

Topsfield Conservation Commission

Meeting of Wednesday, July 8, 2009

Topsfield Library Meeting Room

The meeting was called to order at 7:03 p.m. with a quorum present: George Hall, Chair; Holger Luther; Jim MacDougall; Mark Erickson; Jennie Merrill; Jud Pratt

Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary

Abbreviations used:

TCC – Topsfield Conservation Commission

CR – Conservation Restriction

DEP – Department of Environmental Protection

NoI – Notice of Intent

OoC – Order of Conditions

AOoC – Amended Order of Conditions

CoC – Certificate of Compliance

EO – Enforcement Order

ORAD – Order of Resource Area Delineation

BVW – Bordering Vegetated Wetland

LID – Low Impact Development

EOEEA – MA Executive Office of Energy and Environmental Affairs

OPEN MEETING 7:03 PM:

TCC signed bills, authorizations and time sheets

HEARINGS:

Continuation, NoI 307-0643: 30 Wildes Road, (Map 8, Lot 5), Iovanella/Wetlands & Land Management, Inc. Request for continuance to July 22, 2009 received July 7, 2009.

Luther made a motion to continue the hearing to July 22, 2009. The motion was seconded and carried by unanimous vote.

AOoC 307-0625: 30 Wildes Road, (Map 80, Lot 5), Iovanella - Request for continuance to July 22, 2009 received July 7, 2009

Luther made a motion to continue the hearing to July 22, 2009. The motion was seconded and carried by unanimous vote.

Continuation NoI 307-0629: 12 Boston Street, English Commons at Topsfield, (Map 81, Lot 1), English Commons, LLC – Alan J. Berry/Beals Associates, Inc.

Present: Larry Beals, Beals Associates; Todd Lobo, Engineer, Beals Associates; Alan J. Berry, Applicant; Latham of Latham, Latham, & Lamond, P.C. (for Berry); Mark Johnson of Johnson and Borenstein, P.C.

Beals reviewed a letter dated April 22, 2009, from Salem and Beverly Water Supply Board representative, Charlie Wear of Meridian Engineering, and stated that they responded in their letter dated June 17, 2009. He provided a copy of these letters to the TCC. There was an in-depth conversation regarding roof runoff, drainage, and water flows. Beals explained that they intend to implement LID techniques and they are satisfied that they have met the relevant LID requirements. Beals submitted a letter dated July 8, 2009, with new information to the TCC. He also showed a new plan with the Putnamville Reservoir and black lines showing limits of the watershed shown, with the limit of the watershed straddling the site. Beals explained that pesticides and fertilizers would be restricted in the field that drains into the watershed. He explained that they calculate that the amount of water loss due to the septic system would be about 7500 gallons/day. Lobo explained that DEP water quality and recharge requirements are met if the criteria of the DEP checklist are met for a site like this. Beals summarized that the major issues they addressed are any impact on the Putnamville Reservoir, the nonuse of pesticides, roof runoff, and the intention to file for an EPA stormwater permit with a final set of plans. Luther questioned why there were soil tests but no logs of the tests.

Beals stated that photos of the soil were taken but values were not submitted and he added that their soil tests verify what is shown on the Essex County maps. In reference to a DEP letter of June 17, 2009, Beals stated that they had distinguished local vs. state jurisdictional areas and had moved all buildings out of the Zone A. He added that their new proposal and plan incorporate all BSC suggestions and comments, except for the connection to street drainage. In response to a question, Latham stated that the proposed CR would be finalized as part of the OoC. Hall suggested that the proposed CR be submitted to EOEEA. There was no public comment. The Bylaw filing fees were discussed. The NOI was submitted with a lesser filing fee and a request for a waiver. Hall explained that the fees should be supportive of the services TCC supplies to the Town. Latham requested that the hearing be closed, suggesting that the fees could be worked out later and acknowledging that changes to the Plan of Record would make an Amended OoC necessary. He stated that the June 17th plan is considered the final plan.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Luther made a motion to issue an OoC for 12 Boston Street in accordance with the presentation and plan titled “English Common” at 12 Boston dated June 17, 2009, with specific conditions to be determined in the OoC. The motion was seconded. The motion carried by majority vote with Merrill abstaining.

AOoC #307-0637: 132 Main Street, (Map 25, Lot 4), Mercer

Present: Jim Scanlan, Engineer

Proof of abutter notification was collected; Merrill read legal ad. The plan was modified to reflect unanticipated changes to the work including location of piping, etc. Some underground pipes were found to be of composite material and were not located where they were thought to be. A two-compartment tank was installed outside the Buffer Zone.

Erickson made a motion to close the hearing and a motion to issue an Amended Order of Conditions referencing the revised plan as designed, under the Act and the Bylaw. The motion was seconded and carried by unanimous vote.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

2nd Amended Enforcement Order #4, 5/14/2009: 215 Washington Street, (Map 46, Lot 7), Galka

Luther made a motion to ratify the second amendment to Enforcement Order #4. The motion was seconded and carried by unanimous vote.

Spillman informed the TCC that DEP called the TCC office and offered assistance with the enforcement. The deadline for the work to be completed is by the end of October.

Enforcement Order #3, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87), Bear Albright –Update

A letter was sent Monday, with requirements for removal of silt from behind hay bales and for placing boulders in the swale, a new deadline for completion of restoration – October 1st, as well as compliance with the previously issued E.O. (9/2008). The deadline for setting the boulders is July 15th. The Bylaw fine has not been paid. Spillman is to make a follow-up site visit.

MEETING MINUTES:

Approve minutes of **March 25, 2009, March 25, 2009 Executive Session.**

Pratt made a motion to accept the regular meeting minutes of March 25, 2009. The motion was seconded and carried by unanimous vote.

REQUESTS:

Continuation CoC 307-0433: 131 Haverhill Road, (Maps 2& 5, Lots 10 & 15), Topsfield Beach Association

The TCC office received a written request to continue the CoC review to the September 23rd

meeting, to allow TCC to draft Continuing Conditions for management activities.

Luther made a motion to continue the CoC review to September 23rd. The motion was seconded and carried by unanimous vote.

CoC #307-0489: 22 High Ridge Road, (Map 64, Lot 17), Parke

Spillman updated the TCC, saying the project was for construction of a pool. Areas previously cleared were restored with natural plantings.

Merrill made a motion to issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and carried by unanimous vote.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

120 High Street/Hickory Beech Subdivisions – Joseph Falzone

Present: Attorney Mark Johnson of Johnson and Borenstein, LLC representing Joseph Falzone; Larry Beals, Beals Associates; Tom Patenaude, Builder; a prospective homeowner

Mr. Falzone is seeking approval to perform certain activities, e.g. erect a swing set, expand lawn, landscape, etc. in Buffer Zones on the lots that do not have separate Orders of Conditions and for which no waivers for work in Buffer Zones were granted. Patenaude said this specifically relates to lot 15. Johnson asked what procedure they should follow to do some activities in the Buffer Zone, such as a swing set 20 feet into the Buffer Zone, landscaping into the Buffer Zone. Spillman referred to the Bylaw Regulations, which state that for newly formed lots no activities are allowed in the Buffer Zone. Hall recalled that the OoC is fairly stringent, with at least all of the structures outside Buffer Zones. Spillman explained that there are 24 house lots and that the developer had the option to configure the lots differently; there are two crossings with the new roadway and lot #23 has a separate OoC since there are activities in the Buffer Zone. The TCC responded that the existing OoC cannot be relaxed but the landowner can file an application for proposed activities in the Buffer Zone.

Continuation End of Gail Street Drainage, Mercier-Link – update

Spillman reported that Dave Bond is on vacation. No sketch has been received; no RDA filed yet. Luther reported on a site visit during the recent rains saying that the drainage system was working nicely.

DEP Site Visit, 57 Candlewood Drive/109R Perkins Row

Present during the site visit: Bogue (DEP), Decoulos, Ogren, Wallis, and Spillman

The site visit was for both appeals – ORAD Appeal and Denial Order Appeal. Decoulos said he filed an appeal to Superior Court (appeal of Bylaw Order) yesterday, but has not served TCC yet.

Decoulos is claiming that Cow Pen Brook is an intermittent stream.

Outstanding By-Law Tickets

The TCC reviewed a memo from the Town Clerk regarding outstanding bylaw tickets and talked about the TCC's policy concerning collection of unpaid fines.

ADMINISTRATOR'S REPORT:

43 Washington Street/6 Arrowhead – Spillman reported that area residents have made numerous calls to the TCC office to complain about a ponded area being enlarged and water is being held back. The property owners did not remove vegetation at the outlet as she had instructed, which would allow the water to flow. Abutters are complaining that trees are dying and water is backing up. The TCC did not see enough evidence to warrant action at this time.

The TCC reviewed a water quality report for School Brook (testing behind the Town Library); this report will be forwarded to the BOH.

EXECUTIVE SESSION: Potential litigation

An Executive Session was held to discuss pending and potential litigation regarding 57 Candlewood/109 R Perkins Row and off Cross Street (separate minutes).

9:39 PM – Luther made a motion to adjourn the meeting and it was unanimous to do so.

Respectfully submitted,

Catherine Tinsley

Accepted at the TCC meeting on

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Commission constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Commission as to the completeness or accuracy of such statements.