

Topsfield Conservation Commission
Minutes of Wednesday, December 2, 2015
Proctor School Library

Present: Cheryl Jolley, Chairperson (CJ); Dodds Shamroth, Vice Chairperson (DS); Holger Luther (HL); Jennifer DiCarlo (JD); Lana Spillman, Administrator (LS)

Absent: Jim Carroll (JC)

The meeting was called to order at 7:07pm. CJ chaired the meeting.

HEARINGS:

Continuation NoI 307-0724 – 57 Perkins Row (Map 58, Lot 025), New Meadows Development, LLC / The Morin-Cameron Group, Inc.: Attorney Nancy McCann (NM) for the Applicant confirmed that the Applicant had no further submissions for the TCC. LS confirmed receipt of two (2) further submissions – an interoffice memorandum dated 6/2/2015 from Gregory Krom, the Water Superintendent, relative to private wells vs. public water at the site, and a legal opinion from Kopelman & Paige regarding what comprises an overriding public interest. NM opined that the project was in the public interest because it would restore the wildlife corridor by way of the culvert and facilitate wildlife passage through the site. She also stated that the project would maintain the existing hydrologic conditions, provide 100 year stormwater management, improve grandfathered conditions at the site, replicate wetlands thereby providing additional wetland habitat, remove invasive plant species, and extend the water line providing public water to the site as well as other homes in the neighborhood, reducing the cost to the Town. NM projected that as a result of the water line extension, the Town would save about \$150,000 and this would also increase fire safety to the area's homes. Abutter Kim Sherwood (KS) submitted letters to the TCC – one from Attorney Philip Lake (PL) on behalf of abutters Whelans of 63 Perkins Row as well as a letter authored by KS. PL's letter stated concerns regarding potential existence of a vernal pool, development alternatives to the proposed project, public interest analysis and existing conditions showing alterations near the Ipswich River at the site. KS' letter expressed concern regarding the developer's experience in Topsfield. NM and Jeff Garber, of New Meadows Development, LLC (JG) spoke about their experience in the area and in general. LS confirmed that New Meadows Development, LLC has appeared before the TCC on a different project. Scott Cameron (SC) of The Morin-Cameron Group, Inc. expressed the opinion that the applicant had the option of proceeding with wells instead of extension of the public water line, but felt that it was a good gesture to pursue the latter. SC also expressed that the same issues would arise regardless of the number of lots developed. Abutter Carol Decker, of MA Audubon, stated concerns regarding the possible existence of salamanders at the site and the fact that their existence or absence from the site could not be determined with any certainty because the site conditions were observed so late in the season. NM stated that she did not believe the applicant is required to be a public entity in order for the project to be in the public interest as stated in the Kopelman & Paige legal opinion. NM also pointed out that waivers have been granted previously by the TCC for other projects.

TCC ACTION: HL made motion to close the hearing. DS seconded. So voted unanimously

LS indicated that it would be preferable to begin deliberations immediately at the 12/2/15 meeting and so they began. LS encouraged commissioners to draft findings that they could present at the next meeting date when deliberations would be continued and each finding could be voted on by the TCC. LS recommended the issuance of 2 separate orders – one under the Wetlands Protection Act and another under the Bylaw. The findings of fact would be the same under each order. In HL's opinion, the stormwater management met the requirements, but the fact that the applicant would have to invade the 100' buffer zone would absolutely require waivers. He also expressed concern regarding the fact that an inventory of what is presently in the pool was never taken, but that Matt Burn indicated it had a high wetland value. DS commented that while it seems the salamanders may not be present, painted turtles are at the site. CJ indicated that she no longer had concern regarding the large oak. HL disagreed with respect that it still has to be dug up and it is the 5th largest pin oak in the world having looked it up in "Monumental Trees of the World." LS stated that she thought the wildlife habitat was the greatest asset at the site, particularly with respect to the Ipswich River. HL questioned how the resource areas would be better off once the site is developed. CJ discussed the difficulty posed by wetland replication and the fact that replication of the soils is the challenge. HL noted that additions to the soil might change the characteristics of the pond.

LS indicated that Admin. Assistant MaryAnn Tuxbury was asked to prepare a list of all of the documents comprising the record. She also indicated that she would check the attendance of the Commissioners at the various hearing dates to determine if the vote will be impacted and which Commissioners should listen to a recording in order to meet Mullin Rule requirements to vote.

TCC ACTION: HL made motion to continue the deliberations to the 12/16/15 meeting. DS seconded. So voted unanimously

TCC ACTION: HL made motion to continue the hearing until 2/10/16. DS seconded. So voted unanimously

ADMINISTRATIVE MATTERS:

- 1) NoI 307-0724 – 57 Perkins Row (Map 58, Lot 025), New Meadows Development, LLC / The Morin-Cameron Group, Inc.: LS received a request from Beals and Thomas (B&T), the peer reviewer for this application, to increase their fee by \$2,500, having spent more time on their peer review than initially estimated. An amended contract was submitted by B&T. LS confirmed that funds for the peer review come from an account set up in the Treasurer's Office following payment of them by the applicant. JD inquired whether B&T had notified both LS and the applicant of the increased expense. LS confirmed that they had.

TCC ACTION: HL made motion to approve the contract amendment and thereby increase B&T's fee by \$2500.00. Seconded So voted unanimously

- 2) **2016 Meeting Dates:** DS expressed concern that the 2016 preliminary schedule of meetings includes a meeting date occurring during the Topsfield Fair. CJ also noted that dates need to be determined quickly so that meeting space can be reserved. LS asked the Commissioners to review the schedule and propose dates where there are conflicts.

TCC ACTION: Commissioners are to review the calendar and provide feedback regarding scheduling conflicts.

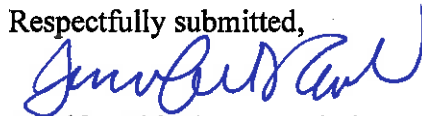
OTHER:

- 1) **Violation Notice 2015-03 – 9 New Meadow Lane (Map 74, Lot 007), Marshall/DiChiara:** LS asked Commissioners to decide whether or not the homeowner should be fined for the violation, which involves installation of perforated piping in Buffer Zone/Riverfront Area that was not authorized. LS was concerned that during a high volume precipitation event, stormwater flowing through the pipe would drain into the adjacent river. HL noted that it would depend on the elevation and suggested the installation of a French drain at the site. LS indicated that the site may need more engineering to deal with the situation and that the applicant would be appearing before the TCC on 12/16/15 to discuss the situation. LS stated that a site visit would also be in order.
- 2) **Use of herbicide by National Grid:** The Town received a notice from National Grid regarding use of herbicide to maintain the utility right of way. CJ read the legal notice into the record. HL expressed concern about herbicide getting into wells, vernal pools, and other bodies of water. LS stated that they are required to show and take precautions near wells and that sometimes they resort to spraying and sometimes to cutting. HL stated that Roundup® is listed as a carcinogen by the World Health Organization and is banned in France.

TCC ACTION: LS will share the notice with Joe Geller, Rail Trail Committee, and provide a list of areas of concern to National Grid suggesting that in those areas they cut the vegetation rather than spray with an herbicide.

TCC ACTION: HL made a motion to adjourn the meeting. DS seconded. So voted unanimously The meeting adjourned at 8:50pm.

Respectfully submitted,



Jennifer DiCarlo, Commissioner

Accepted at the TCC meeting on January 27, 2016

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.