

Topsfield Conservation Commission
Minutes of Wednesday, November 9, 2016
Topsfield Library Meeting Room

Present: Chery Jolley, Chair; Dodds Shamroth, Vice Chair; Jim Carroll, Jen DiCarlo, Holger Luther, Lana Spillman, Administrator, and Theresa Coffey, Recording Secretary

Other Attendees: Daniel Johnson, William Driscoll, Judith Cherry, Edith Ventimiglia, Steven Mscisz, Dick Gandt

The meeting was called to order with a quorum present at 7:03 p.m. Cheryl Jolley, Chair, announced that the meeting was being audio recorded.

HEARINGS

Continuation ANRAD 307-0726: 9 & 21 Towne Lane, (Map 41, Lot 073 & Map 33, Lot 061), LeClair/Gove Environmental Services, Inc.

Jolley informed the TCC that the applicant has requested a continuance for ANRAD 307-0726 until November 30, 2016.

Spillman informed the TCC that the Peer Review Report was received from DeRosa Environmental on Monday, November 7, 2016. The report has been distributed to the applicant, lawyers, etc., and to the TCC. The report will be discussed at the November 30 meeting.

Spillman also noted that she received additional information from Gove Environmental prior to receipt of the DeRosa report, which will be reviewed at the November 30 meeting as well.

Luther moved to continue the hearing for ANRAD 307-0726 to November 30, 2016. Carroll seconded. The vote was unanimous in favor.

NoI 307-0744: 13 South Main Street, (Map 40, Lot 088), McCallister/Daniel Johnson, DSD, Inc.

Luther read the legal notice and Spillman confirmed that proof of abutter notices has been received.

Dan Johnson, Domestic Septic Design, presented the plan for replacing the septic/leaching system at 13 South Main Street. The septic system was replaced five to six years ago and the leaching system has since failed. Johnson stated that Bill Manuell of Wetlands and Land Management flagged the wetland line and that Spillman verified the location of the six BVW flags at a site visit with Manuell. Johnson is proposing a "Presby" system and described the design of the system and the fact that it can be regenerated if it fails. He stated they are only replacing the failed infiltration system, which will be about 40% smaller because of the Presby system.

Spillman stated that she was satisfied with the new delineation. She noted that there is a pile of yard waste spilling into the Wetland Resource Area (BVW) at the rear of the property. She suggested a condition that the yard waste on the site be removed prior to the installation of the system. Also, because this is a Notice of Intent, the plan with the new flags must be stamped by a Professional Land Surveyor (PLS) or Professional Engineer (PE). Because the system is in failure, Spillman recommended issuing the permit, contingent on receipt of the plan with the

new flags, stamped and verified by a PLS or PE, and delivered to the Conservation Office. Jolley stated her understanding that the requirement to have the plan stamped by a PLS or PE may slow down the project but this is a requirement of the application process and the TCC must be consistent with all applications.

Luther moved to close the hearing. Carroll seconded. The vote was unanimous in favor.

Luther moved to approve the plan as shown on "Subsurface Sewage Disposal Plan for 13 South Main Street, Topsfield MA" dated October 5, 2016 with the following provisions: a) the debris and yard waste is removed from the resource areas, and b) that the revision of the plan certifying the surveyed flags stamped by a PLS or PE is submitted to the TCC. In addition, the usual conditions, including for sedimentation control, are to be applied.

Carroll seconded. The vote was unanimous in favor.

NoI 307-0745: 470 Boston Street, (Map 03, Lot 003), Sarkis Development Co./John Sarkis Jolley informed the TCC of the request to delay the opening of the hearing. Spillman explained that there was a typo on the legal notice to abutters and there was not enough time to re-notify abutters prior to the posted hearing date.

RDA 2016-09: 3 Hill Street, (Map 56, Lot 001), Driscoll

Luther read the legal notice and Spillman confirmed that proof of abutter notices has been submitted.

Jolley noted that she, Spillman and Shamroth visited the site the week of October 31, 2016. Bill Driscoll attended the hearing, representing his daughter and son-in-law. He explained the history of their purchase of this property and their attempt to start cleaning up the grounds. Driscoll stated that they took down 12 trees and 6 bushes. They stopped work when Spillman informed them it was a restricted area (Buffer Zone and Bordering Vegetated Wetland). They would like to remove 18 more trees, mostly Ash and White Pines, of which 14 are dead.

- Driscoll presented a plan indicating the trees that have already been taken down and the remaining trees they would like to take down. Spillman stated that there is a stream that flows through a pipe on the northern end of the property. Both ends of the pipe were blocked with concrete after the house was foreclosed on, during the period when the "bank" owned the property. She noted that this is a separate issue, and unblocking the pipe containing the Intermittent Stream and restoring the streambed could be addressed with a NoI in the future.

Jolley asked for a formal planting plan; Spillman will include this as a condition in the RDA.

Luther moved to close the hearing. Carroll seconded. The vote was unanimous in favor.

Luther moved to make a Negative Determination of Applicability authorizing removal of the dump from resource area, after-the-act, and requiring that the mitigation for removal consist of the replanting of appropriate shrubbery enumerated by the applicant and submitted to the TCC. In addition, the stumps of the cut trees may be ground but not removed.

Carroll seconded. The vote was unanimous in favor.

REQUESTS

CoC 307-0742: 131 Ipswich Road, (Map 26, Lot 058), DiScipio/Daniel Johnson, DSD, Inc. Spillman explained that the as-built plan submitted for this Certificate of Compliance (CoC) request is not stamped by a PE or PLS as required by the DEP. The DEP form for requests for CoC, 8A, lists, "registered professional engineer, architect, landscape architect, or land surveyor." Sanitarian is not listed. However, Spillman recommended accepting the as-built plan as submitted because the homeowners have gone out of their way to do things correctly and the system is in the front of the house and not likely to have consequences to the Wetlands Resources Area in the event of failure.

Jolley expressed her frustration that this is another instance in which this applicant has not attended the TCC meeting to explain their application and/or situation.

Luther moved to grant the Certificate of Compliance, in spite of the noted deficiencies.

Carroll seconded. The vote was 4 in favor and 1 opposed (Jolley).

RDNI 2016-27: 17 Willowdale Road (Map 14, Lot 019), Ventimiglia

Edith Ventimiglia presented the sketch of her property and explained the location of the trees that she wants to remove. Spillman had drawn on the sketch an approximate Buffer Zone. Of the approximately 12 trees to remove, there are two mature Red Oaks leaning over her house and some White Pines and a Red Maple that are in decline. Discussion took place with ideas to replace the trees with a mixture of trees and bushes to maintain the hydrology in this area.

Because of the number of residents taking down trees in Wetlands Resource Areas without TCC approval, DiCarlo asked Ventimiglia how she knew to come before the TCC to request permission before she removed the trees. Ventimiglia replied that she knew she had wetlands because there is a vernal pool on a neighboring property. In addition, she had gone to the BOH to find out where the septic system was located on her property and wetlands were identified there.

Luther moved to make a Determination of Negligible Impact for the removal of trees as shown on the sketch with the provision that stumps may be leveled with the ground but not removed.

Carroll seconded. The vote was unanimous in favor.

22 High Street (Map 33, Lot 040), Mscisz

Mr. Mscisz appeared before the TCC to express his concerns about trees falling over next to School Brook on and near his property. Mscisz is a life-long resident of Topsfield and recalled the Town dredging the brook to clear it so the water could flow "properly". Because the sediment has been building, no banks remain. As a result, the brook has widened and the root systems of trees along the brook are rotting. Luther agreed, stating that in this section of School Brook it has become a big open area of water.

Luther stated that in years back, the Planning Board would determine the areas for "maintenance". However, after the Wetlands Protection Act (WPA) was passed in the early 1980s [actually 1972], nobody wanted to prepare Notices of Intent paperwork required by the WPA.

Spillman stated she spoke with Dave Bond, Highway Superintendent, and discussed the history of the area and the current sediment issue. Spillman also spoke with a DEP expert on streams, Heidi Davis, who confirmed that a NOI must be filed for work in or near the perennial stream. Davis said when digging, it is very tricky not to dig below the stream bed so it doesn't become deeper and wider.

Spillman suggested a NoI for the Highway Department, including compiling a list of sites in Topsfield to maintain or clean culverts with similar sedimentation issues, with elevations noted to make sure they are not over digging. Luther suggested Jim MacDougall may be interested in helping with the NOI. He will contact Jim MacDougall for discussion and report back to the TCC at the November 30, 2016 meeting.

Jolley thanked Mscisz for coming to the TCC, noting that much time is spent on hearings and the TCC often does not have time to address these types of issues that affect the town.

OTHER:

Violation Notice 2016-05: 268 High Street, (Map 71, Lot 028), Silver

Spillman reported that she received notice from an abutter of 268 High Street, Judith Cherry, about piles of soil and rocks falling onto her property from the top of a slope on the 268 High Street property. Spillman made a site visit and observed 4 piles of soil at 268 High Street from Cherry's property and downed trees that appear to be in the Buffer Zone.

Cherry addressed the TCC and asked for help addressing this situation with Silver. The TCC explained to Cherry that they only have jurisdiction over conservation and wetland issues and suggested that she document with photos any damage to her property. They also recommended that she send Silver a formal cease and desist letter to stop the debris from coming into her yard.

Spillman had hand delivered Violation Notice 2016-05 to Silver and informed him that he or a representative was to appear before the TCC at this meeting. Silver stated he had a meeting on that evening but that he or his representative would appear 8:30 pm.

At this time of the meeting, it was 9:00 pm, and neither Silver nor his representative had appeared.

Using the Assessor's Map of this property, Spillman described to the TCC where she believes the Buffer Zone is located. Jolley asked if there was enough evidence to issue an Enforcement Order and Spillman replied in the affirmative.

The Enforcement Order will contain notice to cease and desist all activity in the Buffer Zone and for Silver to appear at the TCC meeting November 30, 2016.

Jolley stated for record that the TCC is stepping up from a Violation Notice to an Enforcement Order because Silver did not appear or comply with Violation Notice. She noted that the Enforcement Order must be filed with the DEP and Spillman added that standard language on the Order states it is subject to fines.

Jolley read into the record Violation Notice 2016-05 concerning unauthorized activity in the Resource Area.

Enforcement Order 2016-03: 25 Johns Lane, (Map 76, Lot 004), Festa/Vista Realty Trust – update, discussion

Spillman reported to the TCC that Mr. Festa has moved to Florida following his surgery and that Curt Young is no longer authorized to be a representative for Festa.

Spillman spoke with DEP and they recommended that TCC issue an Amended Enforcement Order with specific conditions and reasonable deadlines. Spillman will deliver the Amended Order and will report back to the TCC if there is a response.

Luther moved to issue an amended Enforcement Order to comply with the requirements set forth in the original Order, amended to proceed with the stabilization for winter and that the mitigation plan must be submitted by a date to be determined, and evidence of mitigation submitted by a date to be determined.

Carroll seconded. The vote was unanimous in favor.

DiCarlo noted that if this is a “realty trust”, there is a beneficiary that could also be notified.

Spillman will work on the dates and research to find another representative to copy, in addition to Curt Young.

Release from EPA Administrative Order 10019, 29-41 Cross Street

Spillman informed the TCC that she has received the compliance letter from the EPA, dated October 31, 2016. She recommends that the TCC issue a letter releasing the property owner from the Enforcement Order issued in 2007.

Luther moved to release the present owner of the property at 29-41 Cross Street from the Enforcement Order that was originally issued to Mr. Nash, the former owner, on the basis of the compliance letter from the EPA

Carroll seconded. The vote was unanimous in favor.

Spillman will issue a letter/release from the Enforcement Order.

Wetlands General Bylaw Regulations

Spillman and DiCarlo will schedule a meeting to discuss amendments.

Meeting and Filing Deadline Schedule for 2017

The TCC reviewed the proposed 2017 meeting and filing schedule. After discussion of potential conflicts, this item was tabled until the November 30, 2016 meeting

MEETING MINUTES

Minutes of Meeting held on September 14, 2016 - DiCarlo moved to approve the minutes of the meeting held September 14, 2016, as amended. Carroll seconded. The vote was unanimous in favor.

Topsfield Personnel Policies and Procedures – Jolley reported that that she met with Town Administrator Kellie Hebert to plan the process to fill the position of Conservation Administrator pending Spillman's retirement. She briefed the TCC on their discussion regarding the job posting, where to advertise the position, screening checklist and the interview process.

Next TCC Meeting – November 30, 2016

ADJOURNMENT:

Luther moved to adjourn. Carroll seconded. The vote was unanimous in favor. The meeting was adjourned at 9:33 p.m.

Documents used for or at the meeting:

Agenda November 30, 2016

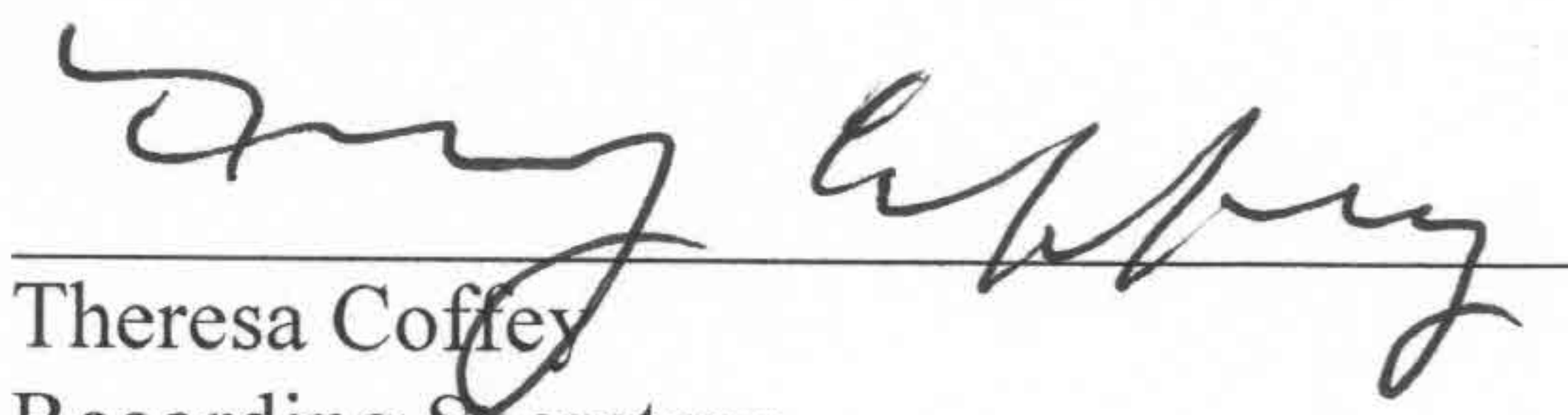
NoI 307-0744 Site Plan "Subsurface Sewage Disposal Plan for 13 South Main Street, Topsfield MA", dated October 5, 2016

RDA 2016-09 – Plan of property located at 3 Hill Street, Topsfield MA, presented by Bill Driscoll

RDNI 2016-27 – Sketch of Property located at 17 Willowdale Road, Topsfield MA, presented by Edith Ventimiglia

Violation Notice 2016-05, to Scott Silver, 268 High Street, Topsfield MA, dated November 1, 2016

Respectfully submitted,


Theresa Coffey
Recording Secretary

Minutes approved at the TCC meeting on January 11, 2017

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.