



ESSEX CONSERVATION COMMISSION

Minutes for the Meeting of January 5, 2021

Commissioners:

*Absent

Staff:

Michael Burke, Chairman
Cliff Ageloff
Thomas Barrieau
Kevin Cooke

Bill Levy
Ted Marshall
Laureen Sanderson

Deborah Cunningham
Administrative Clerk

Ken Whittaker, Agent

After opening the meeting, the Chairman presented the minutes of the meeting of July 6, 2021 for approval. On a motion made and duly seconded, the Commission voted unanimously to approve of the minutes.

The Commission reviewed a request for a Certificate of Compliance for 105 Conomo Point Road. The Agent recommended issuance of the Certificate of Compliance due to the age of the application and the issuance of an Order of Conditions for a more recent project. On a motion made and duly seconded, the Commission voted unanimously to issue a complete Certificate of Compliance.

The Commission continued a public hearing on a Notice of Intent filed by Adam & Brandy Markey to construct a boardwalk, ramp and float at 12 Patriot's Landing. Mr. Michael DeRosa of DeRosa Environmental and Mr. Adam Markey participated remotely. Mr. DeRosa advised that a DEP file number had been issued which was the only outstanding issue. On a motion made and duly seconded, the Commission voted unanimously to close the public hearing. On a motion made and duly seconded, the Commission voted unanimously to issue a standard Order of Conditions.

Commissioner Barrieau arrived at 7:39 pm.

The Commission reviewed a request for a Certificate of Compliance for 15 Burnham Court. Mr. Matt Hamor of Landplex was in attendance on behalf of the applicants. The Agent advised the Commission that he had been to the site and the work which was on the as-built plan submitted was completed as approved. The Commission discussed the outstanding items relating to the Enforcement Order including the monitoring reports which were due, but were never submitted. The Commission discussed what impact issuing a Certificate of Compliance may have on the Enforcement Order. On a motion made and duly seconded, the Commission voted not to issue a complete Certificate of Compliance. Mr. Hamor then advised the Commission that the applicants would like to seek a partial Certificate of Compliance for the work completed on the residence and landscaping and not the work on the bank. The Commission discussed whether issuing a partial Certificate of Compliance would invalidate the Enforcement Order. After review, the Commission determined that a partial Certificate

of Compliance could be issued contingent upon receipt of a current monitoring report and a revised Request for Certificate of Compliance form requesting specifically the work which would be “released” prior to full compliance. On a motion made and duly seconded, the Commission voted to issue a partial Certificate of Compliance for 15 Burnham Court contingent upon receipt of materials as discussed and passed by a vote of 6 to 1.

Due to the time, the Commission continued the public hearing on a Notice of Intent filed by John Coughlin of PMC Realty Trust/Gateway Realty Trust to construct a 30'x160' storage building partially with 100' Buffer Zone to a wetland area at 73 Eastern Avenue. The Chairman advised that a request to continue the hearing had been received from the applicant’s representative to allow for issuance of a DEP file number and for the re-notification of abutters due an incorrect address on the abutter notification form. On a motion made and duly seconded, the Commission voted unanimously to continue the public hearing to the meeting of August 3, 2021.

The Commission opened a public hearing on a Request for Determination of Applicability filed by Robert Hines to install a drilled deep potable water well at 26 John Wise Lane. Mr. Jesse Blanchette of Griffen Engineering was in attendance on behalf of the applicant and gave the Commission a summary of the project. The Commission discussed concerns received from an abutter about access over a right of way to do the work. Conditions were discussed. Mr. William Phippen was in attendance as an abutter to the property and requested that the Commission consider the concerns in the letter previously discussed. The Chairman advised that the access was on a separate property from the application and therefore not before the Commission for review. He advised Mr. Phippen to work with the property owner directly. The Commission agreed to the following conditions for the project: a) removal of accumulated well tailings and drilling fluids from the site; and b) restoration of surface conditions, if needed (soil and vegetation) to their original condition to the extent reasonably possible. On a motion made and duly seconded, the Commission voted unanimously to close the public hearing. On a motion made and duly seconded, the Commission voted unanimously to issue a Determination with the conditions as discussed.

The Commission opened a public hearing on a Notice of Intent filed by Judson Lane of Curlew Cove Realty Trust to construct a farm equipment garage at 59 John Wise Avenue. Mr. Judson Lane was in attendance and presented the project to the Commission. After review of the project, the Commission requested that additional details be submitted for the retaining wall and drainage. Mr. Lane agreed to have these prepared and to a continuance of the hearing due to a lack of a DEP file number. On a motion made and duly seconded, the Commission voted unanimously to continue the public hearing to the meeting of August 3, 2021.

The Commission discussed the status of shed installed at 66 Main Street. A review of the records determined that a Determination had been issued for the filing of a Notice of Intent application for the construction of the shed at its existing location. The Commission was advised that the applicant had indicated that two Request for Determination of Applicability application were being prepared for the relocation of the shed to a different location further from the resource area. The Clerk stated that one application had already been received and would be processed for the August 3, 2021 meeting. Commissioner Cooke asked why the Notice of Intent had not been filed, as a result of the positive determination made by Commission on March 2 upon consideration of the prior RDA. A review of the Minutes for the meeting of June 15, 2021 indicated that Mr. Brown advised the Commission that the

shed would be relocated to another portion of the property as agreed to with other boards, and that the Commission advised that an RDA for the relocation should be filed as soon as possible. Mr. Cooke had not been present at this meeting. Ms. Ruth Perea of the Board of Selectmen was in attendance and updated the Commission on the status of the project with the Building Department. There was a discussion by the Commission on the previous Determination and the request for the Notice of Intent and how to proceed with the latest RDA filed. Mr. Cooke expressed the opinion that the Determination for the Notice of Intent was still valid for the existing location, as the shed is constructed there without permission, and should be moved on so as to require the applicant to comply with the intent they stated in their March 2020 RDA to have the temporary shed removed by August 27, 2021. On a motion made and duly seconded, the Commission voted whether to issue an Enforcement Order to have the shed removed no later than August 27, 2021, or submit a NOI and advise within 10 days which option the applicant would be taking and was denied by a vote of 4 to 3. The Commission discussed that the relocation of the shed would be dealt with when the hearing was scheduled for the RDA application submitted for that work, or at the next scheduled meeting.

There being no further business, on a motion made and duly seconded, the meeting was adjourned.

Approved: Essex Conservation Commission

Prepared by: Deborah Cunningham, Administrative Clerk