

**Minutes
Topsfield Zoning Board of Appeals
Virtual Meeting
February 27, 2024**

ZBA Board members present included Chairman Moriarty, Clerk David Merrill, Dave Moniz, Jody Clineff and Gregor Smith. Alternate Kristin Palace was not present. Lynne Bermudez, Sr. Administrative Assistant, was present.

Visitors named on screen via zoom: Attorney Frank DiLuna, Attorney Adam Costa, Attorney Nancy McCann, Attorney Roger Smerage, Charlie Daigle and Ian Bentley (Wright and Pierce), Building Inspector Ray Chesley, Paul Guinee, Ellen Guinee, Mr. and Mrs. Jaime Roca, Ray Lawton, Tim Collins, Matt Estes, Brig Leland, Betsy Dempsy, Michele and Doug Link, Paul Harder, Betsy Dempsey, Ian Bentley, Marcia Jansson, Gary Bergmann, Paul Harder, Boxford Cable Access TV and others listed with first names or initials only.

GOVERNOR’S ORDER

Chairman Moriarty read the following:

Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted via remote means. Members of the public who wish to access the meeting may do so via the Zoom meeting identification as listed on the agenda. No in-person attendance of members of the public will be available, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, for reasons of economic hardship and despite best efforts, we will post on the Town website: www.topsfield-ma.gov an audio or video recording, transcript, or other comprehensive record of proceedings as soon as possible after the meeting.

CALL TO ORDER

Chairman Moriarty called the meeting to order at 7:03 pm.

ANNOUNCEMENTS

Chairman Moriarty read the following: “*The meeting is being recorded via ZOOM in the event that the connection is lost at any time during the meeting. Is there anyone else present who wishes to record the meeting?*” No one responded.

252 ROWLEY BRIDGE RD.

Chairman Moriarty opened by summarizing the discussions held to date and the testimony taken. He reiterated his concern that from the time the ZBA had issued its decision (9/2023) and the appeal period had ended twenty days later, there was insufficient data for the ZBA to make a ruling since only one event had been held and sound readings taken. He does not believe a decision on whether the Farm abided by the conditions in the special permit relative to noise at the property boundaries could be based on one reading. A land court would likely enjoin enforcement and allow the Farm to operate through the appeal – which could stretch over one to two years. The Chairman suggested the special permit be extended until the June 25, 2024 ZBA meeting to allow the Farm to demonstrate whether it is capable of mitigating sound from the events so as not to be detrimental to neighbors. At the ZBA’s June meeting the board will have sound readings from each event, provided by the Farm to the Building Inspector, as well as feedback from abutters to determine if the conditions had been met.

With that additional data the Board would vote whether the special permit would be extended or revoked.

The Chairman asked the board for their thoughts. The members agreed with the Chairman, but expressed frustration over the slowness of progress by the Farm in addressing the neighbors' complaints. They also expressed concern for those people who have summer/fall weddings booked if the Farm does not make serious efforts to mitigate the noise by the end of June.

Chairman Moriarty made a motion to extend the Special Permit for the Conference and Event Facility to be operative until June 25, 2024 at which time the board will again consider whether to further continue or revoke the Special Permit. Clerk David Merrill seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

279 BOSTON ST.

Lynne Bermudez read the following legal notice that was published in the Salem News on February 12th and 19th, 2024:

Notice is hereby given that the Topsfield Zoning Board of Appeals will hold a public hearing during a ZOOM Zoning Board of Appeals Meeting Tuesday, February 27, 2024 at 7:00 PM (instructions will be on the posted agenda on how to join the meeting via ZOOM) to consider the application of the Topsfield Water Department, for premises located at 279 Boston Street, requesting Site Plan Review pursuant to Article IX Section 9.05 of the Topsfield Zoning Bylaw for construction of the Boston Street Water Storage Tank Project.

*Robert J. Moriarty, Jr.
Chairman, Topsfield ZBA*

Chairman Moriarty asked the engineers from Wright and Pierce if they could provide an overview of the project. Charlie Daigle walked through the various options the Topsfield Water Department considered for replacing the town's existing 500-gallon water tank. The final choice was to install an 800-gallon concrete tank beside the DPW building at 279 Boston St. near the rear of the lot. He explained his work with the Town's Stormwater Coordinator and the resulting stormwater management plan which the Coordinator approved.

Discussion was held on the placement of the tank being 15 feet from the property line and possible impacts to the nearest neighbor by erosion at the property line with the clearing of trees/ gradation of the slope at the boundary . The engineers responded that all work will be kept on town property, a stone riprap will be installed to mitigate erosion and the town will be revegetating the area being cleared of trees. Also discussed was if the new water tank would be visible from the road. Engineer Daigle stated that while no renderings have been done yet, they do not expect the tank to be visible given its height and that it will be placed over the crest of the hill on the back of the property with a good amount of vegetation wrapping around the area. Chairman Moriarty asked if there were any comments from the public. There were none. Given the nature of the project and its location the Board agreed it was not necessary to go through the detailed site plan checklist.

Dave Moniz made a motion to close the public hearing. Jody Clineff seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Jody Clineff made a motion to approve the site plan for the water storage tank project. Gregor Smith seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Chairman Moriarty made a motion to grant the waivers from Standard 3: Recharge, and Standard 4: Water Quality of the MA Stormwater Regulations. Gregor Smith seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Chairman Moriarty made a motion to approve the Stormwater Special Permit. Gregor Smith seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Charlie Daigle provided a timeline for the project stating the design should be complete in the next few weeks, bidding would be pursued in the spring and construction would start shortly thereafter.

41 CROSS ST.

Lynne Bermudez read the following legal notice that was published in the Salem News on February 12th and 19th, 2024:

Notice is hereby given that the Topsfield Zoning Board of Appeals will hold a public hearing during a ZOOM Zoning Board of Appeals Meeting Tuesday, February 27, 2024 at 7:00 PM (instructions will be on the posted agenda on how to join the meeting via ZOOM) to consider the application of Meredith Farm Realty Trust for premises located at 41, 29 and 21 Cross Street requesting a Special Permit pursuant to Article III Section 3.02, Use 2.7 Privately-owned recreational facilities in the Outlying Residential and Agricultural District, to operate an outdoor "Tough Farmer" obstacle course.

Robert J. Moriarty, Jr.
Chairman, Topsfield ZBA

Chairman Moriarty asked Mr. Collins if he could provide an overview of his proposed obstacle course. Mr. Collins explained the components of the course. The event will have no music, lights, permanent structures, PA system or sale of food or liquor. He would like to have 2-3 events per year, all during the day. He estimates 50 people will participate in each event and there will be up to 15 supervisory people guiding participants along the course. After the event people would gather in his barn. He will be charging a fee to cover the cost of T-shirts for participants. His two barns have restroom facilities. All cars will be parked on his property.

Discussion was held. The Board was comfortable with up to six events per year, between 10 am – 6 pm, held on Saturday/Sunday or holidays. The Chairman asked if anyone from the public would like to speak. Matt Estes, an abutter at 3 Hill St., was recognized. Mr. Estes expressed concern that a special permit would be granted, with no end date, for an event that has never been held on that property. He requested the permit be limited to one year to evaluate the impact to neighbors and that the events be more limited in number. The Board and Mr. Collins agreed. No other individuals from the public provided input.

Chairman Moriarty made a motion to close the public hearing. Clerk David Merrill seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Chairman Moriarty made a motion to grant the special permit with the conditions that the permit be limited to calendar year 2024 with a limit of three events between May 1st and October 1st, events to held between the hours of 10 am-6 pm on Saturday, Sunday or holidays, and if the applicant wishes to continue beyond 2024 he will seek an extension of the special permit after the end of the 2024 season and before the 2025 season. Gregor Smith seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

222/224 BOSTON ST.

Lynne Bermudez read the following legal notice that was published in the Salem News on February 12th and 19th, 2024:

Notice is hereby given that the Topsfield Zoning Board of Appeals will hold a public hearing during a ZOOM Zoning Board of Appeals Meeting Tuesday, February 27, 2024 at 7:00 PM (instructions will be on the posted agenda on how to join the meeting via ZOOM) to consider the application of Emporio Motors for premises located at 222 and 224 Boston Street requesting a Special Permit pursuant to Article III

Section 3.02, Use 4.10 Retail Establishment Selling Motor Vehicles and Use 4.20 Automotive Repair or Service in the Business Highway District, to open a used car dealership and automotive repair.

*Robert J. Moriarty, Jr.
Chairman, Topsfield ZBA*

Chairman Moriarty recognized Jaime Roca and asked if he would speak about his business. Mr. Roca shared he has been in the car business for seven years and currently owns a used car dealership in Dracut. He and his wife and daughter live in Middleton and they would like to be closer to their business. Mr. Roca's business partner will run the Dracut shop and Mr. Roca and his wife will run the business in Topsfield with one salesperson and one mechanic. The business will consist of the selling of used cars and light auto repair (oil changes, brake repair). The business will operate Monday-Friday 9 am – 6 pm and on Saturdays from 9 am – 4 pm. They will be closed on Sundays. They are requesting they be allowed to have 11 cars (to be sold) located on the 224 Boston St. property. Mr. Lawton stated this is where he used to park his trucks. They will not be using the existing building at 224 Boston St. They will operate their business out of the existing 222 Boston St. building and use the 10 parking spaces on that lot for employees and customers (8 spaces outside and 2 bays in the building). The two bays in the building are where the repairs will be done. These 10 spaces are shown on the site plan from the 2013 ZBA decision to grant a requested Special Permit to operate a business at 222 Boston St.

Discussion was held. There is currently no signage on the building. The applicant will adhere to town bylaws for any new signage and will minimize lighting in keeping with dark sky regulations. External lighting will not be increased from current levels and lighting will not extend beyond the property of 222 and 224 Boston St. There are currently no lighting towers on 224 Boston St. The Board stated the six parking spaces shown on the plot plan in the rear of 222 Boston St. cannot be used for parking. The Chairman asked if anyone present wished to be heard. No one responded.

Jody Clineff made a motion to close the public hearing. Dave Moniz seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Chairman Moriarty made a motion to approve the special permit with the following conditions: hours of operation Monday-Friday 9 am – 6 pm, Saturdays from 9 am – 4 pm and closed on Sundays; signage will conform to Town requirements; lighting will not be increased from current levels, where feasible it will adhere to the intent of dark sky and no light will extend beyond the property lines except to the extent it is already in existence; the business will operate out of the 222 Boston St. building utilizing its 10 parking spaces (the 6 noted on the plot plan in the rear of the building cannot be used for parking spaces); 11 cars (to be sold) will be located on the 224 Boston St. property. Dave Moniz seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes

Member Gregor Smith yes

207 BOSTON STREET – Public Hearing Continuance

Chairman Moriarty stated the Board had received a request from the attorneys for the Essex Agricultural Society (EAS) at 207 Boston St. for a continuance of their public hearing to the Board's 3/26/24 meeting. The Chairman provided a summary of events since the applicant's appeal in 2023 concerning a decision by the Building Inspector regarding the use of camping and the need for a special permit for the SoulFest event. He stated he would prefer not to keep continuing the hearing and asked Attorneys Costa and Smerage if they could provide an update on where things stand regarding discussions with the town and what issues they believe are still before the ZBA, since the Soul Fest event has passed. Both attorneys provided a high level update regarding discussions with the Town and the fact that the Land Court will not allow any additional stays beyond 4-1-24.

The Chairman requested of Attorney Costa that the continuance request be modified to allow the Board an extension for their decision to the ZBA's April 23, 2024 meeting (vs the stated date of April 16, 2024 in Attorney Costa's continuance request). Attorney Costa agreed.

Chairman Moriarty made a motion to grant the requested continuance for the public hearing on the appeal by the EAS of a determination made by the Building Inspector to the March 26, 2024 ZBA meeting and for the decision to be extended to April 23, 2024. Gregor Smith seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

MINUTES of 1/23/24 – Discussion/Vote

Dave Moniz made a motion to approve the minutes of 1-23-24 as amended. Clerk David Merrill seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

ADJOURN

At 9:04 pm Chairman Moriarty made a motion to adjourn. Clerk David Merrill seconded the motion and it passed unanimously with a roll call vote as follows:

Chairman Bob Moriarty	yes
Clerk David Merrill	yes
Member Dave Moniz	yes
Member Jody Clineff	yes
Member Gregor Smith	yes

Respectfully submitted,

Lynne Bermudez
Sr. Administrative Assistant

DOCUMENTS

Per the Open Meeting Law, documents that were either distributed to the Zoning Board of Appeals before the meeting or discussed at the meeting were:

1. Agenda
2. Site Plan Review Application – 279 Boston St.
3. Special Permit Application – 41 Cross St.
4. Special Permit Application – 222/224 Boston St.
5. Continuance request from Mead, Talerman & Costa LLC for 207 Boston St.
6. Draft Meeting Minutes 1-23-24

Approved at the 3-26-24 ZBA meeting.

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Committee 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 Committee as to the completeness or accuracy of such statements.