut off date for applications for the position of a Planning Board member until May 2000, is 9/1/99. A meeting to discuss the applicants will occur during a short, special meeting on the 8th, Planning members only, and then a joint meeting with the Selectmen at their next meeting.

Chairman Burnham entertained a Motion to hold a meeting scheduled for Sept. 8, 1999 at 7:30 p.m. to discuss the applications for the Planning Board position. Seconded by B.Feener. All members present voted to approve the meeting.

CPPC Memorandum: Chairman Burnham will draft a response to the issue of Conomo Point concerning Land Use Regulations and a potential overlay district.

The Board, having no further business, adjourned the meeting.


Lisa Randall, Admin. Assist.


Betsy Shields, Clerk

TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, AUGUST 4, 1999

7:30 p.m	Bldg. Inspector Report Bldg. Permit for Scot's Way and 239 Western Ave. Pat Belanger for discussion about Land at 64 Wood Dr.
7:45 p.m	66 Choate Street, ANR Anthony Sanchez discussion only
8:00 p.m	Public Hearing/Liberty Road
8:30 p.m	MAPC/Mark Racicot, MAP
9:00 p.m	Dames and Moore, Kelly Whalen (Postponed)
9:30 p.m	Attorney P. Shea- Re: South Essex Village, Discussion
Other Business	Minutes Public Hearing Notices 174 Western Ave. Special Permit Decision. Letter from Thos. Ellsworth Hunter's Circle – Heath/Release of Covenant. Ltr. Of Resignation of Pat Dunn CPPC Memorandum re: Conomo Pt. Response Ltr. To Jermain Y2K/Municipal Tech. Needs Assessment – FYI Memos from DPW, Re: Evan's Way, Liberty Road Ltr. From DPW to Van Wyck re: Water Main at Turtleback Rd. Approve Special Permit Date for an Additional Cellular Co. at 15 Tree Hill Rd. (Sept. 1)

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, AUGUST 4, 1999**

The meeting was held at the Scout House/Council on Aging on Pickering Street and opened at approximately 7:45p.m.

Attendees: Westley Burnham, Sheldon Pennoyer, Betsy Shields, Brian Feener and Gil Guerin. Absent: George Stavros.

Building Inspector Report: 57 Southern Avenue, Mr. Timothy Holland requests a building permit to demolish the existing barn and replace with a new garage that expands 2 x 2 x 4, but will not be closer to lot line.

Motion: Sheldon Pennoyer Moves to Approve a building permit for Timothy Holland of 57 Southern Avenue for the demolition of a 16 x 28 existing barn, and to replace with a 18 x 32 garage on the existing foundation, with the height remaining at 20ft. The site plan shows a setback of two feet from the property (south side), finding that under 6-4.2 Existing Nonconforming Uses that the proposed replacement shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. Seconded by Brian Feener. All members present voted to Approve the Motion.

Andover Equities/129 Apple Street: For siting of new single family dwelling, Map 10, Lot 9a. Dwelling unit to be 57x40x32.

Motion: Sheldon Pennoyer Moves to Approve the siting of a single Family dwelling for Andover Equities of 129 Apple Street, Map 10, Lot 9a, seeing that all of the minimum standards of the Town of Essex Bylaws have been met. The application has Board of Health, Conservation Commission and Wetlands approvals. Seconded by Brian Feener. Voting to Approve the Motion were: W.Burnham, B.Feener, B.Shields. Sheldon Pennoyer votes Present. The Motion Passes.

85 Choate Street-Lamphear: Application for a horse barn and accessory building, engineering shop with small amount of machining(R&D), CAD station, office (no employees), barn will be 72 x 46 allowing for eight horse stalls, being twenty feet from property line as shown on site plan. Building to have no plumbing or heating. Map 16, Lot 9D.

Motion: Sheldon Pennoyer moves to Approve a Building Permit for Cindy and Aaron Lamphear, for a construction of a 72x46 barn with eight horse stalls, no plumbing, no heating, with electricity. Building will contain an engineering shop, small amount

of machinery (R&D) CAD Station, office (no employees). The siting shows a twenty-foot sideline setback to property line (western). Seconded by B.Shields. All members present Voted to Approve the Motion.

64 Wood Drive-Pat Belanger – No Show.

(Gil Guerin enters.)

66 Choate Street-ANR: Map 16, Lot 12. New plan shows Lot 1 having 2.07 acres, Lot 2, 3.05 acres, Lot 3, 6.70 acres, Lot 4, 4.22 acres, Lot 5, 5.34 acres, Lot 6, 4.11 acres. Mr. Vernon LeBlanc, PLS came before the Board to change a previously approved ANR (see 4/14/99 minutes). Lot lines needed to be redrawn in order to accommodate changes in the septic systems for Lots 4, 5, and 6. A proposed common driveway being 20' wide was changed as well, because of the right of way. All lots, except Lot 3 will have access off the common driveway. It was noted that the lot configuration had changed such that Lot 1 cannot access the road, Choate Street because of a right of way that does not have a twenty-five foot minimum width. Mr. LeBlanc voluntarily withdrew the plans based on the nonconformity of Lot 1, and resubmit at a later date.

Pond Street: Polley/Cain property with ten acres that has a single family on the property, formerly a "camp". Mr. Anthony Sanchez came before the Board for a determination of the property, as he was looking into building a four family bedroom, and keep an existing cottage on the same lot. The property had gone to Land Court, and the cottage (three bedroom, septic sys., and well) had to be moved. Mr. Sanchez was not sure when the cottage had been moved onto its foundation. Chairman Burnham noted that the Land Court Decision was imperative, as the property is a nonconforming lot (no frontage). Mr. Sanchez will need to investigate and return with more details. If an alteration of a lot occurred after 1972, the Board could not make a determination of a grandfathered property. The property needs some documentation that it existed as it is in its present use prior to 1972. No action was taken.

Lot 1, Scot's Way: Mr. John Coughlin of PMC Realty Trust is requesting a Modification of the Special Permit granted 12/29/97. Attorney Paul Shea was present to explain the changes requested. The siting of the building was discussed. No changes in the design of drainage system. The intended use of the building will be for a day care. The Board discussed whether or not the use was still within the confines of the Special Permit Decision. It was noted that this use was within the intent of the Permit.

Motion: S.Pennoyer Moved to Approve the siting of a building permit for PMC Realty Trust of 239 Western Avenue, for Lot 1 on Scot's Way, for a building of 4,700 S.F., seeing that it meets all of the minimum setbacks, and the use of a child care center on the first floor is no more detrimental than the approved uses under the Special Permit that was issued on 12/29/97. All of the remaining issues spelled

Out on the Special Permit will be met. Seconded by Gil Guerin.

Discussion ensued over the history of the original Special Permit, and the Water Resource Protection District Bylaw. Chairman Burnham noted that the application is still bound by the conditions on the original Special Permit, including uses, etc.

Voting in favor: G. Guerin, S.Pennoyer, W.Burnham and B.Feener. Voting Present was B.Shields.

An Amendment to the Motion was added:

Motion: Sheldon Pennoyer Moves to add an Amendment to the previous Motion that the building permit shall be contingent upon the approval of the Conservation Commission. Seconded by B.Shields. In favor of the amended Motion: Chairman Burnham, S.Pennoyer, G.Guerin, and B.Feener. Voting present: B. Shields.

Public Hearing of Liberty Road Subdivision, Changes to Approval: The public hearing was opened by the Chairman who read the legal notice. A modification to the subdivision is for an additional third lot. Chairman Burnham noted that a formal letter has not been received to specify details concerning changes in waivers, drainage of the road, and a plan for the access off Liberty Road which would service the proposed additional lot. Mr. Bradley commented that there were issues relating to the Road, and the Board submitted a request to Mr. Graham to outline these specific issues and include a cost estimate for the completion of the road.

A substantial amount waivers for the road were given, as the intention was for a two-lot subdivision only. Now that the applicant is proposing to increase the two-lot subdivision to a three-lot subdivision. The Board needed a delineated plan with the engineering changes, in writing. There are no plans or drainage changes being supplied to the Board, by the Applicant. It was noted that the third lot being proposed was for a buyer that is not an applicant to the subdivision.

Chairman Burnham repeated that access, drainage swales, hot top, engineering details, etc. have not been established. Mr. Bradley noted that the drainage plans are in the file, but the drainage calculations are not including the third lot. There needs to be documentation to show the changes in drainage. Mr. Bradley felt that Mr. Graham, the technical engineer, should meet with him on the property and discuss specifications and recommendations, to speed the process. Mr. Guerin retorted that in order to make this happen, you need a plan drawn up, submit the plan, have a public hearing, and make a finding on the changes.

In closing, the Board suggested that Mr. Bradley withdraw the application for a modification without prejudice, write a letter and a certified plan noting all requested changes/modifications to the subdivision, and address the drainage issues. The Board agreed that Mr. Graham be advised to provide an estimated cost to finish the road.

Page Four of Planning Board Minutes of August 4, 1999, continued...

Sheldon Pennoyer will contact Mr. Graham regarding this matter. Mr. Bradley then submitted a letter requesting a withdrawal.

Motion: Sheldon Pennoyer moves to close the Public Hearing for the Modification to Liberty Road. Seconded by Brian Feener. All members voted to approve the Motion.

Motion: Chairman Burnham entertained a motion to accept the Withdrawal of the application without prejudice. Seconded by B.Feener. All members voted in favor of the Motion.

MAPC-Slater Anderson: Mr. Anderson presented the finished Maps of the Essex Buildout Impacts, which is delineated by districts of developable areas including and not including wetlands. The potential for growth figures are included in a spreadsheet that will be attached to the maps. The "sewer district" or "core area" was discussed, and Mr. Anderson commented that the scope of this analysis was not done as "parcel by parcel", but the analysis was done on any potential development with the same methodology done for other cities and towns. In addition, figures were done on the base maps given to MAPC, along with the zoning rules and regulations adopted in 1972.

The Board had also requested the MAPC show how the proposed bylaw change would affect the Town's future, buildable lots. (The bylaw proposed for Town Meeting: "Replace the last sentence in 6-3.23 LOT with the following: "In computing the area of a lot for the purposes of dimensional requirements set forth in Section 6-6, tidal marshlands and wetlands as defined by Chapter 131, Section 40 of the MGL Wetlands Protection Act, shall be excluded. Delineation of wetlands and tidal marshlands is required on all plans submitted for review, and shall be drawn and certified by a professional engineer or land surveyor.")

The Map will be forwarded to the planning board along with the report. Chairman Burnham asked whether or not future changes or requested data can be done by MAPC at a later date. Mr. Anderson agreed that if the Town requested more information or conceptual changes, the State (who funds the program) would be able to accommodate.

239 Western Avenue for Modification of Special Permit: Attorney Shea, on behalf of John Coughlin, PMC Realty Trust is requesting to extend a building over the existing pavement, remove pavement and add pavement. Removing 118 SF of impervious lot coverage, changes will decrease the impervious coverage now existing. Discussion about setbacks were addressed and found to be within the minimum requirements, after measurements were calculated (rear yard, 50ft, side yard, 30ft.). The building permit will reflect the setbacks.

Motion: Sheldon Pennoyer moves to send a letter to PMC Realty Trust that the proposed elimination of 2,600 SF of pavement and

replacement of 2,600 SF of building meets the original intent of the Special Permit that was approved on 12/29/97, and that the elimination of paving as shown on the drawing is being replaced by paving where there is a net reduction of paving of 118SF. Planning Board finds that there is no modifications of the special permit required under this proposal. Seconded by B.Feener. All members present voted to approve the Motion.

Essex South Village-65 Eastern Avenue: Attorney Shea and Mr. John Coughlin showed a conceptual plan to build a storage facility similar to the company located off Western Avenue, owned by J.Jones, and the facility owned by Mr. Coughlin off Rte.133 in W.Gloucester. Five building units, landscaping, and detention design system changes were shown on the conceptual site plan. For discussion only, no action was taken.

Planning Board Vacancy: Mrs. Frances "Pat" Dunn has formerly resigned from the Board after approximately thirteen years. The Board accepted Mrs. Dunn's letter, noting her years of inestimable commitment and dedication to the Town.

Candidates interested to fill Mrs. Dunn's position will be until May. An election will take place at the annual town meeting to fill the entire term. Chairman Burnham has an appointment with the Selectmen on Aug. 9. He would like the Selectmen to consider holding the position vacant until elections, or change the number of the planning board participants to five. Discussion about this issue included a resident, Jeff Clewley of Story Street, who is interested in filling Mrs. Dunn's vacancy. He was advised to submit a letter of interest for appointment to both the Selectmen and the Planning Board.

(Elizabeth Shields refrains from comment or discussion for the following matter.)

Response to Ms. Jermain's Letter of June 3, 1999: Sheldon Pennoyer recited a response to Ms. Jermain who requested that the Board withdraw its decision of 1/21/98 to approve the removal of three trees under the Scenic Road Act, Chapter 40, section 15C by Richard and Patricia Carter. S.Pennoyer investigated the entire history of this issue and drafted a response for the Board to approve. A portion of the letter reads, "Although not required, Mr. Carter submitted a plan of his property showing three trees being located outside the property and in the Apple Street layout. The Board was aware that the plan submitted was not a recorded plan and was merely being used to show the three trees in question. All of the Board members had looked at the location of the trees at the site prior to the hearing. Also prior to the hearing, the Board received a tape of a lecture series by M.A.P.C. discussing The Scenic Road Act, Chapter 40, Section 15C and its purpose. This discussion made it clear that the only time a public hearing is held is when a town or the state intends to remove trees for maintenance purposes and, in no way is intended to prevent private citizens from gaining access to a public way. Since the Board had learned of this after the public notice had been advertised we held the hearing for the respect of concerned citizens....With all this in mind, the Essex Planning Board has no intention of withdrawing its decision, nor do I plan to resign from the Board with respect

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to this matter.” The surveyor, John Goodwin, who was suspended because of Ms. Jermain’s request to investigate a fraudulent submission of a plan, which had previously been surveyed for a sale between Mr. Carter and an abutter. The plan never went through and was never registered.

Motion: Gil Guerin moves to approve the June 16, 1999 Minutes as written. Seconded by S.Pennoyer. All members present voted to Approve the Motion.

Motion: S.Pennoyer moves to approve the April 14, 1999 Minutes as written. Seconded by B.Feener. All members present voted to Approve the Motion. B.Shields votes Present.

Motion: S.Pennoyer moves to approve the June 2, 1999 Minutes as written. Seconded by B.Feener. All members present voted to Approve the Motion.

Motion: S.Pennoyer moves to approve the June 22, 1999 Minutes as written. Seconded by B.Feener. All members present voted to Approve the Motion.

Motion: S.Pennoyer moves to approve the July 7, 1999 Minutes as written. Seconded by B.Feener. All members present voted to Approve the Motion.

Special Permit of 174 Western Avenue-James Conway: The Draft Approval of the Special Permit was read the by the Board for Vote:

“Affecting the rights of the owner, James M. Conway, Trustee of EJ Realty Trust, 174 Western Avenue, Essex, with respect to the use of premises at 174 Western Avenue, located on the Southerly side of Western Avenue, 275 feet from the intersection of Centennial Grove Road, record title standing in the name of James M. and Elaine V. Conway, Trustees of EJ Realty Trust, whose address is 174 Western Avenue, Essex, MA 01929, by a deed duly recorded in the Essex County – South Registry of Deeds in Book 13359, Page 296. The premises has an existing Morton Style 42’ x 48’ metal building containing 1200 square feet of office space and 816 square feet of light manufacture and assembly space.

NOTICE is hereby given that following the Public Hearing held on Wednesday, June 2, 1999 on the Application in this case as to permit, the Planning Board, at its meeting on June 16, 1999,

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VOTE TO GRANT, the Application under Section 6-13.7 of the Water Resource Protection District Zoning Bylaw of the Town of Essex based on findings as detailed in the Record of Proceedings, subject to the following conditions, safeguards and limitation on use or time if any:

The proposed addition of a "Morton Style" 42' x 90' to the existing building. New construction is to be of the materials and colors of the presently existing structure. The use of the new area will be for light manufacturing and assembly of mezzanine safety gates.

The accompanying Plan dated May 1, 1999 by Morin Engineering, Inc., appears to meet the intent of Town of Essex Bylaw 6-13.3.b.7 in that the plan submitted will artificially recharge storm water runoff in such a way that will not degrade the surrounding groundwater.

The following conditions shall apply:

1. In accordance with the Town of Essex Bylaw 6-13.3.b.1, "any building constructed or use proposed shall not exceed an estimated on-site sewerage disposal flow of 600 gallons per day.
2. The total impervious coverage attributed to buildings, pavement, including main and all accessory buildings shall not exceed 16,060 square feet, according to calculations on plan submitted. (Reference Town of Essex Bylaw Definition 6-13.18, "Any material on the ground that does not allow surface water to penetrate.")
3. Existing building and proposed addition will remain as a one-story building only.
4. In accordance with the proposed use written in the Special Permit Application submitted, the proposed use will be for light manufacturing and assembly to allow for office space, light manufacturing and assembly space for mezzanine safety gates sales.
5. The Applicant shall produce a Statement of Approval from the Essex Conservation Commission stating any conditions or restrictions which they require prior to this Special Permit becoming in full effect. Any additional conditions or restrictions shall be added to this permit as an addendum and filed with the Registry of Deeds accordingly.
6. Existing parking of nine spaces and the additional five spaces located on the Plan shows the adequate number of fourteen required parking spaces according to the Town of Essex Bylaw 6.5.8.k. (Office space, 1,200 square feet/4 spaces and MFG/WH 4,596 square feet/10 spaces).

7. Proposed use of MDC type catch basin in the development area as sited on Plan will be required as part of this approval in order to mitigate any pollutants prior to the runoff entering the "Howland Swale" system.
8. A change in use of the property will require determination by the Planning Board and all applicable boards.
9. An "As-Built" plan is to be filed with the Board showing all impervious coverage. The site is located within the 'Water Resource Protection District' as defined in the Town of Essex Bylaws, and therefore, is subject to extra scrutiny with regard to potential impact on ground water.

Approval of this proposed addition is not to be interpreted as certification of the engineering solution by the Essex Planning Board (acting as the Special Permit Granting Authority). Any liability for inadequate performance of proposed ground water recovery system, specifically, the "Howland Swale", shall remain with the property owner.

Approval of this plan does not constitute approval of any building siting, except that the building proposed shall be located within the confines of the area delineated "proposed building". The proposed use and exact location of the building shall conform to the applicable Bylaws of the Town of Essex.

This Special Permit is not in effect until the applicant has filed a certified copy of the Decision with the Registry of Deeds. Certification that the twenty-day (20) appeal period has expired with no appeals having been filed must be obtained from the Town Clerk.

Certified copies of this Decision will be available at the Town Clerk's office and from the Essex Planning Board within ten days of the date of this Decision.

Appeals from this decision can be made only to the Court and must be made pursuant to Section 17, Chapter 40G (MGL) as amended, and must be filed within twenty (20) days after the date of filing this Decision with the Town Clerk.

Discussion: Brian Feener did not approve of this application as he felt that additional trucks entering and exiting the property is unacceptable because the entrance to the building is not wide enough to accommodate the trucks. Chairman Burnham noted that a width of twelve feet to access a property is the only allowed width, according to the DPW's regulations. Mr. Feener felt that this property has the potential for an accident. He also questioned whether this is a safety issue.

Motion: Sheldon Pennoyer Moved to Approve the Special Permit For James Conway, Trustee of E.J. Realty Trust, of 174 Western

Avenue as written and amended. Seconded by Gil Guerin. In favor: Were Chairman Burnham, S.Pennoyer, and Gil Guerin. Voting Present: B.Shields and B.Feener. The Motion does not pass.

After the Vote, Chairman Burnham noted that the "special permit requires the minimum of two thirds of the members. Therefore, the Motion does not pass with two voting present. I must insist that you vote one way or another." Chairman Burnham felt that by two not voting, the applicant would have the application granted with no conditions whatsoever. He wanted a yes or no vote, not "inaction".

B.Feener wanted to know what conditions/restrictions does he have now? Burnham noted the approval of the special permit with the restrictions of the amount of impervious coverage and the drainage system. B. Shields inquired about the Howland Swale, and why he needed to extend the building "so much". She did not see what the purpose of the Protection District if a use is allowed anyway. The process was explained that the special permit procedure forces an applicant to design a drainage system that protects the groundwater. She questioned why the "Howland Swale" is being used, and was this infiltration system adequate. She has documents by the EPA that disputes the benefits of the "natural retention" versus the "engineered infiltration systems". Chairman Burnham noted that if a Denial is preferred, then a Denial should be placed on the table for Vote this evening. It was discussed that the Board is not well versed on the engineering of detention systems, and it was difficult to base a decision on an engineer's report. B.Shields questioned the area presently being covered. It was noted that the area is 100% compacted (the land was previously filled with gravel, many years ago). The "light manufacturing" was defined. The gates come pre-painted and then they are assembled and shipped from Western Ave.

Motion: Chairman Burnham entertained a Motion to Approve the Special Permit as amended. Seconded by Brian Feener. Voting to Approve the Motion: Chairman Burnham, Brian Feener, Gil Guerin and Sheldon Pennoyer. Voting Against the Motion: Betsy Shields. The Motion to Approve the Decision Passes.

Hunter's Circle-Moses Lane/Heath – Release of Surety: An amount of approximately \$2,176.50 plus interest for July 1999 will be released to the Heaths. The road is complete and acceptable to HL Graham Associates, Tech. Review Agent for the Town. Reference the Motion dated 2/3/99 that released the Covenant of the lots, as well.

Motion: Brian Feener Moves to Release the Surety for the Road of the Subdivision entitled, "Hunter's Place". Seconded By S.Pennoyer. All members present Voted to Approve the Release.

SPRINT PCS-Application for Special Permit, Vote for Public Hearing Date.

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**Motion: Chairman Burnham entertained a Motion to Approve
A Date of September 1, 1999 for 7:45p.m. to hold a public hearing
For an amendment of a Special Permit of Cellular One. Seconded
By S.Pennoyer. All members voted to Approve the Motion.**

**CPPC Memorandum Regarding Land Use Regulations Applicable to Conomo
Point:** The Planning Board will review the Memorandum and discuss at the next
meeting, on September 1st.

The Board, having no further business, adjourned the meeting.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: Betsy Shields
Betsy Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, JULY 7, 1999**

- | | |
|-----------|--|
| 7:30 p.m. | Discussion w/ Dames & Moore
Re: Needs Assessment/Growth
Management |
| 8:30 p.m. | Liberty Road – Modification of
Subdivision (adding one lot) |
| 8:45 p.m. | Scott Steeves – Choate Str.
Change of lot lines of ANR
(Formerly of Dr.Sauer) |
| 9:00 p.m. | Draft decision of 145 Western Ave
Special Permit
SMB Development for Release of
Lot 2 & 4 at Evan's Way
Turtleback Road Extension – Ltr.
From Thos. E. Neve Assoc., Inc.
Atlantic Eng. Ltr. For Revised
Site Plan at Lot 1, Scot's Way
Public Hearing Notices
Response Ltr. Re: K.Jermain's Ltr
Minutes of 4/14, 6/2, 6/16, 6/22 |

Other Planning Business:

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, JULY 7, 1999**

The meeting was held at the Scout House/Council on Aging, Pickering Street and opened at 7:45 p.m.

Attendees: Westley Burnham, Chairman, Pat Dunn, Betsy Shields, and George Stavros

Absent: Brian Feener, Gil Guerin and Sheldon Pennoyer

Building Inspector's Report: 75 Wood Drive, Map 4, and Lot 111. The applicant, Mr. Coose, would like to extend a deck, creating a "farmer's porch", with no additional living space being added. Measurements are 14 x 53, not being closer to the lot line. The Board requires a determination of 6-4.2 bylaw.

Motion: George Stavros moves to approve the building permit for the applicant, Mr. Coose, of 75 Wood Drive, Map 4, Lot 111, for a 14x53 farmer's porch. Lot size is 9,280 S.F., porch to be located in front of resident's home. Finding that under 6-4.2 Existing Non-Conforming Uses, the proposed creation of a porch is not substantially more detrimental than the existing nonconforming use to the neighborhood. Seconded by Betsy Shields. All members present Voted to Approve the Motion.

Liberty Road – Robert Bradley/Paul Pare: Mr. Bradley came before the Board requesting that a third lot be allowed to access the subdivision road, Liberty Road, off Western Avenue. Chairman Burnham noted that if a Modification to the subdivision were to be considered, a Maintenance Agreement for the Road will need to be in place. It was also discussed that H.L. Graham Assoc., the technical review agent for the Town, has notified the Board about ongoing drainage problems of the road, which is still under construction.

Pat Dunn commented that the Road has been approved for two lots only. Waivers were already given; the applicant was specific when the request was for a two-lot subdivision only. Mrs. Dunn did not approve the possibility of another lot being accessed off the road.

Westley Burnham said that to modify a subdivision, a public hearing will be held, input from Town Boards will be addressed, as well as the Technical Review Agent's concerns. Paul Pare, the buyer of the lot (formerly of The Kingdom), will need an ANR for the lot changes to the land that will potentially access Liberty Road. It was also requested that a letter be directed to the Board for the specific requests for the additional lot on Liberty Road. A cost-estimate for the road by HL Graham is pending. A Public Hearing is scheduled for August 4th for the modification.

Pat Dunn repeated that she would not approve this modification, stating that the subdivision was for two lots only. This road could potentially have eight homes on it, she

Page Two of Planning Board Minutes of July 7, 1999, continued...

thought. Many waivers were given for the road, and she remembered that Mr. Bradley specifically said that this was for two lots only.

Dames and Moore Engineer, Kelly Whalen: Mr. Whalen came before the Board to apprise the members of the on going Wastewater Facilities Plan/MEPA Special Procedure Report, Phase 1 Report, Task 1: Needs Assessment (Draft). He summarized the report by explaining the scope of work/needs analysis in relation to the Final Judgment by the State. In order to complete the analysis, many criteria were documented, and from a Planning Board perspective, several issues were raised as to the impact the sewer treatment facility would have in relation to the Town's zoning bylaws.

Estimates of potential future development were based on a review of the Essex tax assessor's data and maps. Each lot in the tax assessor's database was assigned a sewer service area (estimated by criteria by sewage generated by individual residences, non-residential entities, and water consumption data from the two calculations.)

A table to show the summary of Town zoning lot requirements and the summary of development potentials was shown to the Board, who learned that the areas for potential septic services was far larger than they had anticipated.

Table 5-4 (see attached) was discussed, as Dames and Moore will introduce the Board to the land use planners, Hoarsely & Whiten, Inc./Environmental Services. This firm will be employed as subcontractors to assist the Town with its potential changes in relation to the Land Use Regulations. A meeting with the planners will be scheduled after the public forum with the Selectmen and the Town regarding the Needs Assessment.

Story Hill Subdivision/Evan's Way: The Board signed the release of lots two and four of the Covenant dated 10/28/98.

The Board, having no further business of the evening, adjourned the meeting at 9:30p.m.

Presented by Lisa Randall Attested to: Betsy Shields
Lisa Randall, Admin. Assist. Betsy Shields, Clerk

**Table 5-3
Summary of Town Zoning Lot Requirements
(Chapter VI of the Town Bylaws)**

Lot Type	Minimum Area ft ²	Minimum Frontage ft	Minimum Lot Width ft	Minimum Lot Depth ft	Minimum Front Yard ft
Single Family - new lot	40,000	150	150	100	25
Single Family - exist. lot	30,000	150	150	100	25
Business - new lot	40,000	150	150	100	25
Business - exist. lot	30,000	150	150	100	25
Motel/Hotel	90,000	200	NR	NR	100
Industrial Use - Class A ²	90,000	300	NR	NR	100
Industrial Use - Class B ³ - new lot	40,000	150	125	100	25
Industrial Use - Class B ³ - new lot	30,000	150	125	100	25
Multi-family (by special permit) - <4 units	60,000	300	NR	NR	100
Multi-family (by special permit) >4 units	90,000	300	NR	NR	100

- (1) Lot Frontage: Length of street along the lot. All streets are considered for corner lots. Streets are any public thoroughfare 30 ft or more in width. New streets must be at least 44 ft in width.
- (2) Industrial Use - Class A: A building which is greater than 2,500 ft² or in which 12 or more people are employed on one 8-hr shift.
- (3) Industrial Use - Class B: A building that is less than 2,500 ft² or in which less than 12 are employed on any one 8-hr shift.

**TABLE 5-4
SUMMARY OF DEVELOPMENT POTENTIAL**

Sewer Service Area	Maximum Potential Development	Comments
0 Core Area	121	80% of development potential located on five large lots located on (or adjacent to) Addison Street, Forest Avenue, Milk Street, and Western Avenue.
1 Eastern Avenue and Lufkin Street Area to Gloucester	107	78% of development potential located on four large lots on Eastern Avenue and Harlow Street and five smaller lots (5 –10 acres) on Lufkin Street.
2 Conomo Point Road and Lufkin Point Road Area	47	94% of development potential located on four lots on Conomo Point Road and Lufkin Point Road.
3 Spring Street Area	4	No comments.
4 John Wise Avenue to No. 104	133	78% of potential development located on six large lots on John Wise Avenue (some portions of these lots are under 61A deed restrictions).
5 Story Street	7	No comments.
6 Belcher Street	175	83% of potential lots located on three large lots on Belcher Street.
7 Western Avenue	171	92% of potential lots located on six large lots on County Road, Essex Park Road, and Western Avenue.
8 Apple Street	107	70% of potential lots located on four large lots on Apple Street (some portions of these lots are under 61A deed restrictions).
9 Pond Street	74	45% are located on four lots on Pond Street, Rocky Hill Road, and Wood Drive.
10 Western Avenue/Centennial Grove Road to Hamilton	27	No comments.
11 Gregory Island	0	This area has no development potential.
12 Southern Avenue	71	Several large lots.

**TOWN OF ESSEX PLANNING BOARD
AGENDA
TUESDAY, JUNE 22, 1999**

7:30 p.m.

Evan's Way Discussion regarding
a Wood Cutting Business at Parcel A
owned by Paul Desmond

8:00 p.m.

Vote to hold Public Hearing of a
Modification to Liberty Road
Subdivision (Bradley/Pare)

Other Planning Business:

**TOWN OF ESSEX PLANNING BOARD
MINUTES
TUESDAY, JUNE 22, 1999**

A meeting was held at the EEMS Cafeteria and began at 7:30 p.m.

Attendees: W.Burnham, Chairman, S.Pennoyer, B.Feener, G.Stavros, B. Shields, Gil Guerin

Absent: Pat Dunn

Story Hill Subdivision/Evans Way: Chairman Burnham explained to about twenty residents that after discussion at the June 16, 1999 meeting the Board investigated the proposed wood cutting business located on Parcel A, having frontage on Evans Way. Residents at the last meeting voiced concerns about the safety and legal use of the property. Since that time, the Conservation Commission has placed a Cease and Desist on the property because of the construction in close proximity of a stream located on the land. Chairman Burnham read a draft letter to the Building Inspector, which addresses four issues concerning possible zoning violations.

The four findings were discussed at length:

1. The access to Parcel A is inadequate for the proposed use, Industrial Class B, and poses a public safety concern within a residential development.
2. The applicant for the subdivision of Story Hill, Evan's Way, Scott Boches of SMB Development, must appear before the Board requesting a modification to the subdivision to address the change specific to the access easement granted and driveway installed without notification or prior approval of the Essex Planning Board.
3. The present owner of Parcel A has violated the deed restriction said to have been placed on the subject lot as a part of the approval process.
4. Essex Subdivision Rules and Regulations under Section 3.02 require consent of the Planning Board prior to erecting, placing, or converting more than one building designed for dwelling purposes on any lot within a Subdivision. The application for a storage type building presented to the building inspector is not residential in nature, therefore violates the intent of this section."

Issues also discussed were the safety of the new home owners there, with the trucks going in and out, the alleged loam removed, and the trees cut in the "no cut and clear zone", and also the hours of operation. Chairman Burnham commented that there are several avenues that the Town could acquire for the prevention of some violations, but not all of them were within the purview of the planning board. The Building Inspector was the zoning enforcer, and the Planning Board was addressing their opinion of zoning violations. Bob Nelson did speak to Town Counsel, who would contact Mr. Nelson on appropriate enforcement actions, if any.

The Conservation Commission has issued a Cease and Desist, which brings the D.E.P. into the case and who would impose fines for noncompliance of an Order (No work within 100 feet of the stream).

After discussion about modifications of the draft letter, a Motion was made to send the letter.

Motion: Sheldon Pennoyer Moved to send the letter to the Building Inspector with the modifications as discussed relative to the use of Evans Way for a wood cutting business on Parcel A and the letter Stating violations relative to the subdivision approval, issues of access to Parcel A to the use of a wood cutting business by the Desmonds, and the violation of a restricted use (no cut zone) on the Parcel as Part of the Approval of the Subdivision Control Law. Seconded by George Stavros. All members present Voted to Approve the Motion to send the letter.

The Building Inspector disagreed on the Planning Board's ability to dictate a use, but did agree that the proposed use was a problem. He felt that if you have the frontage and legal access, the zoning laws did not preclude the business.

Request of Liberty Road Subdivision for one additional lot. A request by the applicant has been sent to the Board for an additional lot to gain access to Liberty Road. A public hearing date will be set for August 4. Sheldon Pennoyer suggested that H.L. Graham Associates, the technical review agent acting for the Town, see the plans and comment on the Road before approval of an additional lot. Plans will be sent to Mr. Graham. The Board wanted Mr. Pare and Robert Bradley to come before the Board to discuss their intentions. Verifications of the actual lot area excluding wetlands needs to be clarified, as well.

Motion: Sheldon Pennoyer Moved to hold a Public Hearing on a Modification to the Liberty Road Subdivision Plan submitted by Robert Bradley. Hearing to be scheduled for Wednesday, August 4, 1999 at 8:00 p.m. Seconded by Brian Feener. All Members present Voted to Approve the Motion.

MAPS: The MAPC will be forwarding the buildout analysis of Essex within the next few weeks. The Board will discuss issues relating to recommendations of Dames and Moore on Growth Management for the Town, which is addressed in the Needs Assessment by Dames and Moore. This will take place on the July 7 agenda. Kelly Whalen may be able to attend this meeting.

The Board, having no further business, adjourned the meeting.

Present by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: Betsy Shields
Betsy Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, JUNE 16, 1999**

The meeting was held in the Media Center at the EEMS on Story Street.
Attendees: Westley Burnham, Chairman, S.Pennoyer, B.Shields, and G. Guerin
Absent: Pat Dunn, George Stavros, and Brian Feener

Building Inspector's Report: Discussion regarding a wood cutting business located on Map 36, Parcel 79A, owned by Mr. and Mrs. Paul Desmond. The lot being discussed has frontage on Evan's Way, an approved subdivision road. The Building Inspector granted a permit for an 8 x 8 shed for the purposes of a wood cutting business. The owner of the property has entered the lot from the Evan's Way Road and has allegedly cut numerous amounts of trees, bull dozing topsoil, and storing logs in close proximity to an abutter at 3 Walnut Park Road. About thirty residents were present to discuss concerns about the proposed woodcutting business being so close to a residential neighborhood

The owner of the lot in question requested a zoning determination by the Building Inspector. A letter dated April 29, 1999 by Mr. Nelson stated that the lot in question could be classified as Industrial Land-Class B. It meets the requirements of 40,000 square feet (having 48,461 SF) and has 163.69 feet of frontage on Evan's Way. Therefore, the lot may be used for a firewood business with regard to Essex Zoning Bylaws.

Brad White, 3 Walnut Park Road: Mr. White understood that the subdivision presented to the Planning members was intended to create a subdivision with residential homes, which was in line with the existing character of the neighborhood. Mr. White explained that the current owner is in the process of starting a log cutting business on a parcel that has frontage on Evan's Way. With this in mind, he wanted the Board to re-visit the facts that were decided upon when the subdivision was put in place. He explained that he believed that even though Parcel A, and Parcel 2, (which has frontage on Western Ave), the parcels were in different ownership, they were grouped together within the subdivision. Drainage easements were placed on Parcel A and were provided for the Evan's Way project. The waivers that were granted for sidewalks, street lights, curb radius, seemed to him, were given to keep the entire area consistent with the existing residential homes surrounding it. Mr. White questioned what Parcel A was zoned for. It was noted directly on the plan that the subject parcels are located in "a residential zoning district". He wanted the Board to write a definition on why the waivers were granted, and determine if this subdivision was to be a residential area, and send a letter to the Building Inspector that, "...in keeping with the character of the neighborhood, that the determination was made erroneously".

Chairman Burnham noted that there are no definitive areas in Town for "residential zoning" only. He commented that Parcel A was associated with the subdivision only as part of an Appeals Board Variance dated April 13, 1989 which required that if there was a road put in place, it was to render Parcel A the minimum requirements for frontage.

Page Two of Planning Board Minutes of 6/16/99, continued...

The actual subdivision property (Lot 1 as of 1989) that the Board was dealing with was specifically the four lots that were created. All documentation, according to Chairman Burnham, referred only to the four lots in the subdivision. There was consideration required to make "these" (Parcel A and B, known as Lot 2 and Lot 3) lots conforming, but that was because of the Variance attached to the deed.

Sheldon Pennoyer noted also, that since there are no zoning bylaws to preclude the wood cutting business, there was no avenue to stop a business from being operated in that area, whether or not it was an acceptable use of the property.

Scott Boches of SMB Development who is the owner of the subdivision, questioned that when the frontage was created for this parcel, wouldn't it be subject to a residential use only? Chairman Burnham noted that unless there is a covenant on the deed, there would not be any restrictions, it is an accepted road, privately maintained, and from a zoning point, the Planning Board cannot put restrictions on the properties regarding certain uses of the road.

It was noted that the owner's methods to gain access to the parcel via Evan's Way might have caused a change to the drainage easement that was delineated on Parcel A, which is annotated on the plan.

Mr. Ed Neal of Western Avenue noted that Parcel A is listed on the Approval of the Subdivision, which notes the deed restrictions that no cut or clearing of trees within a certain boundary, and that any construction shall include that all roof drains/gutters shall be directed to dry wells to insure that the maximum water recharge takes place with minimum impact on surface water runoff changes in the immediate neighborhood. Mr. Neal felt that Parcel A was a part of the subdivision, and that the Planning Board took measures to grant waivers for the residential area being created. If there was a possibility of a wood cutting business, he felt that the Planning Board would not have granted certain waivers regarding the road. Mr. Neal suggested that the Planning Board write a letter to the Building Inspector to explain that the waivers granted were based on the perception that this subdivision was being created solely for residential homes.

Mr. Boches wanted to know that if the owner of Parcel A were to use the road for the wood cutting business which includes trucks and heavy equipment, how would this be stopped? Chairman Burnham noted that this (maintenance of the road) would be a private matter concerning the owners of the road and the parcel in question.

Sheldon Pennoyer noted that Parcel A was part of the "no cut zone", therefore a part of this subdivision. Attorney John Guerin, noted that in order to gain access on Evan's Way, the owner was deeded the access after the permitting process. The drainage has been potentially altered, as well, and Attorney Guerin felt that the Board did have the purview over this lot. The road design has change because of the cut in acquiring access to Parcel A (by the owner), but it is Mr. Boches of SMB Development who is responsible

for compliance, as the present owner of the road. Attorney Guerin felt that the actions taken by the owner of Parcel A have violated the drainage calculations and the "no cut zone" of the approval.

In closing, it was repeated by several residents and Joe Ginn, who is the contractor hired to build the road, that the cut in the road has allegedly changed the drainage calculations, trees have been removed within the "no cut and clear" zone, and the proposed wood cutting business does not meet the intent of the subdivision (with regard to the residential area). They wanted the Board to consider all of the issues and make a determination of the facts as soon as possible. Gil Guerin closed the discussion by noting that he would make every effort he could to resolve this matter. The Planning Board would schedule a meeting to discuss this matter and contact the residents of the date.

John Stelling – Regarding parking of oil trucks on Lot 6 of Scot's Way:

Mr. Stelling wanted the Board's opinion as to whether or not he could store oil trucks on the property now owned by Mr. Hansbury of Hamilton. He wanted to build a Morton Building for storage of the trucks. The Board did not feel that the use was in keeping with the intent of the Water Resource Protection District. Section 6-13.3 (Use Regulations) was read, and the Board would not vote to approve the use, and suggested that Mr. Stelling go to the Board of Health for their opinion. The Board took no action.

Public Hearing of Proposed Changes to Bylaws: Chairman Burnham opened the public hearing by reading the legal notice for the bylaws printed in the *Gloucester Daily Times*.

Flood Plain District 6-12: This bylaw will delete the entire existing Section 6-12 and replace it with the following in order to adhere to updated flood zone maps and State building codes.

Section 6-12.1 Establishment. The Flood Plain District is herein-established effective July 17, 1986 as an overlay district. The otherwise applicable zoning requirements of Section 6-12, as well as those of the Massachusetts State Building Code dealing with construction in flood plains and coastal high hazard areas govern uses.

6-12.1a Flood Plain Statement of Purpose.

1. Ensure public safety through reducing the threats to life and personal injury.
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

6-12.2a Flood Plain District Boundaries and Base Flood Elevation and Floodway Data:

1. *The Floodplain District is herein established as an overlay district.* The District includes all special flood hazard areas designated on the Town of Essex Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) as Zone A, A1-30, V, V1-30, on the Town of Essex, Massachusetts Flood Insurance Rate Map (FIRM), effective July 17, 1986, revised July 2, 1992, and July 20, 1998, which indicates the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet (FIS) dated July 4, 1986. The FIRM and the FIS Booklet are both incorporated herein by reference and are on file at the Town Hall.
2. *Base Flood Elevation and Floodway Data:*
 - a.) In Zone A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - b.) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres; whichever is the lesser, within unnumbered A zones.
3. *Notification of Watercourse Alteration:*

In a riverine situation, the following must be notified of any alteration or relocation of a watercourse:

 - a.) Adjacent communities
 - b.) Bordering States (*optional*)
 - c.) NFIP State Coordinator
Massachusetts Office of Water Resources
100 Cambridge Street, Boston, MA 02202
 - d.) NFIP Program Specialist, FEMA Region I, Rm. 462
J.W. McCormack Post Office and Courthouse, Boston, MA 02109
4. *Use Regulations:*

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permits must be in compliance with Chapter 131, Section 40 of the MGL and with the following:

 - a.) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 2102.0, "Flood Resistant Construction");
 - b.) Wetlands Protection Regulations, Dept. of Environmental Protection (DEP) (Currently 310 CMR 10.00);
 - c.) Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);

- d.) Coastal Wetland Restriction, DEP (currently 302 CMR 4.00);
- e.) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variance from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state requirements.

5. *Other Use Regulations:*

- a.) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Essex FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b.) Prohibit man-made alteration of sand dunes within Zones V1-30, VE, and V be located land ward of the reach of mean high tide.
- c.) Review all subdivision proposal to assure that : a) such proposal minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

Chapter 6-3 Definitions of the Town of Essex Zoning By-law by making the following changes: Replace the last sentence in 6-3.23 LOT with the following:

“In computing the area of a lot for the purposes of dimensional requirements set forth in Section 6-6, tidal marshlands and wetland as defined by Chapter 131, Section 40 of the MGL Wetlands Protection Act, shall be excluded. Delineation of wetlands and tidal marshlands is required on all plans submitted for review, and shall be drawn and certified by a profession engineer or land surveyor.” Sheldon Pennoyer noted that this change would decrease the number of buildable lots.

Chapter 6-13 Water Resource Protection District of the Town of Essex Zoning By-law by making the following changes: Delete 6-13.3a.13 in its entirety. 6-13.3a.13 now states, “Residential development which renders impervious more than 15 percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit.”

Chairman Burnham stated that over the years, some problems trying to interpret this bylaw. It has restricted any residential development to a maximum of fifteen percent of a building lot for driveway, abutting road, and any building that they would put up. Lot lines for a private road would be measure to the middle of a road and the whole length of the lot. This bylaw would set a different standard for business and residential use. The business use has a special permit clause, allowing extra building, yet residential property is denied any addition, yet a commercial building can extend their coverage through the special permit. In addition, excluding wetlands for all categories will even the plain for both residential and commercial noted Chairman Burnham. Sheldon Pennoyer felt that this bylaw still allows the fifteen- percent coverage (not rendering more than 15% of the lot impervious).

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Maria Burnham, of 30 Southern Avenue was present and commented that the answer was not to destroy the water resource protection district and not allow more runoff by building in that district. She did not agree that this would help the area, by allowing more building, whether it is residential or not.

Chairman Burnham noted that the conservation commission has insisted upon paving recently, and not gravel. The Board could only put forth regulations that are reasonable for all parties involved. Fifteen- percent coverage includes walkways, roads, pavement, etc.

The DPW issued a Memorandum on April 7, 1999 regarding the changes to the Water Resource Protection District that noted that as part of an agreement to finish a project of delineating Zone II, the DPW and MA DEP have proposed a new "model" bylaw that will eliminate the 6-13.3a13. The DEP stated that they would probably not approve the 6-13.3b.7 bylaw as well. They (DEP) feel that the 4000 square foot requirement puts an (illegal) inappropriate burden on owners of large lots. The DEP have changed their section to read 15% of lot area, or 2500 square feet or "whichever is greater". It was noted that any revision to Essex Bylaws should be compatible with DEP regulations or have the necessary documented studies to validate its requirement.

The Board of Health has adopted the Water Resource Protection District within their regulations, as well, and in an April 13, 1999 Memorandum has asked the Planning Board to reconsider changes and recommended the following:

"Propose an Article (or make a motion on the floor) which would eliminate the word "Residential" and replace the words "dwelling unit" with the words "principle building" in Section 6-13(3)(a)(13) and would therefore cause the section to be applied consistently to all proposed land uses. This action would serve to level the playing field and would concurrently serve to raise the standards for all other uses to the more stringent standards for residential uses as opposed to lowering the standards for residential use."

Replace 6-13.3b.7 with the following: "Rendering impervious more than 4000 square feet or fifteen percent of lot area (whichever is less) will require a plan for recharging storm water runoff such that it will not degrade groundwater quality."

Chairman Burnham noted that this would replace the present bylaw "7. Rendering impervious more than 15% of lot area or 2500 square feet, to be approved only if using a system for artificial recharge of storm water that will not degrade groundwater quality." The 4000 square feet minimum and fifteen percent will still apply and Sheldon Pennoyer noted that the conservation commission is requiring pavement along wetlands, rather than gravel. This was partly why the 4000 square foot measurement was added.

The DPW letter (Par. 2) was read, (see above), and the BOH has a recommendation for this section (6-13.3b.7) to "Propose an Article (or make a motion on the floor) which would add the text "(whichever is greater)" after the words "2500 square feet" in Section

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6-13(3)(b)(7) and would therefore cause the section to be interpreted consistently, logically, and in accordance with DEP recommendations.”

As part of the process for amending bylaws, the public hearing was held and was closed this evening. A Special Town Meeting may take place in the months to come, and these Articles will be placed on the Warrant for a Vote by the residents.

Sheldon Pennoyer moved to close the Public Hearing. Seconded by Gil Guerin. All members present Voted to Approve the Motion. The Motion Passes.

Chairman Burnham referred to the “rule of necessity”, as Gil Guerin is an abutter to the next appointment. Therefore, in order for a quorum Mr. Guerin was required to remain on the Board. There were no objections on this matter by the board members or the applicants for this ANR Plan.

Scott Steeves/Creative Development – ANR of 66 Choate Street (formerly of Dr. Sauer): Map 16, Lot 12, 25.50 acres, The plan shows a creation of five additional lots. Lot 1 is 1.69 acres, Lot 2 is 2.88 acres, Lot 3 is 7.01 acres, Lot 4 is 4.50 acres, Lot 5 is 5.09 acres, Lot 6 is 4.32 acres. The Board discussed Bylaw 6-3.27 Lot Measurements, specifically Depth and Width, finding that despite the configuration of the lots, the lots met the minimum requirements of the definition and has adequate frontage on Choate Street. A proposed common driveway of 20’ wide is shown on Lot 3, 4, and 5, and will be deeded to each lot with conditions with explanations of responsibilities of each owner. It was shown that each lot is capable of accessing their own property at Choate Street, if needed.

Motion: Sheldon Pennoyer Moved to Approve the Approval Not Required for Creative Development & Associates, LLP of 6 Hamilton Place, Boston, MA, on a Plan dated 6/4/99, by Vernon J. LeBlanc, PLS, 16 1 Holten Str, Danvers, MA, showing six lots, including the existing house and barn, seeing the lots meet the minimum standards of the Town of Essex Bylaws. Seconded by Betsy Shields. Voting to Approve the Motion was: Chairman Burnham, Sheldon Pennoyer, and Betsy Shields. Gil Guerin Voted present. The Motion Passes.

Scott Boches of SMB Development: Mr. Boches came before the Board to have a lot released at Evan’s Way. However, the Covenant showed an error on a parcel (Assessor’s Map 36, Parcel 79B should not have been included). Mr. Boches will provide a corrected Covenant, and a letter that nullifies the erroneous Covenant, and return at the next scheduled meeting.

Letter of Kimberly Jermain dated June 3, 1999 regarding Dick Carter’s Property at Apple Street: A letter directed to Sheldon Pennoyer was written by Kimberly Jermain. Chairman Burnham explained to the Board the history relating to the letter. He said that,

“over the last five or six years, Mr. Carter has been creatively trying to figure out how to split his property to give to his son and daughter. A plan that was brought in front of us (planning board) shows frontage of 300 feet on an ANR that was in conjunction with a deal with the Metcalf property, next door, that if they divided that, and the planning board approved it, then he was going to go through the motions to purchase the Metcalf property and transfer the title. That was in about 1994, and the Planning Board approved a plan, but the deal never went through with the Metcalfs and Carters, and that plan never got filed. Because of this, Mr. Carter then went to the Appeals Board with a plan showing 20 feet of frontage. This Appeal was denied. Mr. Carter had since come before the Board with a plan to remove two or three maple trees on Apple St. so that a bridge accessing his property could be built, as his current access is becoming unsafe. Apple Street is a scenic way, which required permission from the DPW to cut the trees, which was granted.

Sheldon Pennoyer felt that more information needed to be explained as to the reason for a Consent Agreement (probation) signed by the engineer for Dick Carter. The issue was, is the probation over the issue of him creating a drawing which the 300 feet of frontage and not having the name of Metcalf on it. Mr. Pennoyer felt that it is very different from falsifying drawings. He wanted more information. Chairman Burnham felt that from a Planning Board standpoint, the only issue here was the special permit for the tree cutting. (It was also noted that the issue of requiring a special permit process for cutting trees on a scenic way was not a planning board matter, but for the DPW to grant). Mr. Pennoyer will draft a letter to Ms. Jermain for the Board to address. It was his opinion that Ms. Jermain was suggesting that he (Pennoyer), “made out financially through Mr. Carter’s actions”. The Board also agreed to send the letter to Town Counsel before forwarding an answer to this letter.

The Board, having no further business, adjourned the meeting.

Presented by: Lisa Randall
Lisa Randall, Admin.Assist.

Attested to: Betsy Shields
Betsy Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, JUNE 2, 1999**

7:00 P.M.	Minutes
7:15 p.m.	Building Inspector's Report ANR for Paul Grant and Loretta Hall – Canceled on 6/2/99 a.m. Mr. Gordon Thompson for information Relating to Sub.Div.Rules
7:45 p.m.	Scott Steeves, ANR Choate Str.
8:30 p.m.	Public Hearing/Special Permit James Conway – 229 Western Ave.
9:30 p.m.	John Stelline-Re: Access to Property Planning Issues Meeting Dates, revised Appeals Board Decision, re: Winskowicz Ltr. By DPW re: Turtle Back Road Bills Payable Payroll Voucher

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, JUNE 2, 1999**

The meeting was held at the EEMS on Story Street and opened by the Chairman at approximately 7:15p.m.

Attendees: Chairman Westley Burnham, Brian Feener, Gil Guerin, Sheldon Pennoyer, Betsy Shields and George Stavros

Absent: Pat Dunn

Paul Grant and Loretta Hall for ANR on Western Ave.: Mr. Grant canceled the appointment scheduled for this evening, noting that it was not possible to acquire a total of 40,000 S.F. of uplands to divide property at 229 Western Avenue, Map 8, parcels 15A & 16.

Gordon Thompson, for information relating to ANR of Plan of Land of Peter Henderson, Map 6, Lot 19: This ANR was approved in October of 1992, where three lots were divided having frontage on Andrews Street. The three lots have the required minimum frontage and there is currently a poorly created "bridge" creating access to the lots. Mr. Thompson went before this Board to inquire about the possibility of upgrading the bridge to today's standards, including proper access for fire and utility trucks. Sheldon Pennoyer gave the Board a brief history of a court case regarding this property, which had since been dismissed. Evelyn Bartlett, an abutter, filed a Complaint citing that she owns the fee interest in a section of the Locus depicted on the ANR Plan, which includes a portion of minimum 150 foot frontage, Lot 1, which was being disputed as belonging to Ms. Bartlett. In addition, a previous denial from the Planning Board in 1988 was based on inadequate access, and because of extreme topographical conditions existing at the property, including a stream, adjacent wetlands, and extensive ledge. The plan was finally approved on October 7, 1992, for three lots.

The Board reiterated that access would need to be adequate, having a probable sixteen foot wide road to the lots, Conservation Commission, Environmental Engineering, Department of Public Works, Police/Fire Departments, and Building Inspector input would be part of the process to get the approval of the Road. No action was taken; for information only.

Building Inspector's Report: Desmond Woodcutting Business, 64 Western Avenue, with Frontage on Evan's Way: Mr. Nelson, the Building Inspector, has had several calls from concerned abutters regarding a proposed woodcutting business. Mr. Desmond, the property owner for the business, requested a Zoning Determination in writing, from Mr. Nelson. The home occupation laws would need to be adhered to, and it was apparent that if Mr. Desmond has the proper setbacks and adequate frontage on Evan's Way, there was no zoning ordinance to preclude him from establishing his business.

Property at 14 Centennial Grove Road, Map 31, Lot 39B: The Building Inspector was approached by the owner, Kelly Corrao about starting a proposed clam shucking business. Discussion ensued about this proposed business being in the Water Resource Protection District, and being in close proximity of the Lake, the Town's drinking water reservoir. The Home Occupation Bylaw was discussed, specifically #6. Which states that "no commercial vehicle with registered gross weights in excess of 17, 000 lbs. shall be regularly parked outdoors on the premises. #4 reads, "All home businesses and occupations conducted on residential property including storage and display shall be conducted in an enclosed building, except for the display and sale of shellfish..." The issue of disposing of waste matter from the clams was discussed, and it was noted that the Board of Health would be an enforcing agent, demanding that Title V

requirements for the business were strictly adhered to. Presently, the owner is using the residence as a transfer station for clams. The Board took no action. The Building Inspector will discuss the matter with the Board of Health.

Minutes: **Motion: Chairman Burnham entertained a Motion to Approve the May 19, 1999 Minutes as written. The Motion was Moved, and Seconded by Betsy Shields. Members Voting to Approve the Motion Were Gil Guerin, W.Burnham, S.Pennoyer, Brian Feener. Voting Present were G.Stavros and B.Shields.**

Motion: Sheldon Pennoyer Moved to Approve the April 21, 1999 Minutes as written. Seconded by Brian Feener. All members Present Voted to Approve the Motion, with B.Shields and G. Stavros Voting Present.

Motion: Chairman Burnham entertained a Motion to Approve the May 5, 1999 Minutes as written. The Motion was Moved, and Seconded by Gil Guerin. All members present Voted to Approve The Motion, with B. Shields and B.Feener Voting Present.

10 Centennial Grove Road/Winskowicz – Board of Appeals Decision: On May 11, 1999, the Board voted to Grant a Variance, allowing an additional house lot at the property. Previously, the Planning Board discussed the matter with Mr. Winskowicz who did not have the required frontage on 10 Centennial Grove Road to divide into another parcel. He claimed that when the Town laid out the Road, they prevented a "pie-shaped" piece of his property from having frontage on Centennial Grove Road. Without the minimum 150-foot frontage, Mr. Winskowicz did not gain Planning Board approval for an ANR.

Turtle Back Road/Letter from DPW to Thos. Neve: The Planning Board has been copied on a letter dated May 20, 1999 to Engineer Thomas Neve regarding the condition of the water main located at the Turtle Back Road Extension. Peter Van Wyck, owner of the subdivision, installed the water main without an approve plan. Two pits were duct about 8' deep near the present 8" gate valve by #8 Turtle Back Road. The main was not located. Additional digging with the assistance of Mr Van Wyck did not locate the water main. The contractor, Fraser Co., moved to the "top of the hill" near a new second hydrant and using a 1/6/99 plan, was able to locate the main in several places. The road plan and the elevation of the water main in that area needs significant adjustments. Later, the main was also found to be 10.5 feet deep. The letter went on to describe the unacceptable condition of a gatevalve, tee, and a leader pipe made out of cast iron. The letter informed Mr. Neve that an Engineer's stamped plan must be submitted for our review before the Water Dept. will spend any more time on the site. The Planning Board took no action.

Public Hearing of 174 Western Avenue/James Conway: Chairman Burnham opened the Public Hearing at 8:00 p.m. and read the legal notice posted on 5/13/99 and 5/17/99. There were no members of the public in attendance. Attorney Paul Shea represented Mr. Conway, Trustee of EJ Realty Trust, whom operates a family business, Mezzanine Safeti-Gates, Inc. at the property. Mr. Clay Morin, of Morin Engineering was also present to address drainage issues.

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The existing 42' x 48' "Morton Style" metal building is used for 1200 S.F. of office space and 816 S.F. of assembly and fabrication area of metal parts that are manufactured by others offsite. Mr. Conway is in need of additional storage and assembly space. An addition to the building would be to construct a 42' x 90' "Morton Style" metal building, having a total of 27.5 percent of impervious coverage.

The plans show 105,082.16 total S.F., Upland area of 58,368.42 S.F., Wetland area of 46,713.732 S.F.

The Special Permit requested this evening was to allow the extra impervious coverage, to be approved only if using a system for artificial recharge of stormwater that will not degrade groundwater quality. In addition, the amount of parking spaces required, thirteen, which the applicant has fourteen designated.

A "Howland Swale" is proposed for use at the site to mitigate runoff and to recharge subsurface waters. The Board discussed the drainage issue at length. The "Howland Swale" is a full-fledged mitigation structure with the silt trap, pretreatment marsh, vegetated detention volume adjustment chamber, and vegetated takeoff channel pared for mitigation. All units will be in straight linear form, shown on the plan dated 5/1/99 by Morin Engineering. A "Howland Swale" is located at Scot's Way, and Chairman Burnham noted that this was an acceptable system.

George Stavros asked Mr. Morin if he had any indication as to the distance of the Town's Water Wells were from this proposed addition. Mr. Morin presented the Board with a property map with a scale of 1"=300', which showed that the Town Well located on Harry Homan's Drive was 825' from the property at Western Avenue. It was also noted that the Conservation Commission would be part of this proposal when a site plan is approved on the building permit.

A Board of Health letter dated May 26, 1999 was read. Mr. Zubricki, Wastewater Management Sanitarian, noted that an estimation of the approved system (5/3/95) is sized for 891 gallons of wastewater per day. Chairman Burnham requested that Attorney Shea clarify the actual proposed use, and not to go over 600 gallons per day. The addition requiring a building permit, will be approved by the BOH only if the design flow is within the limit of the existing septic system. Attorney Shea will confer with the Board of Health on this matter, and was confident that the design flow would not be changed.

Also discussed was the proposed "landscaping island", which would screen the building from passing vehicles on Western Avenue, but not obstruct traffic coming in or out of the parking lot.

Sheldon Pennoyer commented that this special permit was to comply with the zoning issues, being the impervious coverage, and parking. The building was to be one story only. Parking is sufficient.

Motion: Chairman Burnham entertained a Motion to Close the Public Hearing. The Motion was Moved, Seconded and Unanimously Voted.

The Board discussed briefly the issues concerning the Decision of the Special Permit, noting that the property was classed as a Business Use, the "Howland Swale" has a good reputation for a retention type system, Conservation Commission will over see the swale, and parking was addressed sufficiently. A straw poll was taken. G.Stavros did not have issues, since the distance

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from the Well was acceptable, and his questions were addressed effectively. Brian Feener was not comfortable with an approval on this permit – he was not satisfied that this business would remain as it is, as Mr. Conway does state that the business has grown to the extent that he needs to create additional assembly and storage areas for the business. Betsy Shields, being a new member, felt it was premature to decide one way or another and she would study the application further. Sheldon Pennoyer felt that the permit met the intent of the bylaw, and he would rather this addition be placed on property already being used, rather than cutting into raw land. Gil Guerin felt comfortable approving the Special Permit, and it was decided that Mr. Guerin would work on the Draft for the Decision, to be discussed on June 16th.

The Board, having no further business, adjourned the meeting at approximately 9:00 p.m.

Presented by: Lisa Randall Attested to: Betsy Shields
Lisa Randall, Admin. Assist. Betsy Shields, Clerk

Note: Reminder that meetings will now commence at 7:30 p.m. Note the change of Meeting place for summer months (COA/Scout House)

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, MAY 19, 1999**

7:00 p.m.	Comprehensive Needs Assessment Liaison/Letter from BOS
7:15 p.m.	Building Inspector's Report: with Dan Forge of Lake Shore Drive for proposed addition
7:30 p.m.	Allen Waller, re: Both Ways Farm
7:45 p.m.	Paul Grant, re: Form A on Western Avenue
8:00 p.m.	Planning Session: MAPC Maps
Other Planning Issues:	HL Graham Invoices Bills Payable Vote for new officers Letter from Perriwinkles, re: Proposed addition to deck Letter from Pat L., re: Chuck Holden Gas Tank Storage List of future Meeting Dates Conservation Comm. Notices Abutting Town Hearing Notices Mail Call from John Guerin, Esq. Re: Defty Property at John Wise Ave., possible Garden Shop

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 19, 1999**

The meeting was held at the EEMS on Story St., and opened at approximately 7:20p.m.
Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Brian Feener, Gil Guerin,
and newly elected member, Elizabeth "Betsy" Shields
Absent: George Stavros

(Westley Burnham was approved by the members present to hold the position as Acting
Chairman until Chairman Pennoyer enters.)

Newly Elected Member: The Board welcomed Ms. Elizabeth "Betsy" Shields as the newest
member of the Board, elected by the Town last week.

Building Inspector Report: Mr. Nelson noted that there is an application pending for Ms.
Patricia Roller of 27 Grove Street who wishes to change the existing ranch style home to a cape
style house, which will change the one family dwelling to a two family dwelling, but with no
additional bedrooms being added. The application has Board of Health approval Lot size is
30,000. The Board took no action: for information only.

(Sheldon Pennoyer enters, resumes Chair.)

Dan La Forge/46 Lake Shore Drive: Mr. La Forge came before the Board with the Building
Inspector about an addition to an existing home. Plot plan and application shows a proposed
construction of deck and screened-in patio over existing flat roof and existing cinder block patio
foundation. The finished product, if allowed, would be for a screened-in patio on the first floor,
and a proposed deck on top, with a railing around the deck area. Currently, there is already a
substantial foundation, which would be used for the patio.

Mrs. Helen Carter and her daughter are the abutters directly next to the property. They were
concerned that the deck level could some how be extended up to another level, increasing the
design flow. The Board assured Ms. Carter and daughter that if this were ever to be an issue, the
Board of Health would determine the possibility, since it was apparent that the design flow would
change. Mr. La Forge showed pictures of the existing house and foundation, and showed the
Board several other houses on Lake Shore Drive, which had similar patios and decks attached.
The Board discussed that this addition would fall under the Town's Bylaws under 6.4-2 *Existing
Nonconforming Uses*.

**Motion: Chairman Pennoyer entertains a Motion to approve the building
permit application for Daniel and Lisa LaForge of 46 Lake Shore Drive
for construction of a new deck and screened-in patio below, seeing that
Under 6-4.2 Existing Nonconforming Uses, the proposed application is
not substantially more detrimental than the existing nonconforming use
to the neighborhood. The deck and screened-in porch are only to
be used as outdoor living space. The Motion was Moved, and Seconded by Pat
Dunn. All members present Voted to Approve the Motion.**

A.H.P. Waller/Bothways Farm - Approval Not Required: Mr. Allan P.H. Waller and Mr. Lawrence Frej brought in a plan drawn by Rural Land Surveys, 130 Centre St. Danvers, MA dated 5/7/99. Plan shows property at Both Ways Farm on Southern Ave., Andrews St., Apple St., and Kings Court. Recorded at Essex South District Registry Books 12514,12853, Page Nos.120,479. Assessors Map 10, Lots 10&11, Map 6, Lots 12,16&17. Applicants explained that the plan

divides Bothways Farm into ten parcels, "A-J". All parcels have adequate frontages, the Board of Health has reviewed the septic system locations for all. There will be no easements on the properties for septic systems. Parcel "A" will have 41.397 acres, Parcel "B" to have 35.126 acres, Parcel "C" to have 2.911 acres, Parcel "D" to have 2.659 acres, Parcel "E" to have 5.73 acres, and is not a legal building lot, Parcel "F" to have 2.7 acres, and is not a legal building lot, Parcel "G" to have 3.274 acres, Parcel "H" to have 9.445 acres, Parcel "I" to have 6.347 acres, Parcel "J" to have 27,970 S.F., and is not a legal building lot. Parcels "E" and "F" were noted by Frederick M. Forbes, R.P.L.S. of Rural Land Surveys that they were not legal buildable lots by request of the Planning Board, being consistent with the notation already on the map for Parcel "J".

Motion: Westley Burnham moves to approve the Form A Application for Approval Not Required for Bothways Realty Trust, Lawrence Frej, and Allan P.H. Waller, Trustees, for the creation of ten parcels. Seven parcels Are considered buildable, and with existing dwellings on Parcels "A", "C", "D", "G", "H", and "I". Parcel "B" meets the minimum requirements of the Town of Essex Bylaws, Parcel "A" meets the minimum requirements of the Town of Essex Bylaws, Parcels "E", "F", "J" do not meet the minimum requirements as indicated on the plan and annotated as "non buildable lots". Approval is based on plan by Rural Land Surveys, 130 Centre Street, Danvers, MA, dated May 7, 1999. Seconded by Gil Guerin. All members present Voted to Approve the Motion.

(Brian Feener enters. Westley Burnham removes himself from the table for the following discussion.)

Approval Not Required – 229 Western Avenue/Paul Grant and Loretta Hall:

Applicants brought in an Approval Not Required for a lot change at 229 Western Avenue, Map 8, Parcels 15A & 16, Book 12886, Page 112 & Book 10724, Page 349, plan drawn by Atlantic Engineering & Survey Consultants, Inc. of 97 Tenney Street, Suite 5, Georgetown, MA, John Paulson, PLS, dated May 19, 1999. Applicants want to divide the parcels into three lots – Lot 1C to have 96,464 S.F., and noted as "not a building lot", Lot 1B to have 40,185 S.F., and Lot 1A to have 30,252 S.F., which presently has a dwelling on it, formerly of Mary Elizabeth Feener, Trust, William Redding, Tr. The Board discussed with the applicants that the Form A must be denied because the Lots divided fall within the 6-13 Water Resource Protection District. Under the Bylaw 6-13.3 #13. "The residential development which renders impervious more than fifteen percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit." Therefore, the newly created Lot must be at least 40,000 S.F., having no wetlands delineated as uplands, and not be more than 15 percent impervious coverage. The Board recommended that the applicants provide another plan at their next meeting, and a Motion to Deny followed.

Motion: Chairman Pennoyer entertained a Motion to Deny the Form A of Paul Grant and Loretta Hall, 13 Lufkin Street, based on the Town of Essex Bylaw 6-13 Water Resource Protection District, 6-13.3 #13. Plan dated 5/19/99 by Atlantic Engineering shows Lot 1A as not meeting the required 40,000 SF Minimum lot coverage. The Motion was Moved, and Seconded by Brian Feener. All members present Voted to Approve the Denial. Westley Burnham Abstains from Voting.

(Westley Burnham returns to the Table.)

MAPC BUILDOUT MAPS: The Board reviewed the MAPC Buildout Maps that were presented by Mr. Mark Racicot on May 5, 1999. The Board discussed the Needs Analysis that was compiled by Dames and Moore, Engineers for the Town regarding the Consent Order from the DEP to correct the Town's wastewater problems. Both Gil Guerin and Betsy Shields are members of the Citizens Advisory Committee, which is an organization chosen by the Secretary of Environmental Affairs to oversee and make comments to the Town based on their findings. It was explained that the Planning Board must meet with other Boards in Town to discuss the "proposed sewer district". Also noted was the need to analyze the findings of Dames and Moore and the MAPC Buildout Map which would help to decide whether or not zoning changes must be made to help offset the cost of a sewer and develop a plan for growth for the Town. The Board concluded by requesting that MAPC take the information they have already and came up with several scenarios to have implemented:

The Board delineated a "possible sewer district", or the "core area".

- 1) Change the lot size of this area to be 15,000 SF area.
- 2) Frontage in this area to be 75 feet long, or what ever the State minimum frontage requires.
- 3) Land Use would be noted as Multi-Use with a 50/50 ratio. 50% commercial, 50% residential.
- 4) Remove all wetland calculations throughout the Town (No wetlands included in area calculation for the whole Town, not just the Water Res. Prot. District).

The Buildout Maps will be forwarded to MAPC for the above changes/additions. Mr. Racicot will return to the Board with these changes.

Board of Selectmen Letter to Request a Liaison for the Comprehensive Technology Needs Assessment: By unanimous Roll Call Vote, the Board Moved to nominate Sheldon Pennoyer as the liaison to represent the Planning Board during the technology needs assessment process. This process will eventually standardize the Town's computer software and hardware. Mr. Tom Noble, Wastewater Coordinator for the Town will be the contact person for this project.

Nominations of Board for Chairman and Clerk for 1999: Gil Guerin nominated Westley Burnham for the position of Chairman. By unanimous Roll Call Vote, the Board Moved to Approve the Nomination. W.Burnham nominated Brian Feener as Vice Chairman. By unanimous Roll Call Vote, the Board Moved to Approve the nomination. By unanimous Roll Call Vote, the Board Moved to Nominate Betsy Shields to serve at the Clerk of the Board.

HL Graham Invoices: The Board signed the invoices for services on Western Avenue Subdivision and Story Hill Subdivision.

Periwinkles/Addition to Deck: The Board recognized the letter from Mr. Tom Guertner of his intention to construct the second half of their outdoor deck. (Bldg. Permit issued 7/21/97) The Essex Board of Appeals granted a variance allowing the deck, with the second half contingent on approval of the Board of Health. Over all seating will not increase, since the restaurant will be decreasing the amount of seats in the inside to compensate for the seats added outside. The Board noted the change; no action was required by the Planning Board.

Holden Gas Company – Storage of Empty Tanks at Scot’s Way: The Planning Board has a copy of a letter by Pat Laskowski to the Licensing Board regarding a request by Holden Essex Realty Trust to increase storage at Scot’s Way. Ms. Laskowski states that Mr. Holden request to increase storage because he wished to park trucks with empty containers. The letter continued, “With this in mind, he agreed that if the amount of propane gas he is currently allowed to store was increased, then he would have that option in the future (which is not what the ConCom or Planning Board understands he wants to do). Rather, he agrees that perhaps the Licensing Board can vote to allow him to increase his aggregate storage on site without any increase in his bulk storage thereby allowing him to store the extra empty cylinders.” Ms. Laskowski was questioning the fact that the situation does not address the issue of Holden Gas parking trucks on the site that may or may not have propane gas in them. It was Ms. Laskowski’s understanding that Mr. Holden would need to have a storage permit for storage of the propane in the trucks. Ms. Laskowski completed her letter by asking the Licensing Board that before Mr. Holden receives a permit for the storage of trucks carrying the propane, that he go before the Planning Board and the Conservation Commission. The Planning Board, on April 7, 1999, agreed that Mr. Holden could store two extra empty tanks on the property. There was no mention of allowing extra trucks containing propane being stored on the lot. After a brief discussion of the permitted uses at Scot’s Way, Westley Burnham dictated a letter to go to Mr. Holden stating that the Planning Board has no authority to enforce the parking and or storing of trucks carrying propane, but it is recommended that the trucks be properly registered, inspected, and have CDL Class A licensed drivers only. It was also noted that Mr. Holden should seek the proper permits from the Licensing Board and the Fire Department.


Planning Sessions during Meetings: The Board agreed that up to one hour per meeting would be allotted for planning issues only. The agenda will note this each scheduled meeting.

Summer Schedule: By unanimous Roll Call Vote, the Board Vote to approve the following meetings: *July 7, August 4, September 1*. The meetings will be scheduled to meet at the Scout House/COA on Pickering Street. The regular Planning Board sessions will resume in October and on.

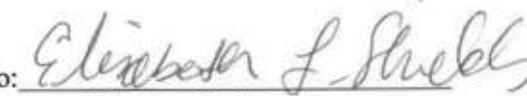
New Meeting Time: The Board agreed that starting June 16 and beyond, they will now meet at 7:30 p.m.

The Board, having no further business, adjourned the meeting at 10:00 p.m.

Presented by:


Lisa Randall, Admin. Assist.

Attested to:


Betsy Shields, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, MAY 12, 1999**

WORK SESSION

**THIS WORK SESSION MEETING HAS BEEN CANCELED. NO MEETING
TOOK PLACE.**

**TOWN OF ESSEX PLANNING BOARD
AGENDA**

WEDNESDAY, MAY 5, 1999

7:00 p.m.	Minutes
7:15 p.m.	Building Inspector Report
7:15 p.m.	Clay Morin, Eng. For Special Permit Application (date) Western Ave.
7:30 p.m.	Nancy Went, for property at Western Avenue Subdivision (Bradley, owner) <i>no show</i>
7:45 p.m.	Peter Kane/ANR Moses Lane
8:00 p.m.	Mark Racicot, MAPC to submit a Plan/Land Use Map of Essex
9:00 p.m.	Robert Bradley/Western Ave. Subdivision Re: Proposes naming Road
Other Planning Business:	Meeting Notice – May 6, Planning for Smart Growth for North Shore: May 6 see Bulletin BOA Public Notice – 1A Brookpasture DPW letter re: Turtleback Road Public Notices Payroll Voucher Bills Payable

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, MAY 5, 1999**

The meeting was held at the EEMS on Story St., and opened by the Chairman at approximately 7:15p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, and Gil Guerin

Absent: Dave Jones, Brian Feener, and George Stavros

BUILDING INSPECTOR REPORT: Mr. Nelson did not have applications for this evening's meeting. However, Attorney Paul Shea was present to represent Mr. James Conway, Trustee of EJ Realty Trust, 174 Western Ave., Essex, who is applying for a Special Permit under Section 6.13, Water Resource Protection District Bylaw. Mr Conway is proposing to build an addition of 42'x90' to an existing 42'x48' "Morton Style" metal building. Parking, setbacks, and a report by Environmental Research Corp. are addressed on the Plan submitted, which is drawn by Morin Engineering, Inc., dated 5/1/99. The addition will add storage space for assembly and a fabrication area of metal parts that are manufactured by other company's offsite. Mr. Conway's business supplies companies with mezzanine safety gates.

Motion: Chairman Pennoyer entertained a Motion to hold a Public Hearing for James Conway, Trustee of EJ Realty Trust, 174 Western Ave., Essex, for a Special Permit under Section 6.13 Water Resource Protection District Bylaw. The Hearing is scheduled for Wednesday, June 2, 1999 at 8:30 p.m. The Motion was Moved, and Seconded by Gil Guerin. All members present Voted to approve the Motion.

170 John Wise Avenue/Subdivision of Craig Doyle: Mr. Morin of Morin Engineering came before the Board to note that Mr. "Chip" Hagstrom will be the Technical Review Agent who will be overseeing the construction of the Road. The Board was agreeable, as Mr. Hagstrom works in conjunction with HL Graham Associates, who works on behalf of the Town. Mr. Doyle has already placed funds in escrow with the Town for payment of Mr. Hagstrom's services.

Approval Not Required/Form A for 59 Wood Drive and 3 Moses Hill Lane: Peter Kane, Engineer of Kane Survey Services in Hamilton, MA brought forth a plan dated 5/3/99 for a lot line change to two existing lots at 3 Moses Land and 59 Wood Drive. The proposed "Bow Tie" swap will allow the existing dwelling on Lot 2 (59 Wood Drive) a larger sideline setback. Applicants are Mr. and Mrs. J. Anthony Periton of 59 Wood Dr., Essex, MA, Assessor's Map 4, Lot 108A, who also own the abutting 3 Moses Hill Lane, Assessor's Map 4, Lot 108F.

Motion: Westley Burnham moves to approve the ANR Plan for Mr. and Mrs. J .Anthony Periton of 59 Wood Drive as shown on plan dated 5/3/99, drawn by Kane Survey Services, So. Hamilton, MA, finding the creation of parcels Lot 2A and Lot 1A, with the understanding that the lots are to be traded and combined as indicated on the plans to be well within the Bylaws of the Town of Essex. Seconded by Gil Guerin. All members present voted in favor of the Motion.

Page Two of Planning Board Minutes of May 5, 1999, continued...

MAPC/Mark Racicot: Mr. Racicot brought in the draft maps, being four in all, of the Town of Essex. Mr. Racicot explained that MAPC found that the Town was divided up into four zoning districts for the purposes of doing the build out analysis.

Map 1: Zoning and Absolute Developable Construction for the Town of Essex

Map 2: Developable Lands and Partial Constraints of the Town

Map 3: Composite Development of the Town

Map 4: 1994/1995 Orthophotograph of the Town of Essex

Previous work sessions with Mr. Racicot and the Board resulted with information relating to Subdivisions, ANR's (Approval Not Required), and the Town's Zoning Bylaws. This criteria was then applied to show the Town's actual and potential land development. Students from Harvard, assisted MAPC in researching and creating the Maps. Mr. Racicot explained that although there may be changes or errors, the maps show four actual zoning districts for the Town. (See the copy of Essex Buildouts Impacts, attached to these Minutes.)

The Board discussed changes needing to be made, such as streets, and some properties not correct, but the overall map showed significant information of the future buildable areas. The Buildout Sheet shows figures and totals of *potentials of land area, lots, dwelling units, residential water use, and municipal solid waste in tonnage, assumptions of students, and newly created roads*. During the next meeting, the Board will further study the data, make minor corrections and additions and resubmit the maps to MAPC to finalize. Chairman Pennoyer noted that the Planning Board would like to present the Maps to other Board for their benefit and input.

Robert Bradley/Western Avenue Subdivision Road: Mr. Bradley came before the Board to request that the subdivision road be named. He had also spoke to the Fire/Police Dept. and got approval of naming the road only after the Planning Board approves the request. After a short discussion, the Board allowed the road to be called, "Liberty Road".

Motion: Westley Burnham moved to issue a Memorandum to the Fire Department stating that the Planning Board has approved the Bradley Subdivision Road in naming the road, "Liberty Road".
Seconded by Gil Guerin. All members present Voted to Approve the Motion.

Mr. Bradley requested also that the Bond that is currently being held on one lot be released. In its place, he would put up cash for the cost to complete the Road. The Board agreed that this would be acceptable, and a letter will be forwarded to HL Graham Associates, Technical Review Agent, for an estimate of costs. When Mr. Bradley secures the finances for the cost of the Road, the Board would then release the lot.

Mr. Bradley asked several questions pertaining to changing the Approval of the Subdivision, to add an addition lot to the newly named, Liberty Road. The Board made it clear that the process for changing the Approval would require a re-filing, a public hearing, and upgrades to the Road, according to the Subdivision Rules and Regulations of the Town of Essex. The Approval for the subdivision was for two lots only. No action was taken on this matter.

Motion: Chairman Pennoyer entertained a Motion to hold a Public Hearing on The proposed changes to the Bylaws being placed on the Warrant for a Special Town Meeting regarding 6-12 Flood Plain, 6-3.23 Lot, 6-13.3a.13, 6-13.3.b.7. Meeting is scheduled for Wednesday, June 16, 1999 at 8:30 p.m. The Motion Was Moved, and Seconded by Gil Guerin. All members present Voted to Approve the Motion.

Minutes:

Motion: Chairman Pennoyer entertained a Motion to approve the March 3, 1999 Minutes as written. The Motion was Moved, Seconded, and Approved by all members present.

Motion: Chairman Pennoyer entertained a Motion to approve the March 10, 1999 Minutes as written. The Motion was Moved, Seconded, and Approved by all members present.


Motion: Chairman Pennoyer entertained a Motion to approve the March 24, 1999 Minutes as written. The Motion was Moved, Seconded, and Approved by all members present.

Motion: Chairman Pennoyer entertained a Motion to approve the April 7, 1999 Minutes as written. The Motion was Moved, Seconded, and Approved by all members present.


Motion: Chairman Pennoyer entertained a Motion to approve the April 14, 1999 Minutes as written. The Motion was Moved, Seconded, and Approved by all members present.

The Board, having no further business, adjourned the meeting.

Presented by:


Lisa M. Randall, Admin. Assist.

Attested to:


For George Stavros, Clerk

Essex Buildout Impacts

DRAFT 5/5/99

	Land Area (Sq. Ft.)	Lots	Dwelling units	FAR	Comm./Ind. Floor Area (Sq. Ft.)	Res. Water Use (GPD)	C/I Water Use (GPD)	Municipal Solid Waste (tons)	Non-Recycled Solid Waste (tons)	Students	New Roads (miles)
District G Developable Area:											
Total Area:											
Including wetlands	87,669,332	1,625	3,251	0.44	3,857,451	582,702	288,309	3,985.7	2,834.3	1,187	30.78
Not including wetlands	76,503,951	1,418	2,837			508,490		3,478.1	2,473.3	1,035	
100 Year Flood Area:	4,511,774	84	167			29,988		205.1	145.9	61	
Rivers Protection 100'-200' Area:	9,069,067	168	336			60,278		412.3	293.2	123	
Wetland Area:	11,165,381										
District RD Developable Area:											
Total Area:											
Including wetlands	20,964,443	629	1,258	0.44	922,435	225,473	69,183	1,542.2	1,096.7	459	
Not including wetlands	19,278,792	578	1,157			207,343		1,418.2	1,008.5	422	
100 Year Flood Area:	1,152,273	35	69			12,393		84.8	60.3	25	
Rivers Protection 100'-200' Area:	1,830,969	55	110			19,692		134.7	95.8	40	
Wetland Area:	1,685,651										
District RDWP Developable Area:											
Total Area:											
Including wetlands	6,505,916			0.11	71,565		5,367				
Not including wetlands	5,640,924	127	127			22,751		155.6	110.7	46	
100 Year Flood Area:	320,072	7	7			1,291		8.8	6.3	3	
Rivers Protection 100'-200' Area:	510,584	11	11			2,059		14.1	10.0	4	
Wetland Area:	864,992										
District WP Developable Area:											
Total Area:											
Including wetlands	76,379,065			0.11	840,170		63,013				2.62
Not including wetlands	60,076,692	1,114	1,114			199,853		1,365.6	971.1	407	18.99
100 Year Flood Area:	10,174,684	189	189			33,813		231.3	164.5	69	
Rivers Protection 100'-200' Area:	1,523,842	28	28			5,064		34.6	24.6	10	
Wetland Area:	16,302,373										
Grand Totals:	174,351,391	3,495	5,749		5,691,621	1,030,578	426,872	7,049.2	5,012.7	2,099	52.39
Assumption:											
All flood zone and Rivers Protection area lot totals and impacts are broken out as a subset of the total area lot totals and impacts.											
All salt wetlands have been removed as an absolute constraint. All wetland totals listed are for non-salt wetlands.											
A 90/10 residential to Comm./Ind. Mix is assumed											
Grand total of residential lots assumes that non-salt wetlands are included in the land area calculation											

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, APRIL 21, 1999
REGULAR PLANNING BOARD MEETING**

The meeting will be held at the Scout House/Council on Aging, Pickering Street

- 7:00 p.m. Planning Business as listed below
- 7:15 p.m. Building Inspector Report
- Milk Str., re: Drainage issues - update
- 7:30 p.m. Conomo Homeowners Association/Planners
Collaborative: Access planning at Conomo Pt.
- 8:00 p.m. Public Hearing for Proposed by-law changes

Other Business:

Letter from Selectmen regarding 129 John Wise Avenue, Guminski and the letter from Glovsky And Glovsky regarding property at Choate St.
Board of Appeals Notice re: 10 Centennial Grove Rd.
Minutes of 3/3, 3/10, 3/17, 3/24, 4/7, and 4/14
Letter to Creative Development, re: Denial of ANR at Choate Str., Map 16/Lot 12

TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, APRIL 21, 1999

The meeting was held at the Council on Aging/Scout House, Pickering Street.

Attendees: Sheldon Pennoyer, Chairman, Gil Guerin, Brian Feener
Absent: Pat Dunn, Westley Burnham, George Stavros, and David Jones

For lack of a quorum, the Chairman announced that the Public Hearing on the proposed changes to the Town of Essex Bylaws **6-12 Flood Plain District, 6-3.23 Lot, 6-13.3a.13 Water Resource Protection District, and 6-13.3b.7 Water Resource Protection District**, would not take place this evening. Chairman Pennoyer will confer with Town Counsel on the procedure to follow for the Articles at Annual Town Meeting.

CONOMO HOME OWNERS ASSOCIATION: Brian Healy, a member of the Conomo Home Owners Association at Conomo Point, introduced members of Planners Collaborative, Inc. to the Board. This presentation was discussed briefly to explain various options for increasing public access at Conomo Point. Planners Collaborative was hired by the CHOA (Conomo Home Owners Association at Conomo Point) to give the residents of Essex a perspective of several options regarding the leased lots at the Point. Two maps were shown, and two potential options were presented as well. One option was explained if the Town were to sell the house lots to leaseholders and increase access for public, and the other option was explained if the leases were discontinued north of Robbins Island Road and a development of a waterfront park. (Attached to the Minutes is a copy of the proposal.) The Board took no action; the presentation was for discussion only.

Presented by: *Lisa M. Randall*
Lisa M. Randall, Admin. Assist.

Attested to: *Elizabeth S. Stiebel*
ES George Stavros, Clerk

Public Access at Conomo Point

Introduction

Since December of 1998, Planners Collaborative Inc., a Boston-based land planning and landscape architecture firm, has been exploring various options for increasing public access at Conomo Point.

In conducting this preliminary exploration Planners Collaborative has identified a number of major public access issues at Conomo Point and Robbins Island. After examining these issues the planning team has made some preliminary recommendations for increasing public access for Town residents at Conomo Point. We have also made a preliminary evaluation of the two major approaches for providing access for Town of Essex residents:

- Sale of All House Lots to the Leaseholders and Increase Public Access to Area
- Cease Leases North of Robbins Island Road and Use Area for Public Open Space

Major Public Access Issues

The major public access assets of Conomo Point and Robbins Island are the views of the Essex River waterway each affords, along with opportunities for launching small boats into the River. These assets are concentrated around the perimeter of Conomo Point and Robbins Island.

Starting in the 1800s, the Town of Essex began to lease land at Conomo Point and Robbins Island for residential development because of the desirable views these areas offered of the waterway and its environs.

Today, a number of Essex residents are seeking greater public access to the Essex River at Conomo Point and Robbins Island.

There is poor definition of what areas are currently publicly accessible to Town residents and what properties and facilities belong to leaseholders; for this reason, sometimes Essex residents not living in this area of the town have felt as if they were intruders. Sometimes they have also been treated as outsiders by leaseholders.

Vehicles permitted to park around the edge of Conomo Point interfere with the natural character of the waterway's edge and block important scenic views of the Essex River.

Some structures around the perimeter of Conomo Point also reduce access to and obstruct views of scenic sections of the River.

The existing edge of undeveloped land on the perimeter of Conomo Point leaves very little area for outdoor activities other than enjoying views of the River and launching boats, and there is even less publicly accessible land at the relatively small Robbins Island.

Sell House Lots to Leaseholders and Increase Access for Public

Key Public Access Features

- Welcome signs, maps and information boards at entrance to Point and Robbins Island, at proposed Activity Center and at end of docks
- Public promenade along waterfront with lookouts and sitting areas
- Seasonal boardwalk at base of wall connected to promenade by stairs that can be removed in winter
- Definition of public spaces for visitors with surfaces, low planting, etc.
- Negotiated use of existing Conomo Point Association boathouse and surrounding area as a Community Activity Center with restrooms and changing areas for public uses and gatherings
- Prevent cars from blocking key viewing areas by providing public parking areas on Point, Clammer's Beach and the Field
- Areas provided for public gatherings, small ceremonies and informal play along waterfront promenade, at Pride's Field, and at Community Activity Center
- One-way loop road on Point with drop-offs near dock and picnic areas
- Extend Farnsworth Pier for use by clambers and boaters
- Potential connection to a proposed Town-wide trail system
- Connection from dock to Essex River for boaters and kayaks
- Boardwalk in salt-marsh for bird-watching and nature enjoyment
- Road surfaces improved to promote public access, increase safety and clarify vehicular and pedestrian circulation

Pros

- Preservation of an historic residential community
- Trails, maps, boardwalks and promenade create a physically, visually and psychologically welcoming public atmosphere
- Defined parking areas prevent cars from blocking views
- Public access to waterfront via boardwalks, promenade with lookouts and sitting areas
- Defined public waterfront becomes a destination and provides access to water
- Activity Center available to public for weddings and other uses
- Boardwalk in marsh provides access to wetlands, a quiet, contemplative environment for bird-watching, and an additional pedestrian connection from Field parking to Point
- Access for clambers to boat ramp on Front Road is maintained in off-season
- Some security and maintenance of public facilities provided by Conomo Point residents

- Possible trail system connections helps make Point and other areas more accessible
- Sale of house lots to provide approximately \$10 million for town purposes
- Funding for public improvements at Conomo Point and elsewhere in Town provided by sale of land

Cons

- Requires cooperative mediation between town and residents to agree on public access areas and facilities
- Need to develop deed restrictions to prevent year-round use to minimize impacts on public schools
- Some cost of maintaining public improvements to town
- Cost of public access improvements
- Emergency vehicle access could continue on Front Road
- Public access is limited to perimeter of Conomo Point

Summary

We believe the decision to sell the house lots to the leaseholders and increase public access through a process of mediation is the preferred option because it meets the Town's goals of providing access to, and views of, the waterfront and Essex River. We do not find the option that ceases the leases in the future and results in the removal of homes produces any significant addition of public access to the key waterfront areas. The option to sell the house lots to the current leaseholders provides the following additional advantages::

- Elimination of the financial and human costs associated with removal of the homes at Conomo Point
- Provision of a level of security and maintenance for the area by Conomo Point residents
- Provision of more than \$10 million for town purposes by the sale of leased lots

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WORK SESSION
WEDNESDAY, APRIL 14, 1999**

The meeting is scheduled to be held at the EEMS on Story Street and begin at approximately 7:30 p.m.

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, APRIL 14,1999**

The meeting was held at the EEMS on Story Street and opened by the Chairman.
Attendees: S.Pennoyer, Chairman, Gil Guerin, Pat Dunn and George Stavros
Absent: Westley Burnham, Brian Feener, and David Jones

ANR of 105 Choate Street: Plan by John Paulson of Atlantic Survey Consultants, Inc. dated 12/21/98, revised 4/4/99. Applicant is Symes Associates, 591 North St., Wakefield, MA, owner: Alonzo and Barbara Shaw. Land Court deed ref. 50318, being a division of L.C.C.39177A. This plan was presented last week with the wetlands delineated, but there was a question to whether or not the plan required complying with the proposed change to 6-3.23 Lot, which will preclude lot calculation on plans which include wetlands. Mr. Paulson of Atlantic Engineering came with a plan, which did not include the wetlands in the calculation of upland area (determined by: Waterman Design Assoc.). Chairman Pennoyer described three Lots. Lot 3 shows 2.7323 acres, 87,800 S.F. of uplands, Lot 4 shows 1.4345 acres, 40,670 S.F. of uplands, Lot 5 shows 1.6419 acres, 71,523 S.F. of uplands. All Lots have adequate frontage on Choate Street.

Motion: George Stavros moves to endorse the ANR Plan for Symes Associates, 591 North Street, Wakefield, MA, for Plan of Land at 105 Choate Street, Map 16, Parcel 1, drawn by Atlantic Engineering and Survey Consultants, Inc., date of last revision is April 4, 1999. For the creation of two additional lots, siting that it meets all zoning requirements of the Town of Essex. Seconded by Pat Dunn. All members present voted to approve the motion.

ANR-Choate Street, Map 16, Lot 12: Land of David Sauer, applicant is Creative Development Associates, LLP, plan prepared by Vernon J. LeBlanc, PLS, 161 Holten Street, Danvers, MA, dated April 4, 1999. Plan shows six lots with a "pork-chop" configuration of lots 1,2,4,5,6, all with frontage on Choate Street. Lot 1 shows 74,414 S.F., with frontage on Choate Str., Lot 2 shows 101,870 S.F., Lot 3 shows 1,110,893 S.F., Lot 4 shows 149,720 S.F., Lot 5 shows 106,733 S.F., Lot 6 shows 91,303 S.F. A right of way of fifty feet is designated on the plan on Lots 1 and 2. On the Southeast portion of the plan, Lots 4,5, and 6 show three portions of the lots, (approx. 25ft.wide) along side one another which abuts Map 16, Lot 17B, Map 16, Lot 17.

Chairman Pennoyer reviewed the plan from last week's meeting and recommended that the plan as shown be denied for three reasons: The plan does not meet the criteria for calculating lots (wetlands not to be added into lot calculation), the right-of-way as proposed for the shared driveway does not show "touching" all the lots, and the calculation of the lots. Inadequate access over the frontage was mentioned, as well.

Motion: George Stavros moves to deny the request for ANR for Creative Development Associates, LLP, land located on Choate Street, plan dated 4/4/99 by Vernon LeBlanc, PLS. Basis of the denial would be that the proposed right of Way does not provide adequate access to all of the proposed lots, as suggested by The applicant. The lots do not have the required breakdown of uplands and Wetlands as required by the proposed bylaw effective on the date of the Town Warrant, and that the proposed frontage would not grant access to the proposed lots given the configuration of the lot lines. Seconded by Pat Dunn.

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Discussion about the Motion: Pat Dunn requested that the Motion contain information relative to the possible lack of access for emergency vehicles in the future, to Lots 4,5,and 6. Chairman Pennoyer agreed, and entertained an addition to the Motion which states,

Should Access be needed at a future date on lots 4,5, and 6, that the Planning Board feels that the lot shapes at the top of the Southeast corner would not Be negotiable by emergency vehicles. The motion was moved, and Seconded by Pat Dunn. Voting to Approve the Denial of the ANR was: S.Pennoyer, Chairman, George Stavros, and Pat Dunn. Voting present was Gil Guerin.

HL Graham Assoc. Letter re: Changes at Story Hill Subdivision: Mr. Graham, the Technical Review Agent for the Town has requested approval from the Board on two matters: Use of boulders at the roads edge versus the guardrail shown on the approved plans. This would alleviate concerns about the proposed guardrail over/near an underground conduit. In addition, Mr. Graham advised that the banking on the left side from the shoulder down to the headwall and box culvert should be stabilized with rip-rap. The Board will send Mr. Graham a letter confirming the agreement for the changes.

The Board, having no further business, adjourned the meeting.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: George Stavros per.
George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, APRIL 7, 1999
REGULAR PLANNING BOARD MEETING**

- | | |
|-----------|---|
| 7:00 p.m. | Building Inspector's Report
Milk Street Arena, Drainage)
Gene Roberts, Home Occupation |
| 7:30 p.m. | Chuck Holden, Holden Gas Co. for
storage of tanks on Scot's Way, discussion |
| 7:45 p.m. | Atlantic Engineering, re:ANR/Choate Street |
| 8:15 p.m. | Pare/ANR at Bradley Subdivision |
| 8:45 p.m. | Steven Steeves/ANR Choate Street |
| 9:15 p.m. | Peter VanWyck/Turtleback Road |
| | Lowland Farms letter from Town Counsel
Re: proposed settlement of agreement.
Public Hearing Notices
Mail
Letter by Allan Guminiski
Minutes of 3/3, 3/10, 3/17, 3/24
Discussion of proposed bylaw changes – update
Letter from Selectmen re: EOE A Grant
Memorandum from Selectmen re: Forum 4/13
Payroll voucher |

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, APRIL 7, 1999**

The meeting was held in the Media Ctr. At the EEMS School on Story Street and was opened by Chairman Pennoyer.

Attendees: Sheldon Pennoyer, Chairman, Pat Dunn, Gil Guerin, George Stavros
Absent: Westley Burnham, Brian Feener and David Jones

Gene Roberts/Home Occupation at 83 Eastern Avenue: Mr. and Mrs. Roberts explained that they had recently renovated and added to their home across from Farnham's Rest. In addition, they were looking to incorporate a home occupation. The home has a room on the front of the residence and has two to three parking spaces and parking along the street. The home business would sell collectibles and hand-designed stepping-stones. Mr. Roberts intended to place a sign outside and was aware of the home occupation bylaws regarding both the sign and the parking, as well as the regulations concerning employees, etc. The Board agreed that the home occupation for the Roberts' was acceptable.

Chuck Holden of Holden Gas/Scot's Way: Mr. Holden came before the Board to announce that he wishes to store two additional, *empty* propane tanks at his lot on Scot's Way. Currently, Mr. Holden holds a storage permit for two 30,000-gallon tanks on the lot. The Board went through the bylaws regarding the permitted uses in the Water Resource Protection District and noted that the tanks would not be a concern at the property. After a brief discussion about the quantity and sizes of the two additional tanks, (which will be 1,000 gal. Capacity), and the explanation of what propane gas consists of (it cannot spill into the ground, but dissipates into the air). The Board will give Mr. Holden documentation that he has come before the planning board, acknowledging that the storage of the tanks was acceptable.

Low Land Farms Subdivision – Agreement for Judgment: A letter from Attorney Brian Cassidy has recommended that the Planning Board approves the proposed Agreement for Judgment and authorize the execution of filing this Agreement with the Land Court. On January 27, 1995, the Planning Board approved the definitive subdivision plan for the Low Land Farms Subdivision, with conditions. Peter Van Wyck appealed that decision challenging two of the conditions imposed by the Board. Mr. Van Wyck complained that the condition allowing access to the abutters over the proposed subdivision road and requiring him to commence construction of the proposed subdivision road within six (6) months from the date of endorsement of the definitive subdivision plan exceeded the Planning Board's authority.

Mr. Van Wyck is now prepared to drop these claims and end this litigation. A copy of the proposed Agreement for Judgment was prepared for by Mr. Van Wyck's attorney, Charles Clark. The only change the Agreement for Judgment makes to the Planning Board's decision is that the date for completion of subdivision road and installation of utilities will be two (2) years from the date of the Agreement for Judgment rather than two (2) years from the endorsement date of the definitive subdivision plan.

The Board discussed the history of the issue, and the drainage problems created by Mr. Van Wyck to the abutters Holden and Browning. Gil Guerin felt that Mr. Van Wyck should not be given the two years; one year should be sufficient. Both Chairman Pennoyer and Pat Dunn explained that the plans were amended by the Planning Board to create a curve in the road (Low

Page Two of Planning Board Minutes of 4/7/99, continued...

Land Farm Subdivision), allowing drainage to spill onto Mr. Van Wyck's property, and also allowing the abutters access across this road.

Motion: Chairman Pennoyer entertained a Motion to write a letter to Brian Cassidy, allowing him to submit the Agreement for Judgment as proposed in a letter dated February 26, 1999, which would release the law suit on Peter Van Wyck vs. Frances Dunn, Land Court Docket No. 215261 Low Land Farm Subdivision. The Motion was Moved, and Seconded by Pat Dunn.

Discussion: Gil Guerin wanted a clarification on the drainage issues before the Agreement was signed. He repeated that this case had been in Court for about seven years – The abutters still have the drainage problems, and now Mr. Van Wyck is given a full two years to finish the subdivision. Mrs. Dunn noted that the drainage issues were a private matter, and understandably a concern, but the process should continue on the subdivision.

Amendment to the Motion: Chairman Pennoyer entertained an amendment and addition to the Motion, as part of the Agreement for Judgment, the planning board requests that Town Counsel to add the following: "should construction not start within the next six months of the date of the Agreement for Judgment, the Board would require a submitted plan which shows the solution to mitigate the drainage problems affecting the two neighbors (Hildonen and Browning)." The Motion was Moved, and Seconded by Pat Dunn. All members Voted to Approve the Motion with Amendments.

Atlantic Engineering for Symes Associates – 105 Choate Street: Mr. John Paulson of Atlantic Engineering presented an ANR plan dated 3/19/99 for the creation of three lots at 105 Choate Street, assessors Map 16, Parcel 1.

A proposed bylaw under 6-3 Definitions, specifically 6-3.23 Lot, advertised and posted at Town Hall before the submission of the ANR. The bylaw, if approved, will state, "In computing the area of a lot for the purposes of dimensional requirements set forth in Section 6-6, tidal marshlands and wetlands as defined by Chpt. 131, Section 40 of the MGL Wetlands Protection Act, shall be excluded. Delineation of wetlands and tidal marshlands is required on all plans submitted for review, and shall be drawn and certified by a professional engineer or land surveyor."

Atlantic Engineering has delineated the wetland calculations on the plan, but was not aware of the proposed changes. They will appear at next week's meeting to address the ANR and recalculate the lot configurations complying with the intent of the proposed bylaw.

Paul Pare re: Western Avenue Subdivision, request to access the Road: Mr. Pare plans to purchase land that will have access and frontage on the subdivision road off the Western Avenue which was approved in Nov.98. The approval of the decision states that the subdivision will be for two lots only. During discussion, Pat Dunn noted that this plan was given waivers understanding that the road will only be for a two-lot subdivision. She did not agree that an additional lot should be added to this subdivision. Chairman Pennoyer noted two points of relief on the Motion: 6.06-2, Performance Guarantee, and Clerk of the Works. Eight waivers were allowed: 7.02 4.a.1- 44 foot wide right of way, 3.05 access adequacy (paved, 12 ft. wide road), 7.02(2j) and 7.02(4c3) waived and a proposed hammerhead allowed, rather than a full circle,

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7.0.3 drainage, except for 7.2.4g,h and 5, grassed swales were allowed, 7.02 4.a.6b - shoulders would be blended with drainage swales, and 7.01- underground utilities were waived, etc.

Chairman Pennoyer noted that in giving an amendment to the subdivision road, in turn, some of the waivers can be amended as well, such as an amendment may be proposed to require the 6" of topsoil be added. Mr. Pare agreed with this amendment and assured the Board that he too, was interested in making the property and the road look "nice". Mrs. Dunn did not change her position. No action was taken, but it was understood that Mr. Bradley, owner of the subdivision road, would need to apply for an amended definitive plan, going through the public hearing process for the change.

(Gil Guerin removes himself from the table for the next discussion.)

Vernon LeBlanc, Engineer for Property at Choate Street - ANR of Six Lots: 66 Choate Street, Map 16, Lot 12, owner David Sauer/applicant is Creative Development Associates, LLP. Plan by Vernon LeBlanc dated 4/4/99. The configuration shows six porkchop lots, having frontage on Choate Street, and shows a fifty-foot right of way on lot 1 and lot 2. The Board did not feel that this configuration was the best way to divide the lot, but the applicant, Creative Designs, noted that the front lot was being kept as an open field. Chairman Pennoyer did not agree that this was the best reasoning for the configuration – another buyer could create potentially more lots on the front field. The Board questioned access to the lots by a shared driveway, as the plan shows frontage for the lots on Choate Str. It was noted that in order to approve the Form A, the plan must show adequacy of access to the lots. Abutter, Mr. Arthur Clarke, was present and was concerned about an increase of flow of water onto his property. Mr. Steeves assured Mr. Clarke that this would not happen.

The plan did not delineate wetlands, and according to the proposed bylaw, the intent of the bylaw must to be met. (Refer to the above discussion regarding 105 Choate Street.) Chairman Pennoyer will address the validity of this issue with Town Counsel. The plan will be held and be tabled until the next meeting date. No action was taken.

(Gil Guerin returns to the table.)

Peter Van Wyck/Turtle Back Road Subdivision: Mr. Van Wyck came before the Board to request that Town Counsel be given plans to be filed in Court. The Board reminded Mr. Van Wyck that his engineer, Thomas E. Neve, has not given the Board the requested copies of the signed plan. Mr. Van Wyck stated that he has given the Board a stamped copy by the Registry of Deeds last week. This was only one plan, however, and the Board requested copies of the final revised sign plan to be given to all Departments, including the Town Clerk. Mr. Van Wyck will provide copies to the Board for distribution.

The Board, having no further discussion, adjourned the meeting.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: George Stavros
For: George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION AGENDA
WEDNESDAY, MARCH 24, 1999**

7:30 p.m.

MAPC-Mr. Marck Racicot, re:
Build-out Map of Essex
Continuing Discussion

Other Work Session
Discussion:

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION MINUTES
WEDNESDAY, MARCH 24, 1999**

The meeting was held at the EEMS on Story St, and began at approximately 7:30p.m.
Attendees: S.Pennoyer, W.Burnham, G.Guerin, G.Stavros, and Mark Racicot of MAPC

BUILD-OUT ANALYSIS MAP: Mr. Racicot of Metropolitan Area Planning Counsel (MAPC) was present to discuss the progress regarding the Town's Build-out analysis map. The information that was gathered by MAPC through the GIS (geographic information systems) showed current land uses of the Town's municipalities, permanently protected and conservation land, and including ponds and salt marsh areas.

Board members made corrections related to the above, and presented a map showing the subdivisions dating from 1988 to the present, and large parcels granted through "Approval Not Required/Form A".

Two maps were also presented from the D.P.W.'s files, which showed water lines and roads in Town.

Mr. Racicot will take the information given and apply it to the data already in place and return to another work session meeting in the next few weeks.

Building Permit for Anthony Rainone on Patriot's Lane:

Motion: George Stavros moves to approve a building application for a Siting of a new dwelling at Patriots Lane, Map 8, Lot 32C, being 1.74 Acres, seeing that construction for the single-family dwelling meets all Of the minimum requirements of the Town of Essex bylaws, noting That this approval does not include any calculations for a driveway on This application. The Board of Health, Conservation Commission, Wetlands have approved this application. Seconded by Westley Burnham. All members present voted to approve the Motion.

Public Hearing Date for Proposed Article changes:

Motion: Gil Guerin moves to schedule a Public Hearing for the proposed Bylaw changes being placed on warrant for the Annual Town Meeting regarding 6-12 Flood Plain, 6-3.23 Lot, 6-13.3a.13, 6-13.3.b7. The hearing date will be Wednesday, April 21, 1999 at 8:00 p.m. at the Council of Aging/Scout House on Pickering Street. Seconded by G.Stavros. All members present Voted to approve the hearing date. The motion passes.

Discussion about proposed bylaw changes: The Board discussed the strategy for introducing the bylaws during Town Meeting. Chairman Pennoyer will draft an outline explaining the Boards' recommendations for each proposed change, which will be available before the public hearing.

Proposed Change for Bylaw 6-6.9 Special Permits: 6-6.9.1 Multiple or Mixed Land Uses:

Westley Burnham initiated a proposal to amend the Special Permit section to add:

"6-6.9.1 Multiple or Mixed Land Uses: More than one defined uses, as defined in Section 6-6, may be permitted subject to the following minimum requirements which in no way shall restrict the Special Permit Granting Authority to impose stricter requirements and/or other conditions to the full extent permitted by law.

- a) The property and structures where Multiple or Mixed Uses will exist, shall be, and remain in common ownership.
- b) Accessory buildings may be allowed as the principal location for part of a Multiple or Mixed Use only if that building meets the minimum zoning setback requirements for the use proposed, as defined in Section 6-6.
- c) Construction or reconstruction of buildings or structure shall meet the building, fire, and health codes in effect at the time of the Special Permit issuance, and shall maintain the general character and look of the neighborhood in which it is being proposed.
- d) Dimensional Requirements: Shall meet or exceed the most restrictive requirements as defined in Section 6-6 for all proposed uses, or shall not increase an existing non-conformity as defined under Section 6-4.
- e) Parking: Shall meet minimum requirements for off-street parking as defined in Section 6-5.8 and shall be considered additive for all uses proposed, provisions for off-site parking may be considered case by case. Off-site parking allowances shall include protective covenants, which shall be attached to the Special Permit and placed on file with the Registry of Deeds.
- f) Signs: Shall be limited to non-illuminating and total sign area shall not exceed 32 square feet.
- g) All approvals shall include a finding by the Special Permit Granting Authority that the proposed Multiple or Mixed Use shall not be detrimental to the surrounding neighborhood and shall clearly state any conditions placed on the proposed use to insure a minimal impact on surrounding properties.

The Board discussed the draft briefly and will continue later.

The Board, having no further business, adjourned the meeting at approximately 9:45p.m.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: George Stavros
George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY MARCH 17, 1999**

7:00 p.m.	Minutes of 3/3/99 and 3/10/99
7:15 p.m.	Building Inspector Report
7:30 p.m.	Pine Ridge Road Resident, Jim Albani
7:45 p.m.	Discussion of proposed bylaw changes
Other Business:	Conservation Comm. Public Notices CALMS withdrawal by CPPC LowLand Farms letter from Town Counsel Mail

TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, MARCH 17, 1999

Due to a lack of a quorum, this meeting was canceled.

Presented Lisa Randall Attested to: George Stayros
Lisa Randall, Admin. Assist. George Stayros, Clerk

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION
AGENDA**

WEDNESDAY, MARCH 10, 1999

7:30 p.m.

MAPC – Planning and GIS

Other

Proposed Bylaw Changes
Schedule public hearing of bylaw changes
Western Avenue Subdivision re: H.L. Graham
Recommendations

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION MINUTES
WEDNESDAY, MARCH 10, 1999**

The meeting was held at the EEMS on Story Street and began at 7:30 p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Brian Feener, Gil Guerin.

Tom Noble, Wastewater Coordinator, and Mark Racicot, MAPC

Absent: Pat Dunn, David Jones, George Stavros

GIS: Tom Noble is attempting to acquire funds to purchase software for a digitized map of Essex. Three estimates for the cost involved were given to Chairman Pennoyer. The Assessor's and Planning Board may be funding a portion of the cost, along with other alternatives that Mr. Noble is working on. A digitized map will provide state-of-the-art information and give departments detailed, accurate information on parcels for all town boards.

MAPC: Mr. Mark Racicot from Metropolitan Area Planning Council, Boston, was present to discuss matters relating to a build-out analysis for the Town of Essex. MAPC is a regional planning body that serves 101 cities and towns around the Boston area. A grant has been awarded from EOE (Executive Offices of Environmental Affairs) to produce build-out analyses (growth management) for the north shore region of Massachusetts (Ipswich to Danvers). Mr. Racicot stated that "a build-out analysis is a broad-brush method that allows a community more or less a look at the future and see what its zoning areas look like, and what possible changes can be done... It gives an opportunity to make changes, if needed. The build-out analysis will show the current uses of land and projected potential land development.

Mr. Racicot brought maps showing Gloucester's build-out analysis, which gave the Board a general idea of what Essex's map will show. The information gathered will be designed specifically for the Town, by what the Planning Board would like to see shown, i.e., open spaces, residential land use, potentially developmental lands, etc. A map can also be designed to show other uses in Town, such as river cruise companies, working farms to visit, open space areas to picnic, etc. Gloucester's map showed municipalities, permanently protected areas, specific zoned areas, acreage of subdivisions, raw land, etc. An air photo was used to clarify the actual open land. Any type of land, which can be developed (i.e., church, chapter 61, golf courses, etc.), was coded as developable land after accounting the specific criteria for each lot area (zoning districts, wetland areas, road coverage, etc.)

A finished product map can show a community the potential growth potential. Essex is currently dealing with a Consent Order to clean up pollution derived by septic systems causing effluent to flow into the rivers and water shed areas. The solution to the problem will greatly affect the Town's potential for future development if a treatment facility is built to serve areas affected. Mr. Noble asked whether the build-out analysis is calculating the percable and buildable land, as well. Mr. Racicot's analysis for Gloucester was not based on the soils. It was mainly based upon wetlands and zoning districts, and actual lot sizes, not soils.

Kelly Whalen, Engineer for Dames and Moore is producing a "Needs-Analysis" report, in relation to the sewer needs by the existing (soil) conditions of the Town. When this report is available, the information from this report will be combined with the findings of the build-out analysis by MAPC.

The finished product map can also be used to dedicate specific zoning district areas – For instance, Mr. Racicot gave the Board several examples by surrounding towns that have zoned

Page Two of Planning Board Minutes of March 10, 1999, continued...

areas as village districts, cluster zoning districts, subdivision road changes (access to two separate roads). The map can show the Town how to plan and provide data to make the changes wanted by the Town to shape its growth potential in creative, land-protective ways.

In closing, Mr. Racicot was interested in detailed information relative to subdivisions, large sects of land, large ANR lots, open spaces and a copy of the subdivision rules and regulations. A tentative meeting on Wednesday, March 24 at 7:30 was scheduled for Mr. Racicot to return for more information.

Western Avenue Subdivision Road/Robert Bradley: The Board will send a letter to Mr. Bradley regarding the placement of six inches of gravel base on the road. The Rules and Regulations state in Section 7.02 Streets and Ways, 7.02.4.a9 states "minimum road base, 12 inches of compacted gravel to design width of the pavement." The letter requires Mr. Bradley to follow the regulations regarding the gravel.

Proposed By-law changes for Warrant: The Board will further discuss only one article before placing it on the Warrant: The "mixed-use" by-law language is not yet finalized. This will be put on next meeting's agenda.

The Board, having no further business, adjourned the meeting at 10:00 p.m.

Presented by:


Lisa Randall, Admin. Assist.

Attested to:


For, George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, MARCH 3, 1999**

7:00 p.m.	Minutes of 2/17/99, 2/24/99
7:15 p.m.	Building Inspector's Report
7:30 p.m.	Planning Business

Other:

Mail

Public Hearing Notices

Information on town accepting roads

Letter from Town Counsel

Re: Lowland Farm/VanWyck

Executive Order-Planning for Growth

Copies distributed for board

Note: March 10, MAPC, Mark

TOWN OF ESSEX PLANNING BOARD

WEDNESDAY, MARCH 3, 1999

The meeting was opened at approximately 7:20 p.m. and held at the EEMS on Story Street. Gil Guerin was voted by the Board to act as Chairman for the evening.

Attendees: Gil Guerin, Acting Chairman, Westley Burnham, Pat Dunn and Brian Feener

Absent: David Jones and George Stavros *Sheldon Penneyer*

Building Inspector Report: Mr. Nelson brought forth three building permit applications:

Kathleen Ricci: 21 Story Street for a siting of a house, single family residence. Map 35, Lot 23. Approved by Conservation Comm. and Board of Health. Lot size, approximately 39,950 SF. Site plan by James Klopotoski dated 2/17/99 shows 170 feet of frontage. Dimensions of home: 80x28x16ht.

Motion: Westley Burnham moves to approve the siting of a single family dwelling for Kathleen Ricci, 21 Story Street, finding the proposed structure meets the minimum setbacks and lot area requirements as required by the Town of Essex. Seconded by Brian Feener. All members present voted to Approve the Motion.

Story Hill Subdivision/Essex Equity Realty Trust: 5 Evan's Way, Map 36, Lot 2, lot size is 73,574 SF, Approved by Conservation Comm., Board of Health. DPW and Wetlands not applicable for siting of dwelling which is off Martin Street. Board discussed that a letter of credit for the road is in place in accordance with the Approval of the subdivision road.

Motion: Westley Burnham moves to approve the siting of a single family dwelling being 62x28x30ht with attached two car garage, for Essex Equity Realty Trust of 5 Dow Drive, Haverhill, MA, located on 5 Evan's Way, Map 36, Lot 2, lot size being 73,574 SF, and showing 150 feet of frontage. Conserv. Comm. and BOH approved. DPW and Wetlands are not applicable. Site plan shown meets minimum standards defined in the Town of Essex bylaws. Seconded by Pat Dunn. All members present voted to Approve the Motion.

Robert Bradley/Western Avenue Subdivision: Application for single family dwelling on the subdivision road previously approved. Board discussed the issue of fifteen- percent impervious coverage for this application, as Mr. Bradley is the owner of the road, which becomes part of the calculation. It was agreed that Mr. Bradley was within the limitations of 6-13 Water Resource Protection District. Located on Assessor's Map 8, Lot 33A, lot size 3.18 acres. Dwelling size of 38x28x30ht, with garage. Approved by BOH, Conservation, Wetlands(not applicable on permit).

Motion: Westley Burnham moves to approve the siting of a single family dwelling with garage for Robert Bradley, location is off Western Avenue, Map 8, Lot 33A, finding that the minimum requirements have been met as defined by the Town of Essex bylaws. Application has been approved by Board of Health, Conservation Commission. The DPW and Wetlands approvals are not applicable. Seconded by Brian Feener. All members present voted to Approve the Motion.

Motion: Pat Dunn moves to Approve the February 17, 1999 Minutes as Written. Seconded by Brian Feener. All members present voted to Approve the Motion.

Minutes: Westley Burnham moves to Approve the February 24, 1999 Minutes as written. Seconded by Brian Feener. All members present voted to Approve the Motion.

Proposed Bylaw Changes for Annual Town Meeting: Westley Burnham has drafted four proposed articles for the Board's comments, recommendations and additions:

SECTION: 6-3.23 LOT: For the purposes of this chapter, a lot is a registered or recorded parcel of land of at least sufficient size to meet minimum land-use requirements for use, coverage and area, and to provide such yards and other open spaces as are herein required. Such lot shall have frontage on a way or a street. In computing the area of a lot, for the purposes of dimensional requirements set forth in section 6-6, tidal marshland shall not be included in such computation.

Proposed Change:

Replace the last sentence in this definition with the following: "...In computing the area of a lot for the purposes of dimensional requirements set forth in section 6-6 tidal marshlands and wetlands as defined by Chapter 131 Section 40 of the MGL Wetlands Protection Act shall be excluded. Delineation of wetlands and tidal marshlands is required on all plans submitted for review and shall be drawn and certified by a Professional Engineer or Land Surveyor."

SECTION: 6-13.3.a.13 of the WATER RESOURCE PROTECTION DISTRICT, USE REGULATIONS: Residential development which renders impervious more than 15 percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit.

Proposed Change:

Delete this Section 6-13.3a.13 in its entirety.

SECTION: 6-13.3.B.7 of the WATER RESOURCE PROTECTION DISTRICT, USE REGULATIONS: Rendering impervious more than 15 percent of lot area or 2,500 square feet, to be approve only if using a system for artificial recharge of stormwater that will not degrade groundwater quality.

Proposed Change:

"Rendering impervious more than 4,000 square feet or fifteen percent of lot area (whichever is less) will require a plan for recharging storm water runoff such that it will not degrade ground water quality."

SECTION 6-6.9 SPECIAL PERMITS: Upon approval of the planning board the following may be allowed:

Proposed Addition:

"I. Multiple or Mixed Land Uses: More than one defined use, as defined in Section 6-6, may be permitted subject to the following minimum requirements which in no way shall restrict the Special Permit Granting Authority to impose stricter requirements and/or other conditions to the full extent permitted by law.

1. The Multiple or Mixed use will exist within the same building or structure. Accessory buildings shall not be allowed as the principal location for any Multiple or Mixed use.
2. Construction or reconstruction of building or structures shall meet the building fire, and health codes in effect at the time of the Special Permit issuance, and shall maintain the general character and look of the neighborhood in which it is being proposed.
3. Dimensional Requirements: Shall meet or exceed the most restrictive requirements ad defined in Section 6-6 for all proposed uses.
4. Parking: Shall meet minimum re1quirements as defined in Section 6-5.8 and shall be considered additive for all uses proposed.
5. Signs: Shall be limited to non-illumination and total sign are shall not exceed 32 square feet.
6. All approvals shall include a finding by the Special Permit Granting Authority that the proposed Multiple or Mixed use shall not be detrimental to the surrounding neighborhood and shall clearly state any conditions placed on the proposed use to insure a minimal impact on surrounding properties.

The Board is to review the proposed changes and forward comments during the next scheduled meeting.

Lowland Farms/Peter VanWyck: A letter from Town Counsel regarding the Lowland Farms litigation was tabled by the acting Chairman, Gil Guerin.

The Board, having no further business, adjourned the meeting at approximately 9:30 p.m.

Presented by *Lisa Randall*
Lisa Randall, Admin. Assist.

Attested to: *Shel EB*
For George Stayros, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WORK SESSION
WEDNESDAY, FEBRUARY 24, 1999**

7:30 p.m.

Flood plain Bylaw Draft

Other:

Land Use Map

**TOWN OF ESSEX PLANNING BOARD MINUTES
WORK SESSION
WEDNESDAY, FEBRUARY 24, 1999**

The work session meeting was held at the EEMS and began at approximately 7:30 p.m.
Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Brian Feener, George Stavros
Absent: Pat Dunn, Gil Guerin, David Jones

FLOOD PLAIN BY LAW – DRAFT ARTICLE: The Board discussed the Town of Essex Bylaw, Section 6-12, Flood Plain District, which would be replaced by a new Section 6-12. The proposed amendment would bring the Town up to the standards as necessary. The Town participates in the National Flood Insurance Program.

Under the State Building Code, the core of responsibility for NFIP compliance is with the Building Inspector, but both Conservation Commissions and Planning Boards are also responsible in procedures related to Section 2102.0 of the State Building Code, "Flood Resistant Construction", and the goals of the NFIP.

Explanation: The Flood Insurance Rate Maps (FIRM), revised on July 2, 1992, now includes undeveloped coastal barrier resource areas or "CBRA" designations as an overlay. These areas were delineated by the U.S. Fish and Wildlife Service and designated by Congress as undeveloped barrier areas. Because new or substantial improved structures in these areas are ineligible for flood insurance coverage if the start of new construction or improvements was after November 16, 1990, these areas were shown as an overlay on new FIRM panels issued in 1992. All of the three panels that make up Essex's FIRM were affected by the designation of CBRA areas. Although by definition these areas are considered "undeveloped", there may be a few existing structures within the designated CBRA, or developable parcels. These designations can affect residents in these areas if they decide to build a new structure or improve an existing structure. They will no longer be able to purchase flood insurance to protect the structure, and, if the structure is also located within a Special Flood Hazard Area, will be unable to secure a federally-backed loan or mortgage, since purchase of flood insurance is mandatory for loans on properties in flood hazard areas.

The Commonwealth of Massachusetts, Executive Office of Environmental Affairs, Department of Environmental Management recommended that the Town of Essex make the following changes:

1. In order to ensure that the most current effective maps are used for reviewing permits, the Town should amend its floodplain district-zoning ordinance to refer to the current dated of Essex's maps, July 2, 1992.
2. Addition of a Statement of Purpose: Telling project proponents and permit reviewers why consideration of the siting of a project in the floodplain is important. It also provides a defensible reason for regulating floodplain areas.
3. Requirement that any subdivision or development proposal greater than 50 lots or 5 acres must provide base flood elevation data.
4. A reference to existing requirements including the state Wetlands Protection Regulations.
5. Include Other Use Regulations (see Section 6-12.2a, 5. Other Use Regulations of the *draft article*).

These changes will bring the Town of Essex's bylaw into full compliance with NFIP standards.

Flood Plain District Draft Article:

Article _____. To see if the Town will vote to amend the Zoning Bylaw as it pertains to Section 6-12 "Flood Plain District" by deleting the entire existing Section 6-12 and replacing it with a new Section 6-12 as follows:

Section 6-12.1 Establishment. The Flood Plain District is herein-established effective July 17, 1986 as an overlay district. Uses are governed by the otherwise applicable zoning requirements of Section 6-12, as well as those of the Massachusetts State Building Code dealing with construction in flood plains and coastal high hazard areas.

6-12.1a Flood Plain Statement of Purpose.

1. Ensure public safety through reducing the threats to life and personal injury.
2. Eliminate new hazards to emergency response officials;
3. Prevent the occurrence of public emergencies resulting from water quality, contamination, and pollution due to flooding;
4. Avoid the loss of utility services which if damaged by flooding would disrupt or shut down the utility network and impact regions of the community beyond the site of flooding;
5. Eliminate costs associated with the response and cleanup of flooding conditions;
6. Reduce damage to public and private property resulting from flooding waters.

6-12.2a Flood Plain District Boundaries and Base Flood Elevation and Floodway Data:

1. *The Floodplain District is herein established as an overlay district.* The District includes all special flood hazard areas designated on the Town of Essex Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program (NFIP) as Zone A, A1-30, V, V1-30, on the Town of Essex, Massachusetts Flood Insurance Rate Map (FIRM), effective July 17, 1986, revised July 2, 1992, and July 20, 1998, which indicates the 100-year regulatory floodplain. The exact boundaries of the District may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Flood Insurance Study booklet (FIS) dated July 4, 1986. The FIRM and the FIS Booklet are both incorporated herein by reference and are on file at the Town Hall.
2. *Base Flood Elevation and Floodway Data:*
 - a.) In Zone A, A1-30, and AE, along watercourses that have not had a regulatory floodway designated, the best available Federal, State, local, or other floodway data shall be used to prohibit encroachments in floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
 - b.) Base flood elevation data is required for subdivision proposals or other developments greater than 50 lots or 5 acres, whichever is the lesser, within unnumbered A zones.

3. *Notification of Watercourse Alteration:*

In a riverine situation, the following must be notified of any alteration or relocation of a watercourse:

- a.) Adjacent communities
- b.) Bordering States (*optional*)
- c.) NFIP State Coordinator
Massachusetts Office of Water Resources
100 Cambridge Street, Boston, MA 02202
- d.) NFIP Program Specialist, FEMA Region I, Rm. 462
J.W. McCormack Post Office and Courthouse, Boston, MA 02109

4. *Use Regulations:*

The Floodplain District is established as an overlay district to all other districts. All development in the district, including structural and non-structural activities, whether permitted by right or by special permits must be in compliance with Chapter 131, Section 40 of the MGL and with the following:

- a.) Section of the Massachusetts State Building Code which addresses floodplain and coastal high hazard areas (currently 780 CMR 2102.0, "Flood Resistant Construction");
- b.) Wetlands Protection Regulations, Dept. of Environmental Protection (DEP) (Currently 310 CMR 10.00);
- c.) Inland Wetlands Restriction, DEP (currently 302 CMR 6.00);
- d.) Coastal Wetland Restriction, DEP (currently 302 CMR 4.00);
- e.) Minimum Requirements for the Subsurface Disposal of Sanitary Sewage, DEP (currently 310 CMR 15, Title 5);

Any variance from the provisions and requirements of the above referenced state regulations may only be granted in accordance with the required variance procedures of these state requirements.

5. *Other Use Regulations:*

- a.) In Zones A1-30 and AE, along watercourses that have a regulatory floodway designated on the Town of Essex FIRM encroachments are prohibited in the regulatory floodway which would result in any increase in flood levels within the community during the occurrence of the base flood discharge.
- b.) Prohibit man-made alteration of sand dunes within Zones V1-30, VE, and V be located landward of the reach of mean high tide.
- c.) Review all subdivision proposal to assure that : a) such proposal minimize flood damage; b) all public utilities and facilities are located and constructed to minimize or eliminate flood damage; and c) adequate drainage is provided to reduce exposure to flood hazards.

Motion: Westley Burnham moves that the Planning Board schedule a Public hearing, date to be determined, for review of the proposed change To the Flood Plain District Bylaw, which will replace Section 6-12 of the Town's Bylaw, with the proposed Bylaw. Seconded by George Stavros. All members present voted to approve the motion.

Other Bylaw Changes – Discussion:

Westley Burnham discussed changes within **Water Resource Protection District, Section 6-13**, specifically, *Section 6-13 Section 3 – Use Regulations, #13*. “Residential development which renders impervious more than 15 percent of a building lot (including the portion of any new street abutting the lot) or which has a lot area of less than 40,000 square feet (excluding wetlands) for each dwelling unit;

Mr. Burnham would propose that this sentence be stricken from the Bylaw in its entirety. The Board discussed that residential properties were excluded from additional building on their properties (i.e., garage with in-law apartments), yet commercial and industrial uses were being allowed under the Special Permit Process. A Special Permitting Process for rendering over fifteen percent (see *Section 6-10.3 Wetland Use Regulations and Section 6-10.5 Appeals and Special Permits bylaws*) would apply to residential uses, which the Board understood as a reasonable change.

George Stavros will bring the Board the Conservation Commission’s definition of *Wetlands*.

Another proposal was discussed in *Section 6-3.23 Lot*. Mr. Burnham proposed including in the definition of a lot, “...In computing the area of a lot for the purposes of dimension requirements set forth in section 6-6, tidal marshland shall not be included in such computation...” adding the words, *also including the exclusion of wetlands as defined by the Wetlands Protection Act*”.

Another proposal was discussed at length: The Residential/Business, or Mixed Use Regulation: The Board discussed whether the Town should adopt a “town wide” regulation being called “*Multi Uses*”. This proposed new section would have a minimum set of standards and could be acquired by residents through the Special Permit process.

Issues about the change were brought to the table: Brian Feener felt that if such an adoption should take place, it should be fair for all across the board, particularly the home occupations in Town. The Board discussed providing a mechanism through regulations and the Special Permit process for such issues. The criteria for a Mixed Use would need to be “spelled-out”, with each lot meeting the constrictions of the existing uses in Town. Setback changes were brought up, as well as parking.

In Closing, Westley Burnham offered to draft the two proposed changes for the Board to discuss further before forwarding to the Selectmen for the Warrant.

Any Articles being placed on the Warrant must be in no later than March 22, 1999, per the Selectmen.

The Board, having no further business, adjourned the meeting at 9:15p.m.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: Frances P. Dunn
for: George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WEDNESDAY, FEBRUARY 17, 1999**

The meeting will be held at the Scout House on Pickering Street.

7:00 p.m.	Minutes of 2/3/99 and 2/10/99
7:15 p.m.	Building Inspector Report
7:30 p.m.	No Appointments
Planning Business	Bills Payable for H.L.Graham Payroll Voucher Conservation Comm. Notices Manchester's Public Hearing Notice- CPPC Minutes – FYI Mail

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, FEBRUARY 17, 1999**

The meeting was held at the Council of Aging/Scout House on Pickering Street and opened by the Chairman at approximately 7:00 p.m.

Attendees: Sheldon Pennoyer, Chairman, Pat Dunn, Gil Guerin and Brian Feener
Absent: Westley Burnham, David Jones and George Stavros

Minutes:

Motion: Chairman Pennoyer entertained a motion to approve the Minutes of February 3, 1999 with the following corrections: On Page Two, second paragraph, third sentence, after Road, strike the words "because of the details in the Agreement of Judgment and the Subdivision Rules and Regulations" and add the following: "due to A disagreement over private matters. The Prestons added that there May be court action by them against the Town." The Motion was Moved and seconded by Brian Feener. All members present Voted to approve the minutes as amended.

Motion: Gil Guerin moves to approve the February 10, 1999 minutes As written. Seconded by Brian Feener. All members present voted To approve the motion.

Building Inspector Report: Mr. Nelson came before the Board with one application for a replacement of a structure that will now become a barn for storage, on three-sided foundation, and one side slab. Map 40, Lot 35, Lot Size of 22,800. Owners are Richard and Sandra Osborn of One Main Street. Expansion will not be any closer to road (Western Avenue) than it is now. There will be no plumbing or heating.

Motion: Gil Guerin moves to approve a building application for Richard And Sandra Osborn of One Main Street, Map 40, Lot 35, for a storage barn Being 44 x 30 x 25. Existing structure and new replacement will have the Same setback from Western Avenue, being ten feet. The storage Barn will include a retaining wall structure for the building. The existing Structure is nonconforming – application is being approved under 6-4.2 Existing Nonconforming Uses, finding that the proposed replacement will not Be substantially more detrimental than the existing nonconforming use to The neighborhood. Seconded by Pat Dunn. All members present voted to Approve the Motion.

The Board, having no further business, adjourned the meeting.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: Frances A. Dunn
for: George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION MINUTES
WEDNESDAY, FEBRUARY 10, 1999**

The work session meeting was held at the EEMS and began at 7:30 p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Gil Guerin
Absent: Brian Feener, Pat Dunn, George Stavros and David Jones

The members present discussed the ongoing project of creating the land use map. Last Saturday, Chairman Pennoyer and the Admin. Assist. categorized the Assessors land use codes, square footage, and adopted colors for each use of parcels of Map 37, which is the downtown area.

The Wastewater Coordinator for the Town, Tom Noble, has GIS software that may be able to delineate the land use codes by color in each parcel.

Chairman Pennoyer will outline some issues that the Board is discussing regarding changes that may occur because of the septic issues in the downtown area. i.e., increasing density, potential changes in setbacks. That way, the Board could go through these potential changes and discuss them in detail.

Also, there is a grant available by the State that may be of value to the Board. It also appears that working with the neighboring town, Gloucester, may be an avenue that the Board will consider. Chairman Pennoyer is looking into the matter.

The Board, having no further business, adjourned the meeting a 9:00 p.m.

Presented by: Lisa Randall
Lisa Randall, Admin. Assist.

Attested to: George Stavros
George Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD
AGENDA
WEDNESDAY, FEBRUARY 3, 1999**

7:00 p.m.	Minutes of 1/6/99 and 1/20/99
7:15 p.m.	Building Inspector Report
7:30 p.m.	Mr. and Mrs. David Preston - Turtleback Road Subdivision
7:45 p.m.	Mrs. Frye and Ms. Robinson - Turtleback Road Subdivision - Low Land Farm Update

Planning Business:

- *Moses Lane/Building Permit**
- *Planning for Growth Grant
Program/Communities Connected by
Water Grant Program – Discussion**
- *Note: Town Counsel – New Address in Glou.**
- *Coastal Zone Management – An
informational meeting in February about
GIS DATA – Need one more interested Bd.
Member from Essex.**
- *CPPC – Minutes of 12/9/98**
- *H.L.Graham Invoice-Sign Western Ave.**
- *H.L. Graham Letter – Re: Hunter's Place,
Release of Surety, w/ one condition.**
- *MAPC – N.S.Navigator, Newsletter**
- *Annual Report Due February 11, 1999**
- *Motion to Accept Withdrawal of
Subdivision of Old Road to Manchester –
Wedlock/Petersen**
- *Motion to Approve deposit and release of
Plan to Craig Doyle for Subdivision
at 170 JohnWise Avenue.**
- *Bills Payable**

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, FEBRUARY 3, 1999**

The meeting was held at the EEMS and opened by the Chairman.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Gil Guerin and Brian Feener
Absent: George Stavros, Pat Dunn and David Jones

Hunter's Circle – Moses Lane Subdivision: Release of Covenant: The Heath's and their builder, Christopher McCarthy presented the Board with a fee of \$2,000.00 to be secured by the Town for the final approval of the Road, Moses Lane. The Board will release the covenant of the subdivision.

Motion: Westley Burnham moves to have the Board approve the release of Covenant for subdivision entitled "Hunter's Place"/Moses Lane, based on The letter by Clerk of Works, H.L. Graham, and also, that the applicants have placed an amount of \$2,000.00 in place in an account at the Town for any work Needed on the Road. Seconded by Brian Feener. All members present voted To approve the Motion.

Building Inspector Report: A building permit application for Anthony and Gillie Periton of 254 Marlborough Str., Boston, MA. For single family house at Hunter's Circle, Moses Lane. Map 4, Lot 108, 40,525 S.F. Board of Health, Conserv. Comm., Wetlands, DPW approvals. Home to be 36 x 28 x 28ht.

Motion: Gil Guerin moves to approve the siting of a single-family residence For Anthony and Gillie Periton at Moses Lane, Hunter's Circle. Map 4, Lot 108, 40,525 S.F. Finding that the Plan, by Rural Land Surveys and Gateway Consultants dated April 14, 1997, meets all of the minimum requirements of the Town of Essex Bylaws. Application shows approval from Board of Health, Conservation Comm., Wetlands, and D.P.W. Seconded by Brian Feener. All Members present voted to approve the Motion.

Minutes:

Gil Guerin moves to approve the January 6, 1999 minutes as written. Seconded By Brian Feener. All members present voted to approve the Motion.

Westley Burnham moves to approve the January 20, 1999 minutes as written. Seconded by Brian Feener. All members present voted to approve the Motion.

David and Susan Preston for Turtleback Road Subdivision: The Prestons came before the Board to discuss their concerns that the approval of the Turtleback Road Subdivision may have been granted to Mr. Van Wyck hastily. They wanted to know if the Board was aware of the ongoing problems with the lot they had purchased from VanWyck. An Approval Not Required (Form A) had been granted by the Board on 2/18/98 which was in the Agreement for Judgment dated 10/9/96. The Agreement allowed Mr. VanWyck to sell the lots in question. The Prestons felt that VanWyck and others misrepresented them, as an easement on the property was not fully disclosed to the Prestons at the sale. Mr. Pennoyer explained to the Prestons that while the Board knew of the Prestons situation, this was a private matter between the parties. The Agreement for

Page Two of Planning Board Minutes of February 3, 1998, continued...

Judgment was finally drafted after numerous legal dealings with Mr. VanWyck and the Town. Chairman Pennoyer took offense to the remark by the Prestons "... that the approval for the plans created by Thos. Neve (last revision dated 11/19/98) was done too fast" – He explained that if the Water Dept. is not satisfied with the work on the road, and H.L. Graham is not satisfied, then further approvals to release any lots would not be granted by the Board.

In closing, the Board also explained that the lots on the plan is *registered land*, which is held to a higher standard of scrutiny at the Registry of Deeds. In addition, the DEP has an Order of Conditions on the land as well. The Board cannot hold Mr. VanWyck hostage on the Road ~~because of the details in the Agreement of Judgment and the Subdivision Rules and Regulations,~~ amendment
The Prestons would receive a copy of the Plans as requested, and they reiterated that legal see 2/17/99
proceedings by them against Mr. Van Wyck are imminent. They did not want to involve the Minutes.
Town, but wanted the Town to be aware of their intentions.

Mrs. Frye for LowLand Farms off Apple Street: Mr. VanWyck owns the property of LowLand Farms off Apple Street, which is currently in litigation with the Town. Mrs. Frye asked what the status of the case was, and if the appeal period was up, or if the time limit to create the subdivision was up. Chairman Pennoyer stated that the Board could not discuss the matter with Mrs. Frye, but the Board was aware of the frustration that the neighbors had because of flooding in that area – Flooding that Mr. VanWyck allegedly caused by trying to create a subdivision there. Chairman Pennoyer would ask Town Counsel about the flooding issue. Mrs. Frye was also of the understanding that a communal septic system had been given approval for the lots there. The Board could not confirm this information. When the Parties and the Court have resolved the matter, the Board would contact Mrs. Frye.

Motion to Approve the withdrawal of Wedlock/Pedersen for Subdivision off Old Manchester Road:

Motion: Westley Burnham moves to accept the withdrawal for the Application for the Subdivision of Steven Wedlock and Kim Pedersen Of Old Manchester Road for a two lot subdivision as requested in a Letter received by the planning board and dated 1/3/99. Seconded by Gil Guerin. All members present voted to approve the motion of The withdrawal.

Subdivision of Craig Doyle – 170 John Wise Avenue : Motion to approve the Covenant and deposit for the Tech. Review Agent services:

Motion: Westley Burnham moves to accept and approve the Covenant for the Holding of Lot 2C as surety for the subdivision of Craig and Barbara Doyle at John Wise Avenue. The Board also recognizes that an amount of \$1,500.00 Dollars has been deposited at the Town for the cost of services of the Technical Review Agent. Seconded by Brian Feener. All members present voted to approve The Motion.

The Board, having no further business, adjourned the meeting at approximately 9:00 p.m.

Presented by: Lisa Randall, Admin Attested to: George Stavros, Clerk
Lisa Randall, Admin. Assist. Assist for George Stavros, Clerk

Due to a disagreement over private matters. The Prestons added that there may be a threat by them against the Town by the Prestons.
Court action

**TOWN OF ESSEX PLANNING BOARD
WORK SESSION AGENDA
WEDNESDAY, JANUARY 27, 1999**

7:00 p.m.

Work Session Business:

**Fax from Ipswich – Re: Sewer Regulation
Land Use Map and Lot area Calculation of
“Core Area”**

*Meeting Minutes were taken
By Gil Guerin.
(Kandace absent)*

**TOWN OF ESSEX PLANNING BOARD
AGENDA**

WEDNESDAY, JANUARY 20, 1999

7:00 p.m.	Minutes of January 6, 1999
7:15 p.m.	Building Inspector's Report
7:30 p.m.	Open – no appointments

Planning Business:

- *Ltr. From Thos. Neve, showing Easement at Lot 27**
- *Land Use Manager, copies to all members**
- *EOEA Grant – Discuss**
- *Public Hearing Notices, abutting towns**
- *Conserv. Comm. Hearing Notices**
- *Ltr. From Town Counsel, client alert**
- *Memo from Finance and Selectmen, re: FY2000 Budget Process**
- *Jan. 11 Ltr. From A. Clarke to Cons. Comm.**
- *H.L. Graham Assoc. Invoices for Clerk of Works on Story Hill, TBR, Bradley**
- *Mass Coastal Zoning – GIS Program**
- *Ltr. From Apple Assoc. – Clerk of Works**
- *Payroll Voucher**

**TOWN OF ESSEX PLANNING BOARD MINUTES
WEDNESDAY, JANUARY 20, 1999**

Attendees: S.Pennoyer, Chairman, W.Burnham, G.Stavros and Brian Feener.
Absent: Pat Dunn, Gil Guerin, David Jones

The meeting was held at the EEMS teacher's lounge and opened by the Chairman at 7:10 p.m.

Building Inspector's Report: Mr. Nelson was not available this evening, however, an applicant was present to discuss the procedure for getting a building permit for a lot on Hunter's Place, which is the subdivision road of Moses Lane, off Wood Drive. Westley Burnham and Sheldon Pennoyer directed the applicant to the Board of Health for an approval, before coming to this Board.

Minutes of January 6, 1999 – TURTLE BACK ROAD SUBDIVISION AMENDMENT TO MOTION:

Motion: Westley Burnham moves to rescind the January 6, 1999 Motion Regarding Turtleback Road Subdivision that was made by Westley Burnham on January 6, 1999. Seconded by Brian Feener. All members Voted to approve the Motion.

Motion: Westley Burnham moves that the Planning Board endorse the January 6, 1999 Motion in its entirety and by amending paragraphs Seven and Eight to be replaced with the following as noted below:

The Agreement for Judgment was mutually agreed to on or about November 1996 by Planning Board and Peter VanWyck. The Plans being submitted tonight, the original date of the cover sheet is 8/5/98 and final revision is 1/6/99 by Thomas E. Neve Associates. Approval is subject to the following:

- 1. The creation of three additional defined Lots: Lots 24, Lot 25, illustrated on the Plan as proposed lots 35, 36, and 37 and Lot 26 illustrated as proposed lots 29, 30, 31, 32, 33, 34. The lots referenced bring the plan to Paragraph 4 of the Agreement for Judgment, which allows the "Form A" subdivision of Lots 25 and 26 to the maximum of five lots. Bringing the total subdivision of a maximum of eight.**
- 2. Construction can commence when the appropriate approvals have reached with the DEP and the local Conservation Commission.**
- 3. The existing pavement installed to provide access from Turtleback Road to the original Lots 22, and 23, will require six core samples to proof adequate base thickness materials And pavement prior to acceptance of that section of the roadway.**
- 4. Final approval and release of lots will be contingent upon DPW approval of all water Mains, lines, appurtenances installed to their satisfaction.**
- 5. Clerk of the Works and overseer of construction for this project is agreed to be H.L. Graham Associates. Adequate funding shall be in place prior to commencement of Construction.**

6. **The Board will hold as a Performance Guarantee, Lots 24 and Lots 26 until the Road Is completed and all applicable "As-Built" drawings have been submitted.**
7. **The Subdivision Road and the Utilities shall be completed by December 1, 1999. Failing To do so shall make the 1987 Approval lapse.**
8. **The Board is in receipt of the Covenant having been filed with the Salem South Essex Registry of Deeds, and dated January 20, 1999, placing the remaining property Known as Lots 22, 23, 24, 25, and 26 under the Planning Board jurisdiction until Construction is complete and accepted.**

Motion was Seconded by Brian Feener. Members Voting to Approve the Amended Motion were: Chairman Pennoyer, Westley Burnham, Brian Feener and George Stavros. The Motion carries.

Peter Vanwyck will receive the Mylars at the Town Hall on Thursday, Jan. 21, 1999.

Other Planning Business:

Chairman Pennoyer will be requesting at the next Selectmen's Meeting six hours to be added to the Admin. Assist. Budget. Previously, a denial from the Board of Selectmen and Finance Committee was received in a Memorandum. All Town boards were denied extra staff and hours. The Planning Board is requesting the hours in order to conduct regular clerical duties that will become more time consuming as challenges are faced by the Town's septic predicament.

The Board approved and signed H.L. Graham's latest invoices for services performed at Turtleback Road and Story Hill.

A course will be provided by Coastal Zone Management in Glou. Regarding MassGIS. Interested Board members are invited to attend. The date has not been set.

The Board, having no further business, adjourned the meeting.

Presented by: Lusi Randall
L. Randall, Admin. Assistant

Attested to: G. Stavros
G. Stavros, Clerk

**TOWN OF ESSEX PLANNING BOARD AGENDA
WORK SESSION**

WEDNESDAY, JANUARY 13, 1999

Due to inclement weather, the meeting was canceled.

**TOWN OF ESSEX PLANNING BOARD
AGENDA**

WEDNESDAY, JANUARY 6, 1999

7:00 p.m. Minutes of 12/9/98, 12/16/98

7:05 p.m. Board Signature of Subdivision Plan
of 170 John Wise Ave., Doyle.

7:15 p.m. Building Inspector Report

7:30 p.m. ANR/Patriots Landing, Benoit

7:45 p.m. ANR/Choate Street, S.Steeves NO SHOW

8:30 p.m. Turtleback Road, Neve

Other Business:

- Mail
- Payroll Voucher
- CPPC Minutes, review
- Conserv. Comm. Public Hearings,
Review
- Courses offered in Framingham
- Wedlock/Pederson Subdivision-
Submission of Withdraw.
- Bylaw changes/additions – due
date for Warrant: 3/8/99
- Budget Requests due 1/11/99
- Due date for Annual Report –
2/11/98 (to Board of Selectmen)
- N.Shore Task Force Meeting
1/14/99
- Bills Payable
- H.L. Graham's Letter-statement
of increases in services
- BOA Grants Variance for 81
Choate Street.

**TOWN OF ESSEX PLANNING BOARD
MINUTES
WEDNESDAY, JANUARY 6, 1999**

The meeting was held at the EEMS on Story Street and opened at 7:10 p.m.

Attendees: Sheldon Pennoyer, Chairman, Westley Burnham, Pat Dunn, Brian Feener, Gil Guerin and George Stavros

Absent: David Jones

Building Inspector Report: Mr. Nelson explained that a permit has been approved for two existing sheds (10x10 and 10 x 14) to be connected on the property at 140 Main Street. Bldg. Permit #265, for Gateway Realty Trust, application by Linda Lavery, leasee of property. (Reference the Minutes of 12/16/98)

Mr. Nelson commented that there are a number of questions being asked about sizes of signs in the Town of Essex. The Bylaw for signs was reviewed. It was noted that there is a limitation to size, but no limitation to how many could be erected. The State also requires certain signs for safety, etc. reasons. No action was taken, but Mr. Nelson felt that perhaps a Sign Review Board (i.e. members of the planning board) is implemented in the future.

Mr. Nelson gave the Board a report on the 81 Choate Street Appeals Board Decision to Grant the Variance for the side line setback for the building (Garage has now been built with bedrooms, now it is a house.) The situation began when the original plan came before the building inspector to build a garage with apartment and house. The garage was built before the house. Now the garage is the house. Westley Burnham felt that the original vote to approve the siting should be rescinded by the Board. He felt that a permit was granted and now there are two permits: Mr. Maestranzi should draw the plans, get Board of Health approval, and withdraw the original permit. A letter should go to Mr. Maestranzi stating the Board is rescinding the approval for the original house plan, pending a new site plan and appropriate approvals. Board of Health will be copied.

Motion: Westley Burnham moves to rescind the approval for the original Existing single family dwelling on Maestranzi's lot, at 81 Choate Street. The Planning Board will review the new building permit application showing a site plan for the current home. Permit to be approved, pending the appropriate approvals from the Conserv. Commission and Board of Health. The Motion was Seconded and Voted Unanimously.

Mr. Nelson noted that he would have a different policy regarding issuing building permits: He will now give the yellow *Applicant Copy* to applicants for their records. Then, when an "as-built" is secured by the building inspector for approval, the *Occupancy Permit* will be issued. This will help to insure that the application and as-built plans will be filed for future documentation as needed.

Pat Dunn brought up a question at 64 Western Avenue, regarding a wood cutting business being established on the property. Mr. Nelson felt that the resident could have this business there and felt that some sort of screening should be installed there. The lot was large enough to have the wood business, it was Mrs. Dunn's concern that residents purchasing the lots near this property, which is the new Story Hill Subdivision should be notified. The Board took no action.

John Wise Avenue Subdivision/Craig Doyle: Clay Morin of Morin Engineering and Craig Doyle came before the Board to endorse the Subdivision located at 170 John Wise Avenue. It was noted that the twenty-day appeal period has expired. However, Mr. Doyle has not secured the covenant, the performance guarantee, or maintenance agreement for the road. The Tech. Review Agent will be H.L. Graham. A letter should be forwarded to the Board regarding the agreement to have H.L. Graham as the Tech. Rev. Agent for the Town. It appeared that Mr. Doyle has not yet read the Approval mailed to him certified, registered. The Board agreed to sign the original plans but hold them at the Town Hall until the necessary documents come to the Board.

Motion: W. Burnham Moves that the Planning Board sign the Definitive Subdivision Plan for John Wise Avenue, for two lot subdivision, plan Dated 10/7/98, revised on 12/15/98, by Morin Eng., finding that Applicant has met all the minimum requirements specified in the Approval Decision of 12/10/98, with the exception of the physical documentation regarding the maintenance agreement for the maintaining of the road, and the Covenant to be filed against Lot C-2, which will fulfil the requirements of the Performance Guarantee. Clerk of the Works to be H.L. Graham Associates. Seconded by Pat Dunn. All members Voted to Approve the Motion.

George Benoit for ANR at Lots 2C & 3C Patriot's Lane: Mr. Benoit of 4 Point Road, Glou., came before the Board to have an Approval for lot line changes at Lots 2C to be 49,385 SF, and Lot 3C to be 73,644 SF frontage on Patriot's Lane.

Motion: Gil Guerin Moves to Approve the Form A, Approval not Required For George Benoit of 4 Point Road, Glou., MA, for lot line changes shown on Plan by John J. Decoulos, 248 Andover St., Peabody, MA., dtd. 1/5/99. New lot Lines meet or exceed the minimum requirements of the Town of Essex bylaws. Seconded by Pat Dunn. All members voted unanimously to approve the Motion.

Steven Steeves, ANR Choate Street: Applicant did not show for the 7:45 p.m. appointment.

Planning Discussion: A lengthy discussion by the Board ensued regarding the potential build out of Essex, assuming a sewer pipe (and/or treatment plant) is installed in Town. Mr. Thomas Ellsworth, a resident, was recognized by the Chairman to ask a question. He wanted to know if the Planning Board has concerned itself with the Town's potential for future build out because of the potential for "developable land" created by the "septic solution". Westley Burnham and Gil Guerin commented that the Board has been holding weekly meetings just for this purpose.

Mr. Arthur Clarke, a resident, was recognized as well. (He has copied the planning board with a letter written to the Board of Health regarding a perc test that is 72 feet from his property line, a test done by Dr. Sauer who owns the land abutting Mr. Clarke.) Mr. Clarke brought up the fact that Essex had no "zoning districts", and he proposed that the Board re-visit the issue of zoning districts for the Town.... The Board felt that the creation of the zoning districts can work against the Town, citing a report of Rowley's newly created zoning district which has allowed a forage of building on Route 1.

Mr. Ellsworth felt that the reason that there are amounts of land not currently built upon is because most owners that have quantities of land have decided to keep it, and a good portion is in conservation. To have no zoning to keep large developers from building did not make sense to him. He was not sure that zoning was an answer, either. Mr. Burnham asked Mr. Ellsworth what he would like to see for the Town. Mr. Ellsworth would like to keep the character of the Town the way it is today, as much as possible. He did not want to see Route 133 turn into a "strip" such as Salisbury.

Chairman Pennoyer felt that the Route 133 area would probably stay the way it is, today. Mr. Ellsworth disagreed.

All agreed that a zoning bylaw would not prevent changes within the Town. Tax benefits derived from commercial uses were discussed along with houses priced with high market value as well. Mr. Burnham mentioned the additional services that the Town would be expected to provide for the high taxed properties.

Chairman Pennoyer noted that if a sewer came in, and it was thought that it would be in a district that is in the downtown area. The growth will predominately occur in the downtown area where there is a greater density (smaller lot requirements with more density). The creation of the sewer district would require two thirds vote by the Town. Use of the sewer would be another issue.

Mr. Clarke felt that a two or five acre requirement could be an answer. Westley Burnham felt that the taxes would nearly double with lot increases. Mr. Clarke was not totally in agreement.

In conclusion, the Board thanked the two residents for their input and invited them to join the work sessions in the future.

Minutes: **Motion: W.Burnham Moved to Approve the December 16, 1998 Minutes as written. The Motion was Seconded by B.Feener. Voting to Approve the Minutes were S.Pennoyer, P.Dunn, B.Feener, W.Burnham and G.Stavros. G.Guerin voted Present. The Motion Carried.**

Motion: W.Burnham Moved to Approve the December 9, 1998 Minutes as written. Seconded by P.Dunn. All members voted to Approve the Minutes. The Motion carried.

Chairman Pennoyer wanted the record to note that the Minutes of December 16, 1998 regarding the December 15, 1998 letter of recommendations by H.L. Graham Associates, Larry Graham, Technical Review Agent for the Turtleback Road Subdivision should be clarified this evening:

The "easement" referred to in Mr. Graham's letter (Reference IV.B #12 "*Require TENA and evaluate the significance of the easement which underlies the right-of-way of a portion of Turtleback Road as shown on Land Court Plan No. 32098J. It is unclear as to what this easement is for or to whose benefit it runs.*") was the easement was not for the TENECO gas line, but it was the issue of the Easement on the ANR of the two lots previously sold by Mr. VanWyck

(ANR Dated 2/18/98 – Paragraph #3 of the Agreement for Judgment states that “Prior to the completion of the work set forth in Paragraph #2, the parties agree that the Planning Board will release two lots (22 and 23), provided that the utilities are installed and the road, with at least a binder coat, servicing Lots 22 and 23 is completed.” According to John Morin, this issue is being researched by TENA, who will then clarify any information and submit it to H.L. Graham Assoc. regarding the Land Court Plan 32098J.

DEFINITIVE SUBDIVISION PLAN OF TURTLEBACK ROAD: Mr. John Morin, of Neve Associates, Inc. came before the Board to have the final revised (last revision date is (1/6/99) plans signed, approving the Definitive Subdivision Road. Plans were originally submitted by Neve Assoc. as revisions of the original plan done by several engineering firms in the past. An Agreement for Judgment is attached hereto for the record.

Sheet #1 and Sheet #2 has not been changed in any way.

Sheet # 3 has been highlighted noting cross culverts under driveways of Lots 24, 30, 31, 32 and 34. This is noted on each sheet, as requested by H.L. Graham.

Sheet #3 shows the actual easement at Lot 27.

Sheet # 7: “Note: The Essex Planning Board reserves the right to install curbing and additional drainage if rip-rap swale fails to provide adequate drainage control.” If country drainage does not work the way it should, the Town has the ability to have the developer to install this prior to release of plan.

The depth of sand to six inches is now noted. Also, water main shall be installed under the supervision of the water department and approved by the Water Superintendent prior to any bond release.

The wood guard rail system is noted on the plan, as well.

George Stavros has asked if DEP has given approval of the extension requested. DEP has not, as of this date.

A blow-off valve should be shown. All Water Department issues will be dealt with at the DPW. Also, the removal of the 12” existing PVC was discussed as part of the DPW requests.

The Board looked over the December 16, 1998 Minutes relative to H.L. Graham’s review (See Copy attached to Motion.) A question as to how many lots that Peter VanWyck could potentially show on the plan, and how many were acceptable according to the Agreement was discussed in detail. The revised plan shows Lots 27, 24, 29, 30, 31, 32, 33, 34, 35, 36 and 37 (being 11 lots). The land transaction of ten acres to the Town needed to be referenced in the following Motion. Paragraph 4 of the Agreement reads, “Lots 26 and 26 may be further subdivided into a maximum number of five lots, bringing the total number of lots in the subdivision to eight. The Parties agree that, provided the work set forth in Paragraph 2 is completed, such future division of Lots 25 and 26 shall not constitute a “subdivision” as defined in G.L. c. 41, sec. 81L and shall be subject to G.L. c.41, sec. 81P, the so-called “Approval Not Required” or “ANR” provisions. At his discretion on a future date Mr. Van Wyck may submit a plan or plans on “Form A” so-called, to accomplish the division of Lots 25 and 26. Nothing in this paragraph shall preclude the further subdivision of Lots 25 and 26 pursuant to Paragraph 5.

Paragraph 5 states, "The parties agree that the Planning Board will allow PVW, his heirs, successors or assigns to further subdivide Lots 25 and 26 to bring the total number of lots in the subdivision to twelve, if Van Wyck grants to the Town of Essex a mutually acceptable parcel of land consisting of at least ten contiguous acres located on the adjacent 37 acre parcel owned by Van Wyck, herein identified as Lot 8 on Essex Assessors Map 9, pursuant to M.G.L. 184, Sections 31 through 33." Westley Burnham noted that Number 5 (twelve lots shown on the 1/6/99 plan shown) of the Agreement needed to be noted and the Board would state in the Motion that it would not release any of the lots until the said ten contiguous acres have been granted to the Town of Essex. Because Mr. Van Wyck stated that he is not sure that he could get twelve lots right now.... W. Burnham stated that you are showing twelve lots, and according to the Agreement, you are to grant the Town ten acres. Mr. Morin pointed out that this map (the 1/6/99 plan) does not create these lots. The only lots that are shown that are defined are Lots 24, 27, and the perimeter of the remaining land and the right of way. All the other lots are proposed lots. PVW would need to come back with an "ANR" to define the lots. The Lots that were defined on the Plan were Lots 24, 26, and 25, having three defined Lots. Lots 22, 23, previously transferred. Lots 24, and Lots 25 shown as 35, 36, 37, and Lot 26 shown as Lots 29, 30, 31, 32, 33, 34. For the Motion, Sheldon Pennoyer and W. Burnham will acknowledge the proposed lot numbers along with the original lots 24, 25, and 26.

Prior to the ANRs for the lots 25, and 26, Paragraph 5 will be complied with. PVW understood this.

Paragraph 8 in the Agreement that "it is understood that some lots created pursuant to Para. 4 and 5 will be less than two acres. It is Van Wyck's intent that the lots that may be created pursuant to Para. 4 and 5 will contain approximately two acres. Consequently, Van Wyck, may, in his discretion, submit a plan for the Planning Board's consideration adding land from Lot 8 on the Assessor's Map 9, to Lot 26 as shown on the Plan. This would bring the size of the additional lots into conformity with the existing TB Road subdivision. In any event, all lots so created shall meet the minimum lot area requirements as set forth in the Essex Zoning By-laws in effect at the time of the division of Lots 25 and 26."

MOTION: Westley Burnham Moves to have the Planning Board endorse the Road Design Plans for the extension to Turtleback Road Subdivision based on the following:

The Agreement for Judgment mutually agreed to on or about November 1996 by Planning Board and Peter VanWyck. The Plans being submitted tonight, the original date of the cover sheet is 8/5/98 and final revision is 1/6/99 by Thomas E. Neve Associates. Approval is subject to the following:

- 1. The creation of three additional defined Lots: Lots 24, Lot 25, illustrated on the Plan as proposed lots 35, 36, and 37 and Lot 26 illustrated as proposed lots 29, 30, 31, 32, 33, 34. The lots referenced bring the plan to Paragraph 4 of the Agreement for Judgment, which allows the "Form A" subdivision of Lots 25 and 26 to the maximum of five lots. Bringing the total subdivision of a maximum of eight.**
- 2. Construction can commence when the appropriate approvals have reached with the DEP and the local Conservation Commission.**
- 3. The existing pavement installed to provide access from Turtleback Road to the original Lots 22, and 23, will require six core samples to proof adequate base thickness materials And pavement prior to acceptance of that section of the roadway.**


4. **Final approval and release of lots will be contingent upon DPW approval of all water Mains, lines, appurtenances installed to their satisfaction.**
5. **Clerk of the Works and overseer of construction for this project is agreed to be H.L. Graham Associates. Adequate funding shall be in place prior to commencement of Construction.**
6. **The Board will hold as a Performance Guarantee, Lots 24 and Lots 26 until the Road Is completed and all applicable "As-Built" drawings have been submitted.**
7. **Original, signed drawings shall be withheld until documentation of a Covenant reflecting Number Six above, has been filed, and a Receipt is given to the Board.**

Motion was Seconded by Gil Guerin. The Motion to Approve Signing the Drawings and Hold the Drawings were Sheldon Pennoyer, Chairman, Westley Burnham, Brian Feener, and Gil Guerin. George Stavros and Pat Dunn Voted to Deny the Motion. The Motion Passes.

General Business: - Articles for the Warrant need to be forwarded by March 8, 1999.
-Gil Guerin noted that the Board will need to draft a bylaw creating a sewer district in the near future.
-H.L. Graham has informed the Board that services have increased.
Previous Projects that are on going will remain at the same price.

The Board, having no further business, adjourned the meeting.

Presented by:


Lisa Randall, Admin. Assist.

Attested to:


George Stavros, Clerk