

Topsfield Conservation Commission

Meeting of Wednesday, September 9, 2009 – 7 PM

Topsfield Library Meeting Room

The meeting was called to order at 7:11 p.m. with a quorum present: George Hall, Chair (at 7:15 p.m.); Holger Luther, Vice Chair; Jim MacDougall; Jennie Merrill; Jud Pratt; Mark Erickson
Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary

Abbreviations used:

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

NoI – Notice of Intent

CoC – Certificate of Compliance

ORAD – Order of Resource Area Delineation

MACC – Massachusetts Association of Conservation Commissions

BOS – Board of Selectmen

OoC – Order of Conditions

EO – Enforcement Order

BVW – Bordering Vegetated Wetland

OPEN MEETING:

TCC signed bills, authorizations and time sheets

HEARINGS:

RDA 2009-11: 84 Hill Street, (Map 68, Lot 35), Limone/Rimmer Environmental Consulting

Leah and Mr. Limone and Mary Rimmer of Rimmer Environmental Consulting, Inc. were present.

MacDougall recused himself and was not present during the hearing.

Proof of abutter notification was submitted; Merrill read the legal ad.

The proposal is to construct a 12' x 24' woodshed, a paddock for a donkey and a horse and

“temporary” paddock in Buffer Zone of BVW and an Intermittent Stream. Mitigation was offered in the form of a 5-foot-wide vegetated strip along the down slope edge of the paddock areas and the applicant proposes manure management by way of temporary storage outside the Buffer Zone.

Ken Stowe, 80 Hill Street stated they have no concern with the plans. Spillman explained that a waiver of Bylaw Regulations R:10-4.e.4. would be needed to construct a paddock within Buffer Zone. The Board of Health would make separate consideration of a waiver to Board of Health Regulations concerning construction of a paddock within 100 feet of a Wetland Resource Area.

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

Luther made a motion to grant a waiver of Bylaw Regulation R: 10-4.e.4., considering the mitigating circumstances, and on the basis of the finding, to make a negative determination to allow the paddock areas as proposed in Buffer Zone under the Act and the Bylaw with Special Conditions. Merrill seconded and the motion carried by unanimous vote.

NoI 307-___: 50 Prospect Street, (Map 48, Lot 12), Crowe/Hancock Associates

Present: John Dick of Hancock Associates and owner Michael Crowe

The proposal is to build a house in Buffer Zone, smaller than as proposed with the previously approved plan.

Dick reviewed the history of the property. He explained that the driveway was never brought to grade and there is land subject to flooding in a couple of areas now. He added that the replication area is a viable wetland in early succession to a wet maple swamp and that most of the buckthorn plants mistakenly planted there have drowned. Dick stated that DEP still has an outstanding OoC. The TCC noted their concern that the present conditions are different than in 2002. Dick was instructed

to present a plan of what the delineations were when the TCC previously approved the plan in 2002, with a comparison to the existing conditions and additional proposed changes under this filing.

Hall opened the hearing to public comment.

Joe Geller, Prospect Street abutter, stated that he had submitted a letter to the TCC office regarding his concerns with this plan. He went on to reference one of the previous OoCs, saying that the twenty trees planted on southern border of the replication area have not survived. He told the TCC that the culvert near Prospect Street has increased flow and has gotten clogged and that other abutters have also identified increased water flowing onto their properties. Mr. Geller requested that a federally jurisdictional wetland be re-evaluated and shown on the plan. He also asked that property be reviewed under the Stormwater Bylaw regarding change of water flow from the property.

There was discussion about the currently proposed pipe to re-establish flow to the north, through a swale on the abutting property, into an Intermittent Stream that flows down to South Main Street and the possibility of running a pipe from the wetland at 50 Prospect directly to the Intermittent Stream.

Scott Taylor, 44 Prospect Street identified his concern about an increase in water flow to his property, saying he has an extensive system on his property to handle a 100 year storm. He stated that it is not acceptable to him that a pipe would redirect the water and bypass the swale at the 48 Prospect Street property.

Hall stated that the wetland Regulations specify that the rate and volume of flow must not be increased as the water leaves the site.

The TCC questioned if the replication area is functioning as a vernal pool. Dick acknowledged that there probably is utilization of the replication area (by vernal pool species). Spillman pointed out that there is a vernal pool area within the Intermittent Stream at the back of the property – wood frogs in chorus have been heard there in springtime.

The TCC granted permission for the property owner to flatten the vegetation in the area to be viewed prior to a site visit; the hay bale line will be staked including the replicated area.

Site visits were scheduled for Saturday morning, September 12th at 8:30 a.m. and for Monday morning, September 14th at 7:00 a.m. Geller granted permission for the TCC to pass on his property.

With the applicant's consent, Luther made a motion to continue the hearing to the TCC meeting of September 23, 2009. The motion was seconded and carried by unanimous vote.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update. Spillman has scheduled a site visit for Thursday, September 10, 2009.

2nd Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka – no update; carried to the next agenda.

MEETING MINUTES:

Approve minutes of **April 8, 2009, May 27, 2009, August 12, 2009, & August 26, 2009**

Luther made a motion to accept the minutes of April 8, 2009 and May 27, 2009 as corrected and amended. Erickson seconded and the motion carried by unanimous vote.

Luther made a motion to accept the minutes of August 12, 2009 and August 26, 2009 as amended. Merrill seconded and the motion carried by majority vote with Erickson and Pratt abstaining from the August 26th minutes approval.

REQUESTS:

Continuation CoC 307-0615: 126 Main Street, (Map 25, Lot 2), Schultze

Post activity requirements have not been met; this item is continued again, to the September 23rd meeting.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

General Permit – Discussion

The TCC proposes to approve a general permit for a pre-determined class of activities that may be carried out under the Bylaw with an administrator's permit issued by the TCC Administrator upon payment of a \$50 application fee, and provided the activity is limited to a determined activity and subject to certain conditions. Once the General Permit Regulation has been approved by TCC, the Selectmen will be asked to announce this at a televised meeting.

TCC Policy or Regulation concerning invasive plant control – No update

72 Hill Street – Discussion, erosion along Hill Street. Dave Bond has been notified.

Spillman gave an update to the Commission, saying the house has been constructed, but the septic system has not been installed. Water is flowing where it has not previously run, onto Hill Street from the site and is eroding the side of the road, in violation of the OoC. The Administrator issued a warning letter with a deadline for correcting the problem.

Fair Parking – Discussion; The Topsfield Fair is October 2 – 12th

The TCC discussed the history of vehicles being parked in and near wetlands during the Fair. It was pointed out that there is no grandfathering under the Wetlands Protection Act, and it was suggested that there be a management plan for all fairgrounds parking. The TCC decided to identify all area's used for fair parking and owners will be notified after the Fair to restore property and submit a management plan before the 2010 Fair if they use their (wetland or Buffer Zone) property for parking.

ADMINISTRATOR'S REPORT:

Administrator's time allocation summary

Spillman had submitted a summary, by category, of how her time was spent over the previous two weeks. Pratt had a draft of what he would like to receive as the Administrator's work summary. Discussion followed, including suggestions of how to best identify the Administrator's work time. Spillman will print her Outlook calendar for the TCC, which includes meetings, site visits, and document preparation, etc.

Unused surety bond money

Spillman asked the TCC for direction regarding unused surety bond money in the amount of \$3,750 for a property paid by a previous owner. Spillman stated that half the money was returned to that previous property owner after the replication area was constructed and the remainder was to be returned after an anticipated TCC signoff that the area was functioning as the proposed replication area. The Town Treasurer and Town Accountant are questioning what is to be done with the money remaining in the account. It was determined that the money would remain in the TCC account for now.

EXECUTIVE SESSION: Potential litigation – It was determined that an Executive Session was not necessary.

9:07 PM - Luther made a motion to adjourn and it was unanimous to do so.

Respectfully submitted,

Catherine Tinsley

Accepted at the TCC meeting on October 28, 2009.

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.