

Topsfield Conservation Commission

Minutes of Wednesday, June 11, 2008

Proctor School Library

The meeting was called to order at 7:12 p.m. with a quorum present: Walter Harmer, Chair; John McArdle; Thomas Warren; Wade Goldman; Ralph Stump
Also Present: Lana Spillman, Administrator; and Catherine Tinsley, Minutes Secretary
Not present: John Olcott

Public information provided: Agenda

Abbreviations used;

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

OoC – Order of Conditions

AOoC – Amended Order of Conditions

EO – Enforcement Order

CoC – Certificate of Compliance

NoI – Notice of Intent

The TCC signed bills and authorizations.

HEARINGS:

Continuation NoI 307-0623: 121 Hill Street, (Map 68, Lot 4) Stephen A. and Francee H. Longmuir/The Neve-Morin Group, Inc.

Greg Hochmuth, representing, reviewed that a TCC site visit was done since the last meeting, on June 2nd. Prior to that a visit was made by some Commissioners on May 29th. The proposed location of the pool is 47 feet from the resource area. Hochmuth stated that slight variations to the original plan were made to accommodate the TCC suggestions, including the addition of an infiltration trench.

He explained that reasoning for the proposed location of the pool was shading, flat area, reducing the patio area. Hochmuth believes that there is no difference in the impact on the environment, or wetland resource area if the pool is 47 feet or 50 feet from the Intermittent Stream. The TCC expressed concern that having a portion of the pool within the 50-foot buffer zone would set a precedent for new inground pools in Buffer Zone Resource Area, and the proposed location easily could be modified to have the pool entirely out of the 50-foot zone. Hochmuth informed the TCC that the homeowner has offered to plant a mitigation area along the Intermittent Stream edges, where there is only lawn now.

Goldman made a motion to accept the plan as presented tonight, close the hearing, and issue an Order of Conditions under the Act and the Bylaw. The motion was seconded. There was no further discussion. There were 3 ayes, 1 nay, and one abstention (Harmer), so the motion failed.

Hochmuth stated that it would be simple to move the pool out of the 50-foot Buffer Zone and offered to modify the plan accordingly.

Stump made a motion to continue the hearing to June 25, 2008. The motion was seconded and carried unanimously.

Continuation ANRAD 307-0602: 95 Wenham Road, (Map 71, Lot 1) Peter Herbert/Wetlands and Land Management, Inc./Bill Manuell

Peter Herbert and his brother were present. Manuell, representing, reviewed that a TCC site walk last summer identified the proper placement of the flagging of the boundaries but not the Mean Annual High Water (MAHW) Line on the west side of the property. He noted a report was submitted to support that the MAHW should be closer to the ditch rather than farther out into the swamp. He stated

that this is a difficult site to evaluate – it is very flat, with a stream that looks like at some time there was human activity, and with beaver activity in the area. Manuell noted that the watershed area is just over a mile and that DEP guidelines back up the Mean Annual High Water Line as submitted.

He referenced a plot plan and noted the elevations. The Beaver Dam was identified and Manuel believes that as a result, there is about a foot of water over the norm. He believes the beaver dam is responsible for the level of the water to elevation of 39.

The town's aerial topographical map was used as a comparison. Manuell noted the town line does not match up and suggested it was animated on the map and is not accurate, adding that the scale is the same. Manuell explained that if the plans are overlaid, features match perfectly, so he ignores the Town line – the overlaid wetland boundary line on their plan overlays pretty close with the surveyed limit of water. He believes that in the field water is impounded about a foot deep by the beaver dam, which he believes simulates water elevation that would be seen in a typical storm. He offered that if they hold the surveyed water line and call that the MAHW line, it would be significantly further out from what he would have assessed, close to where TCC believes MAHW is, and it preserves their proposed project. The survey water line on his plan is elevation 39. A discussion of understanding followed including elevations, plans, and the purported affect of the water height from the beaver dam.

Harmer stated that the actual control for flooding is the culvert at Route 97; the beaver dam is mimicking a flood time, and whether that is a MAHW level is not known. He would agree to the 41 line that shows the edge of water on the Town topo map. The Applicant's plan elevation 39 and the Town topo map elevation 41 overlap.

Manuell requested to put his surveyed water line on the Plan of Land map and to close the ANRAD hearing at the next meeting.

Stump made a motion to accept the water line as depicted on the drawing submitted tonight as the Mean Annual High water line, on the survey work sheet at 39 elevation as shown by the blue line from Valley Road to the property line and correlating to approximately 41 elevation on the Town map for 95 Wenham Road. The motion was seconded and carried unanimously.

Stump moved to continue the hearing to June 25th. The motion was seconded and carried unanimously.

MEETING MINUTES:

Approve minutes of **March 26, 2008, April 9, 2008**

Stump made a motion to accept these minutes as amended. The motion was seconded and carried unanimously.

REQUESTS:

Amended Enforcement Order, 111 River Road, (Map 47, Lot 30), Robert Nadherny – request for release from E.O. issued 6/2/2006.

Spillman reported that a site visit was made June 11, 2008. She noted that one Conservation Post still is missing, although the restoration plantings look good. The homeowner will be sent a friendly letter explaining the necessary action.

Emergency Certification TCC 08-04, 15 Carriage Way, (Map 62, Lot 9), Cameron Brown – ratification

The Emergency Certification was issued for removal of four dead trees near a swing set. A follow-up RDA is required for these and several other mature trees proposed to be cut in Buffer Zone Resource Area.

Stump made a motion to ratify the Emergency Certification. The motion was seconded and carried unanimously.

Continuation CoC 307-0599: 86 Salem Road, (Map 64, Lot16), MIT Real Estate Foundation, Inc./ENPRO Services, Inc.

Spillman reported that a site inspection was made June 9, 2008; the property is in compliance.

Stump made a motion to issue the Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and carried unanimously.

CoC 307-0605: 11 Gail Street, (Map 40, Lot 44), Richard Little
Spillman reported that a site inspection was made June 9, 2008; the property is in compliance.
Stump made a motion to issue the Certificate of Compliance with Continuing Conditions under the Act and the Bylaw for 11 Gail Street. The motion was seconded and carried unanimously.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

Emergency Certification TCC 08-03, 230 Boston Street, Signature Motors/MBTA Property, (Map 49, Lots 45 and 44), Town of Topsfield Highway Department – update

Spillman said that Dave Bond reported breaching the beaver dam and opening up the upper area of the pipe. Harmer explained that the Town took out 10-20 feet of pipe from the culvert of School Brook at Signature Motors. A wire barrier will be installed to keep the beavers from clogging the pipe. Where the pipe section was removed is now open and the property owner had no objections.

OoC 307-0507, 120 High Street, (Map 49, Lot 56) – BSC Monitoring Report and To Do List – update
Stone wall and drainage modifications/corrections

Harmer reported that he met on the site with Joe Falzone and modified where water flows along Route 97, modified for the water to run a little farther in along High Street instead of cutting through the wetlands. More of the water now feeds the replication area.

Referring to a recent letter from Mr. Roger Hale, Stump questioned if anyone has observed the status of the wetlands this year.

Harmer expressed concern that the detention pond nearest Route 97 still has water trickling out of it after 2 ½ months of dry weather.

OoC 307-0422, 44 Prospect Street, (Map 40, Lot 95) – Wetland Restoration Area Monitoring Report

Site visit made 5/29/2008 – Harmer, McArdle, Spillman reviewed the contours on the plan and on the ground, noting that the water flows from the new riding area to the detention pond area, but should flow out the back as it did prior to construction. There is a question whether volume and velocity of water flow from the site has increased, post vs. pre-construction.

Harmer would like a representative from The Neve-Morin Group to explain how the water flows. In a conversation with Greg Hochmuth, Harmer was told that former Town Engineer Joe Downing approved the engineering for the project.

The TCC will make another site visit to review the back swale; the representative will be asked to attend the next meeting and explain why the current topography does not add additional water into the detention pond and onto the neighbor's yard.

Rail Trail – proposal for managing invasive species – update

Spillman informed the TCC that the TCC office received an E-mail inquiry about the Rail Trail Committee working with the Conservation Commission to manage invasive species.

Under the proposal, the species would be identified and the TCC would issue permits accordingly. The TCC discussed this request and it was noted that the areas have not been delineated; the TCC's jurisdiction is unknown in those areas.

Spillman is to ask Rail Trail Chairman Joe Geller to identify the locations where the invasive plant species are proposed to be removed and to identify which plants they propose to remove. Filings by Mass Audubon (Ipswich River Wildlife Sanctuary) should be used as a guideline; a filing similar to MA Audubon's is needed for work in jurisdictional areas.

Prospect Hill/Gail Street Drainage – No update was given.

Summer Intern – Kelsey Wallace

Wallace is a sophomore at Connecticut College and is from West Newbury. She is interested in science and social aspects of environmental issues.

Kelsey will start on Monday, June 16th.

Commissioners up for Reappointment – recommendations to Board of Selectmen

Goldman made a motion to recommend to the Board of Selectmen that Walter Harmer and Ralph Stump be reappointed to the Conservation Commission, with three-year terms each. The motion was seconded and carried unanimously.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Enforcement Order, 33 Coppermine Road, (Map 74, Lot 18), Emad and Neviene Youman –Update
A Site visit was made on 5/29/08.

Harmer reported on the site visit that the trench is an arc approximately 20 feet over the easement and is flooding the neighbors' property. The pump at 33 should be turned on only in the event of large storms. The Highway Department will be asked to re-dig the trench, to direct flow straight to the back/wetland; this should correct the flooding problem.

Enforcement Order 05/19/08, Violation Notice & Bylaw Ticket #2008-02: 102 River Road, (Map 47, Lot 49), Christopher and Alison Esposito – ratification and discussion with Espositos/their representative.

The EO was issued for unauthorized construction of a deck and three-season room in Riverfront Area and Buffer Zone Resource Area, in violation of the Wetlands Protection Act and the Topsfield Wetlands General Bylaw. Spillman identified the Deadlines: Saturday, June 14th for TCC site visit and Monday, June 30th for submission of an asbuilt plan.

As of today, Espositos have not contacted the TCC office to arrange the site visit.

Warren made a motion to ratify the Enforcement Order issued 5-19-08. The motion was seconded and carried unanimously.

There has been no contact from the homeowners. If there is no contact, the site visit will be rescheduled.

The TCC office will call the homeowners.

Enforcement Order, Violation Notice & Bylaw Ticket #2007-03: 43 Cross Street, (Map 62, Lot 2), Christopher Nash– update

Spillman reported that the person representing Nash at the meetings, Russell Warring is no longer working for Nash. Nash has not responded to the TCC EO

Spillman will update the DEP.

Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update.

McArdle recused himself as an abutter.

Spillman reported that Bear is out of the country and Mike DeRosa is not able to attend tonight's meeting and will be out of the country for three weeks starting Saturday. Their request for a continuation to the July 9th meeting was received today.

Spillman recommend that the TCC issue a new EO, saying that the "TCC requires that the Bordering Vegetated Wetland and the Intermittent Stream be restored so that the previous values and functions are restored." There should be acceptable restoration plan submitted by a certain date.

Spillman reported on her conversation with DEP earlier in the day following Harmer's review of the old files and discovery of plan notes, site visit notes, and a photograph indicating that the small pool area was a vernal pool in 1989. The EO should require a plan similar to a plan for wetland replication.

A lengthy discussion followed regarding the EO, DEP's comments, and a timeline. As soon as possible, the Commission would like plantings in the Buffer Zone; a plan should be submitted by August 1st and additional plantings should be in September.

Approved

Warren made a motion that TCC issue a new EO requiring that Mr. Albright submit an acceptable restoration plan by August 1, 2008. The motion was seconded and carried unanimously. Spillman is to work out the details in the EO.

Enforcement Order: 50 Prospect Street, (Map 48, Lot 12), John Molloy/Hancock Associates – no update was given.

Amended Enforcement Order, Violation Notice & Ticket #2006-20: 221 Washington Street, (Map 47, Lot 2), Andrzej Galka – No update was given.

ADMINISTRATOR’S REPORT:

Prospective New Commissioner: Discussion with Mark Erickson

Erickson introduced himself. He is a 10-year resident of Topsfield. He reviewed his background in consulting, spill cleanups and hydrology – “about everything there is to do in the environmental business.” His goal is to be a Licensed Site Professional (LSP) in two years.

The TCC reviewed the regulations, and bylaws they are governed by. They identified that site visits are necessary and that the Commission meets twice a month.

Erickson will submit a letter to the Board of Selectmen and Town Administrator stating his interest in being on the Commission. The TCC will submit a letter of recommendation to the Board of Selectmen to appoint him to a term of three years.

The summer meeting scheduled was determined.

The TCC will meet July 9 & 23 and August 27. The August 13 meeting is cancelled.

Stump made a motion to cancel the August 13 meeting due to the absence of Spillman. The motion was seconded and carried unanimously.

Goldman reminded the TCC that he will be away for the last meeting and, therefore, this is his last meeting.

He acknowledged the support from the TCC as a new member years ago and recognized that he has learned a lot during his time on the Conservation Commission. In closing, he said he enjoyed serving on the TCC and wished the Commissioners well in the future.

Goldman was recognized for his contributions to the TCC.

9:23 PM – Stump made a motion to adjourn and it was unanimous to do so.

Respectfully submitted

Catherine Tinsley, Minutes Secretary

Approved at the TCC meeting on July 9, 2008.