

## **Topsfield Conservation Commission**

**MINUTES of July 13, 2011**

Topsfield Town Library Meeting Room

Present: Chairman George Hall, Holger Luther, Jim MacDougall, Cheryl Jolley, Mark Erickson, Lana Spillman, Administrator, and Lisa-Marie Cashman, Minutes Secretary

Absent: Jennie Merrill

Others Present: Tim Ward, Greg St. Louis, Dick Gandt, Larry Beals, Jim Carroll, Suzanne Shell, Joe Geller, Gregg Demers

Chairman Hall called the meeting to order at 7:11PM.

### **HEARING:**

#### **NoI 307-0676: 20 Hickory Lane, (Map 50, Lot 21), Annis/Beals Associates**

Greg St. Louis with Beals Associates submitted plans to the Commission showing a rotation of the building design which would change the direction and location of the footprint for the proposed house on this lot. The subdivision open space design was approved in 2007 and construction started in 2002-2003, according to St. Louis.

The request, as noted by Spillman in earlier notes to the Commission and in the meeting, states that, among other reasons, due to the Resource Area alterations allowed for the development, such buffer zone activities for remaining single family houses would require, as a first step, TCC granting a waiver. The parties were asked to briefly give background leading up to this new change and recommend to the Commission how they were going to meet the Town Bylaws and State Law requirements concerning construction and altering wetland buffer zones in particular.

St. Louis indicated that new buyer, George Annis, purchased the lot from the previous developer and would like to rotate the house 180 degrees with the driveway being located on the north side.

Additional soil testing was conducted with observation by the BOH. The proposed site plan keeps the primary septic field out of buffer zone, however, affecting the 100 ft. wetlands buffer zone. St. Louis estimated it at approximately 62 feet from wetlands within the buffer zone. Beals Assoc. has reflagged 200 feet of the wetland line in this location.

As part of the mitigation to offset the intrusion, Beals is proposing to install a vegetated screen to note the limit of work. In the future, Beals is proposing high value wildlife plantings in keeping with the site.

Luther inquired as to how many feet of that BZ they were intending to alter. St. Louis responded that it is a 3:1 to existing grade affecting approximately 300 feet horizontally and 6 feet vertically. St. Louis noted that the existing site – as part of the subdivision development – had been cleared of much rotting vegetation and that off-road grading had been installed, leaving just trees and grass. The lot is currently undeveloped.

Luther asked if any large trees had been removed. St. Louis indicated that he did not believe so. Hall asked if this was considered post developed foresting. St. Louis indicated that it was

pre-development foresting whereby only a handful of trees were cleared outside of the buffer zone.

Hall asked whether there was some kind of water course, intermittent or perennial, on the property. St. Louis indicated that there is a flow path which comes across the property and further connects to beaver activity. Spillman clarified by stating that it is an intermittent stream.

There was discussion about the size of the footprint. St. George answered Chairman Hall's question by noting that it would be approximately 4,200 square feet finished. Luther and Erickson asked if the footprint could be moved closer to the circle to prevent penetrating the buffer zone. St. Louis mentioned that there were some previous design plans but overall if that step was taken, it would eliminate much of the front yard. He added that the new design for the primary septic system keeps it out of buffer zone.

There were some questions and comments by Luther and Hall about meeting previous criteria to not develop the buffer zone and that the current proposal is problematic. St. Louis recalled that they were required to follow those requirements for the development of the roadway and to apply separately for each lot if it were to affect the buffer zone.

Beals recommended to the Commission that rather than leaving just trees and grass up to the BZ to try to under plant with food-bearing wildlife plantings rather than jam the house to the front of the road with no mitigation to intrusion from invasive plant species.

Hall suggested at this point that a site visit was in order and to continue the discussion at a later meeting. After Beals explained that a waiver would require additional time and cost which might be prohibitive to the buyers, Hall asked Beals and St. Louis to calculate the amount of non-jurisdictional area for development to see if the project might continue without a waiver

Hall asked if anyone in attendance wished to would like to speak in favor or opposed. Joseph Falzone of Manchester, MA, and former owner of the site, mentioned that he felt the request was reasonable and that the end result would be betterment of the site. Falzone did not agree with the assessment of Spillman in terms of an intermittent stream and believes it is a "flow path."

MacDougall asked if this was the only design suitable. The buyers/owners of the lot stressed it is a design which is focused on senior-friendly living as well as privacy concerns. There was some discussion about what went beforehand a year or two ago with the Commission. Hall cut the discussion of such details short indicating the Commission was not interested in rehashing previous events, but rather sticking to the business at hand by following the bylaws. Hall explained that the bylaw requires certain standards and criteria be met and it is not the Commission's job to make the property more saleable.

The buyer/owner responded by noting that they did not feel they were making much of an impact but would adhere to any process necessary to get it approved. Hall responded by saying the buyer/owner had a right to make an application and it is the duty of the Commission to provide a public hearing.

A date and time was selected to conduct a site visit with Beals in attendance. Beals refreshed all the flags and will take care of staking the buffer zone.

A motion by Luther to continue the hearing to July 27 was made. Jolley seconded the motion. The vote was unanimous in favor.

ACTION: Site visit 6:30 p.m. Monday, July 18. Meet at the cul-de-sac.

**REQUESTS:**

**CoC 307-0439: 215 Boston Street-Amerigas, (Map 49, Lot 80), Amerigas/Beals Associates**

Hall noted that the as-built plan is in hand. Spillman has reviewed the site and recommended issuing the CoC.

Luther moved to issue a CoC for OoC 307-0439 with Continuing Conditions under the Act and the Bylaw. MacDougall seconded the motion, which passed with a UNANIMOUS VOTE.

**RDNI 2011-07: Topsfield Linear Common, Ipswich River Bridge Access Project, (Map 58, Lot 52), Topsfield Rail Trail Committee**

Joe Geller and Gregg Demers of the Rail Trail Committee presented, explaining that there is damage/erosion to the embankments of the river due to fisherman accessing the area for years via the eastern and western sloping sides. The solution proposed is to put a set of stairs on each side of the downstream side of the river to end erosion of the land. Geller stated that the only essential areas touched would be to dig for post holes.

Luther had conducted a site visit and determined that the eastern side was not a problem but that the western side had a very steep drop and he identified a potentially rare species of plant in the pathway on the western side. MacDougall noted that he would confirm this with a separate site visit. Luther had concerns about the embankment as well as endangering the plant species.

Jolley asked if there was need to put stairs on both sides. Geller noted that the fishermen are going to go down there anyway.

Hall asked about the driving force behind the need for stairs. Geller replied that the stairs would provide a bridge over the paths to prevent further erosion.

Luther made a motion to approve the eastern end and issue a DNI, but not to approve the western end, pending further evaluation.

MacDougall asked if there were any issues with velocity during floods, since water comes up to within 2 inches of the bottom of the bridge in a flood. A member of the audience (member of the Rail Trail Committee) responded that they put a breach in because of that reason.

Jolley seconded the motion, which passed with a UNANIMOUS VOTE.

**RDNI 2011-08: 16 Aaron Drive, (Map 12, Lot 7), Mangos**

Spillman explained that the proposed project is installation of an above-ground pool in Riverfront Area of Howlett Brook. She made a site visit and did not have concerns, and suggested issuance with conditions, including that there be no discharge of pool water toward the brook.

Luther made a motion to issue a DNI under the Bylaw including a condition that there be no discharge of pool water toward the brook. The motion was seconded by Jolley and passed with a UNANIMOUS VOTE.

**RDNI 2011-09: 22 Valley Road, (Map 65, Lot 39), Stump**

Spillman explained that the proposed project is the replacement of two decks with additional supports in Bylaw Riverfront Area. She noted that they are existing decks with no pictures available for exhibit and only needing additional supports. Spillman made site visits of the property and did not have concerns. She suggested a DNI with the usual conditions.

Luther made a motion to issue a DNI under the Bylaw with the usual conditions. Jolley seconded the motion, which passed with a UNANIMOUS VOTE.

**MEETING MINUTES:**

Luther moved to accept the minutes of **June 8, 2011** and **June 22, 2011** as amended. The motion was seconded and passed unanimously.

**OTHER:****Enforcement Order #2011-01, Geller/Rail Trail Committee c/o BoS – ratification and discussion with Rail Trail Committee and Selectmen/representative**

Spillman conducted a site visit after reports that there had been numerous serious violations of the OoC. Present to explain what happened were Geller and members of Iron Horse. Geller told the Commission that Bill Manuell was hired in late April to oversee sedimentation/erosion controls. At that time, they discussed areas needing sedimentation control. Geller got a call from Manuell indicating that there were problems on the Rail Trail. Soil from between ties was pushed to sides the full length from 97 to Wenham town line. Two culverts were covered with material. Additionally, sediment and material was pushed out to the wetlands, as far as 10 feet in some areas. Luther also made a site visit and issued an EO on July 1. He added that since it is not known what is in the material, it is important to be careful, and that had not been done. Luther issued a punch list of items to be completed by Monday, July 18 in which several clean up items and markings/flagging of wetlands and buffer zones needed attending. As of the meeting, not all items had been completed.

Hall asked for an update on the unattended items from Geller. Geller: Everything on the punch list and in the Order are done except material barriers. Kyle of Iron Horse will see the rest to completion.

Luther warned Geller and Iron Horse to stay within the Rail's boundary line and not to go into the Audubon Sanctuary.

Hall questioned how things got to this point. Geller ultimately took responsibility, explaining that when they hired the wetland scientist to assist Clint (Iron Horse personnel), Clint did not contact Manuell and went about it in his own way.

Luther clarified that there were 5 egregious areas where Clint altered resource areas. In addition, there are areas towards the river bank, although not as bad as the indicated 5 areas, there are sections where material must be removed. Kyle Horse) indicated that they removed 90% of the material in 2 locations and tomorrow by lunch will complete the work.

Spillman noted that sedimentation controls needs to be staked. Luther added that this particularly is a concern by the vernal pool. Kyle said they would be installed again by Monday. Luther will walk the trail again on Monday.

MacDougall moved to ratify the EO issued on July 1, 2011, with signatures of Spillman and Luther. The motion was seconded by Erickson and passed with a UNANIMOUS VOTE.

Hall, in closing, said that although Geller and Iron Horse are operating off the punch list and it is not formerly part of Order, the list does specify to correct resource area alterations and to return the area to its original condition. The group has an ongoing obligation. He emphasized that the work is to be completed by Monday.

Geller asked for clarity on the enforcement. Holger emphasized not grading of the area was permitted until the sediment was cleaned up and removed from the site.

An abutter, Ralph Stump, then came forward, stating that project creep is still happening, there is a stock pile of material on his property, and he is concerned about contamination closer to his wells. He believes the Order is not being followed, suggested that the limits of work are being exceeded, and questioned whether enough erosion control is in place.

Hall asked that the item be placed on the next agenda to discuss progress and status. There will be a TCC site visit the next Monday.

**OoCs 307-0507, 120 High Street/Hickory Beech Development, submitted monitoring reports – continuation of discussion**

Commissioners had received a copy of the Planning Board's decision for the Hickory Beech Subdivision. Luther summarized the previous discussion. Falzone stated that the catch basins have been vacuum-cleaned twice; a water break on Route 97 had resulted in sand accumulating in the trench and clogging the culvert at the entrance. Dave Bond had offered a permanent sump as a solution, but that would need a filing with TCC. Falzone said he had spoken with Bond about placing check dams in the swale. TCC responded that Bond should be encouraged to place a series of check dams upstream, to be cleaned out periodically. There is concern about Falzone's employees working on Town property.

Luther pointed out that it has been four years since paving, it is a good idea to find out if there is accumulation of sediments in drainage structures, and he asked if there are as-built plans for inverts and outflow elevations of drainage structures as constructed. Beals responded that they are waiting for the binder course, with the plans to be submitted as preliminary, a progress print. MacDougall suggested an electronic version be submitted. Spillman referred to the Planning Board decision that requires that the applicant must submit to the Planning Board an interim as-built plan prior to certification of occupancy. TCC prefers an electronic version of plans: MacDougall would like them in AutoCAD. Greg St. Louis of Beals Associates indicated that as-built plans of the ponds were submitted to TCC in 2009.

Referring to a photo showing sediment problems in the far cul-de-sac, Spillman explained that she had cautioned the builder, Patenaude, about sediments coming down the steep driveway of the house under construction and suggested to put in some sedimentation controls. There is no OoC on that property and there are large areas of bare soil on the hill. Beals stated that the plan is to landscape. He explained that Tom Severino had put stone in a constructed swale to control water coming off the hill.

Beals switched the topic to builder's Lot 18, showing an exhibit plan, and explaining that the buyer of the lot has a concern about access to the Town open space. They would like to create a woodchip path along the edge of the wetland. To subdivide the property as allowed with the OoC, they would have to go back and revise the Definitive Subdivision Plan and revise the Special Permit – a lengthy and costly project. Therefore, they are proposing an

easement instead of the previously proposed exchange of land. Spillman suggested that an amendment to the OoC would be appropriate. Hall, expressing that he didn't think they should have to go through the process, asked Beals to submit the plan.

**Wetlands Bylaw Regulation 1854 R:10-5.2, TCCAP – proposed amendments**

The Building Inspector told Spillman that, in accordance with the State Building Code, sonotubes/supports typically are 10-12 inches in diameter or 24" square supports underneath 8-inch columns, which is not consistent with the maximum 8-inch diameter stated in the Regulation. This will be placed on the next agenda.

**Potential Commissioners – James Carroll and Tim Ward**

**James Carroll** stated that he has been involved in Town affairs, is interested, and wants to help out. He likes to keep the process open and to get reasonable solutions. His background is as an aeronautics and astronautics engineer. He was formerly on the Conservation Committee, 20 years ago when it was a committee. And, he was on the Fin Com for a while. He realizes that there is a learning curve at first. As the process moves forward and he begins to participate, he said that he would give consistency to the outcome with respect to issues brought up and would apply the laws as equitably as possible.

**Tim Ward** has been in Town for 20 years. He is an ecologist and toxicologist, both aquatic. Although he has no regulatory experience, he is interested in working to protect resource areas. He assessed the TCC as being focused right on working very cooperatively with people.

Hall explained that the TCC tries to make time to have regulatory aspects be more effective and efficient so that more time can be spent on things that matter and benefit the community. TCC believes it is important to take the time to think about how to do a better job at stewardship of open space and get students involved in resource assessment for the benefit of all. Better manage natural resources. There are a number of projects to build appreciation of natural resources of the Town and to better manage natural resources in the town.

TCC discussed some of their non-regulatory work over the past couple of years. Luther summarized that the BoS would make the appointment; the TCC can make a recommendation; he suggested letters of interest to the BoS. Ward questioned if two new Commissioners are needed and stated that he would be happy to step back for now if only one is to be selected.

**Beaver Activity, Flooding near Pye Brook Community Park**

Spillman explained that the beaver dam at the culvert at the crossing on Pye Brook at the entrance to Pye Brook Park has been breached and neighbors in the area have flooding concerns. The trail system on conservation land is partly under water. Dave Bond was to get John Coulon involved in assessment of the situation.

MacDougall observed that this is within endangered species habitat and suggested getting a design for a water flow control device from Mike Callahan or Skip Lyle; if the work is not done correctly the road could collapse. Spillman added that she is prepared to issue the necessary emergency permit, which would be good for 30 days. Hall summarized that permits should be obtained from both the BoH and TCC and the TCC should be involved in the long-term management solution.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Lisa Marie Cashman" followed by a circled initial "LM".

Lisa-Marie Cashman  
Minutes Secretary

*Accepted at the TCC meeting on January 11, 2012*

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 action 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 is not certification, express or implied, is made the Commission as to the completeness or accuracy of such statements.