

Topsfield Conservation Commission
Minutes of Meeting August 9, 2023
 By Video/audio conference

PRESENT: Dodds Shamroth – Chair, Jennifer DiCarlo –Vice-Chair, Andrew Mulholland – Member, Heidi Gaffney – Administrator

ATTENDEES:

Josh West, Howell Custom Building Group
 Michael DeRosa, DeRosa Environmental Consulting, Inc.
 Dick Gandt

7:01 pm **OPEN MEETING:**

Dodds Shamroth – Chair, called the meeting to order, by video/audio conference at 7:01 pm with a quorum present. She made the following announcements:

Pursuant to Chapter 22 of the Acts of 2022, this meeting/public hearing will be conducted via remote means. Members of the public who wish to access the meeting may do so in the following manner: Zoom Meeting – see connection information on the agenda to join the meeting by Zoom videoconference or to call in by phone. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Topsfield Town Website, at <https://www.topsfield-ma.gov/>. You may also reach out to Conservation at Conservation@topsfield-ma.gov or 978-887-1510 for information/assistance. No in-person attendance of members of the public will be permitted, and public participation in any public hearing conducted during this meeting shall be by remote means only. Members of the public attending this meeting will be allowed to make comments if they wish to do so, during the portion of the hearing designated for public comment as announced by the chair during the hearing. The meeting is being recorded by Topsfield Cable TV and ZOOM; is there anyone else present who wishes to record the meeting? While we are conducting town business using remote participation via ZOOM, we ask that those of you not recognized by the chair or otherwise engaged in the discussion of the moment to please mute your microphone to avoid interruptions outside the conversation. Thank you.

HEARINGS:

Continuation RDA 2023-02: 37 River Road (Map 48, Lot 013), Mscisz/DeRosa Environmental Consulting, Inc. – culvert installation and maintenance, installation of retaining wall, maintenance of stream channel, expansion of fields.

The owner and consultant have requested a continuance to September 13, 2023, stating “We just received the farm plan and some supplemental documents from NRCS, but we are still waiting for the narrative from Maggie, which we are expecting to receive this week.”

- *DiCarlo made a motion to continue RDA 2023-02: 37 River Road (Map 48, Lot 013) to September 13, 2023. Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes

Continuation NOI 307-0836: 39 Pemberton Road (Map 49, Lot 018) Costanza/Wetlands & Land Management, Inc. – dwelling addition and septic upgrade

The revised plan has just been finished, the applicant is requesting to continue to September 13, 2023.

- *DiCarlo made a motion to continue NOI 307-0836: 39 Pemberton Road (Map 49, Lot 018) to September 13, 2023. Mulholland seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

RDA 2023-11: 1 Pond Street (Map 02, Lot 006), Bresnahan/Howell Custom Building Group Inc. – remove pressure treated retaining wall and replace with fieldstone wall.

Mulholland read the Legal Notice / Gaffney confirmed the abutter receipts and proof of mailing to DEP has been received.

The contractor, Josh West from Howell Custom Building, presented the site plan. The existing timber retaining wall is in poor condition and is failing. The replacement fieldstone wall will be built in 12' sections to limit disturbance to the hillside. Work is proposed within the Buffer Zone. Gaffney stated an engineer's letter confirms the work is not within Bordering Land Subject to Flooding (BLSF aka Flood Zone) which exists on the property. Access is off the existing driveway and already disturbed due to ongoing permitted walkway replacement work. Shamroth inquired if anything was going to be planted above the retaining wall to prevent erosion? West responded they will re-loam/seed with small groundcover and plants once the job is completed.

- *DiCarlo made a motion to close the hearing for RDA 2023-11: 1 Pond Street (Map 02, Lot 006).*

Mulholland seconded the motion, and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes

- *DiCarlo made a motion to issue a Negative Determination of Applicability for RDA 2023-11, 1 Pond Street (Map 02 Lot 006) for the wall replacement as proposed and discussed with the usual and special conditions. Mulholland seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

Documents:

Complete RDA by representative Howell Custom Building Group, Inc. dated 7/24/2023

Site photos

REQUESTS: none

MEETING MINUTES:

- **May 24, 2023**

- **June 14, 2023**

- **June 28, 2023**

- *DiCarlo made a motion to accept the May 24, 2023, minutes as written. Mulholland seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

- *Mulholland made a motion to accept the June 14, 2023, minutes as written, DiCarlo seconded that motion and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

- *Mulholland made a motion to accept the June 28, 2023, minutes as revised, DiCarlo seconded that motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

OTHER:

- **Enforcement Orders** – update/status of compliance, report review and/or restoration plan review:
 - **Enforcement Order 2022-06: 37 River Road** (Map 48, Lot 013) – tabled pending outcome of the RDA.
 - **Amended Enforcement Order 2022-04: 25 & 20R John's Lane** (Map 76, Lot 004)
 - **Enforcement Order 2022-05: 21 John's Lane** (Map 68, Lot 041)
 - Review of submitted Restoration Plan
 - Gaffney visited the site with Michael DeRosa, the consultant, on Monday, 8/7 and reviewed the wetland flags, a restoration plan has been submitted.
 - DeRosa, presented the restoration plan, noting the prior owner did a lot of cutting in this area. As part of the restoration plan, sixty trees will be planted, along with various shrubs and perennial wildflowers. DeRosa noted there was some disagreement on the flagging during review. Full delineation and verification to properly evaluate all resource areas will be done under the ANRAD process. Gaffney showed site photos, noting the cutting activity was underway at the time of the sale of the property. Gaffney asked DeRosa to note the square footage for the restoration area on the plan.
 - Gaffney pointed out there was fresh disturbance on the slope where the fill was removed and was observed with impacts into the wetlands and damaged erosion controls. This new violation area must be restored asap. In addition, Gaffney does not agree with all the wetland flags and believes there are additional Buffer Zone impacts as well. A prior plan was shown from 2015 indicating additional wetland areas on an adjacent parcel (116 Hill St) which would extend Buffer Zone on to this property into area that has been disturbed. Gaffney noted the isolated vegetated areas indicated on the plan should be carefully reviewed for Bylaw jurisdiction.
 - Gaffney stated (via photos shown) that no restoration has been provided for the Buffer Zone associated with the B-Series wetland.
 - Gaffney suggested that it has been a full year since the EO was been issued and timely action needs to happen under the guidance of a wetland scientist. She also suggested that TCC require this portion of the restoration plan to begin and be installed by Oct 15th, 2023. Gaffney discussed that the Enforcement Order requires a complete restoration plan and all the resource areas to be identified and a final complete restoration plan should be required to be submitted within 30 days of the issuance of an ORAD. A discussion among TCC members agreed that this partial restoration should start as soon as possible.
 - Gaffney asked for clarification on irrigation methods and discussion of restoration steps. DeRosa answered he would fill 300-gallon cubes to be used on site to help establish new growth. DeRosa stated he will complete as much as possible by Oct 15, 2023. The first step being to prep ground, pruning and clearing of boulders and debris, followed by installation of plantings. A minimum 2-year monitoring period for all areas to be restored, including additional areas to be determined, before a “return to compliance can be requested”.
 - *DiCarlo made a motion to issue an Amended Enforcement Order for 2022-05, 21 John's Lane and a 2nd Amended Enforcement Order for 2022-04, 25 & 20R John's Lane ordering:*
 - *1. Immediately restore the new alteration under the guidance of a wetland scientist and install proper erosion and sedimentation controls around the disturbed slope, both to be verified by the Administrator and/or TCC and completed by end of day Monday 8/14.*
 - *2. Submittal of an Abbreviated Notice of Resource Area Delineation (ANRAD) by the August 30th filing deadline, for the complete delineation and review of all Resource Areas within 100-feet of all unauthorized alteration within the scope of the referenced EO's.*
 - *3. In the interest of time and commencing restoration efforts, implementation of the submitted Restoration Plan dated August 2, 2023, with all associated planting to be completed by October 15, 2023.*

- 4. *Submittal of a Complete Restoration Plan proposing restoration of all unauthorized alteration of Resource Areas, including Buffer Zone, to be submitted to the TCC within 30-days of the issuance of the Order of Resource Area Delineation (ORAD) associated with #2. With the owner to provide an interim report to the TCC by the Sept 13, 2023, meeting. Also, with respect to the planting deadline of Oct 15, 2023, the TCC will entertain an extension of that deadline, if they receive a request for an extension prior to the expiration of that deadline.*
- *Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes

Documents:

Existing Conditions Plan by The Morin-Cameron Group, Inc. dated 7/31/2023.

Restoration Plan by The Morin-Cameron Group dated 8/1/2023.

Site photos

- **Enforcement Order 2020-06: 28 Parsonage Lane** (Map 32, Lot 078) – Gaffney noted the Enforcement order still stands as it is currently not in compliance.

- **Revised Meeting Dates & Filing Deadlines for remainder of 2023**

- *DiCarlo made a motion to revise the 2023 TCC filing & meeting deadlines with one meeting per month, per the drafted schedule. Mulholland seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes

Documents: Revised Schedule for 2023

ADMINISTRATOR'S REPORT:

- Gaffney would like to have an outside consultant assist with enforcement orders, helping with site & restoration plan review and compliance, and research with enforcement orders. TCC agreed with this plan.

DiCarlo made a motion to adjourn the meeting at 8:20 pm. Mulholland seconded the motion, and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes

The next meeting will be held on September 13, 2023, at 7:00pm, by Videoconference.

Respectfully submitted,

Chris Lahiff

Chris Lahiff

Recording Secretary

Minutes approved at the TCC meeting on 1/10/2024

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.