

***Topsfield Conservation Commission
Minutes of Meeting April 24, 2019***
Topsfield Library Conference Room

Present: Cheryl Jolley - Chair, Dodds Shamroth - Vice Chair, Nicholas Betts, Jennifer DiCarlo, Holger Luther, Heidi Gaffney - Administrator, and Theresa Coffey - Recording Secretary.

Other Attendees:

| Name | Address | Agenda Item |
|----------------|---------------------------------|------------------------|
| Cathy Granata | 10 Alderbrook | Meredith Farm |
| Carol Ann Dawe | 14 Alderbrook | Meredith Farm |
| Dick Gandt | 31 Timber Lane, Topsfield | Hood Pond |
| Geoffrey Neale | 31 Perkins Row | |
| Nora Neale | 31 Perkins Row | |
| Tim Collins | 41 Cross Street | Meredith Farm |
| Mike DeRosa | DeRosa Environmental Consulting | Various |
| Chris Mscisz | | 9-11 South Main Street |
| Mark Mscisz | | 9-11 South Main Street |
| David Barnard | 3 Howlett Street | 5 East Common |
| Lori Fritz | 22 Towne Lane | 5 East Common |
| Rebecca Benden | | 129 Main Street |
| John Morin | Morin-Cameron Group | 50 Prospect Street |

Cheryl Jolley, Chairperson, called the meeting to order at 7:05 p.m. with a quorum present. She announced that the meeting was being audio recorded.

HEARINGS:

NoI 307-0773: 129 Main Street, (Map 25, Lot 052), Burke-Carman/Wetlands & Land Management, Inc. – single story garage addition

Luther read the legal notice and proof of abutter notice was submitted.

Bill Manuell, Wetlands & Land Management, Inc. presented the proposal for a single story, one bay garage addition and an expanded driveway with a turnaround area in the Buffer Zone (BZ) to a Bordering Vegetated Wetland (BVW). Manuell reviewed the characteristics of the property, the proposed addition and the flagged wetlands. The flags on the applicant's property were reviewed and confirmed by Gaffney.

Approximately two-thirds of the proposed work will be constructed over existing developed area with an overall net increase in impervious area of 477 s.f. Roof runoff will be collected by

downspouts draining into a proposed infiltration trench and native shrubs will be planted along the edge of an area in the Buffer Zone for mitigation.

There are stumps on the property from previous tree removal, done by permit. The Applicant would like to remove the stumps and requested that this be added to the NOI. Luther stated that he prefers grinding the stumps. Gaffney recommended the removal of any stump that is in the way of the infiltration trench and Luther agreed. This condition will be included in the Order of Conditions (OOC). The Condition could require the infiltration trench be marked for the pre-activity meeting and it can be determined at that time if the stump should be removed or ground.

Luther moved to close the hearing for NOI 307-0773 129 Main Street. Shamroth seconded and the vote was unanimous in favor.

Luther moved to approve the project as shown in the plan dated April 8, 2019, subject to the conditions as discussed. Shamroth seconded and the vote was unanimous in favor.

RDA 2019-05: Meredith Farm/41 Cross Street, (Maps 47|62|63 - Lots 037|002,035|002,006) Collins/ DeRosa Environmental Consulting, Inc. - applicability for maintenance and improvement work to land in agricultural use within Buffer Zone Resource Area, Bordering Vegetated Wetland, Bank and Bordering Land Subject to Flooding

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

Mike DeRosa of DeRosa Environmental Consulting, Inc. and Tim Collins, owner of Meredith Farm were present to discuss the proposed Farm Management Plan for Meredith Farm. DeRosa commented that the maintenance work proposed is allowed under the Forest Management Plan and/or the Conservation Plan that has been filed for the Farm which is under Chapter 61A. DeRosa reviewed the that has been done on restacking stone walls, permitted under a separate RDNI and the planned work including improvements to the farm road, maintenance of the drainage ditches, additional stone wall restacking and the planting of additional trees in the maple grove and the apple orchard.

DeRosa discussed a portion of the farm road that washes out in severe storms and the proposed correction of re-grading the road and crowning the sides of the road along the fields. He discussed drainage ditches that were created a number of years ago to carry water toward the Ipswich River. The ditches are now choked with vegetation and keeping the ditches functioning is important to the efficiency of the farm. They are proposing to take out the invasive vegetation by whole plant removal. The standing shrubs from the edge of the ditches will be cut and burned. The roots will be removed and soils will be maintained with drought tolerant seed mixes. They will use check dams with salt marsh hay in the ditches and work would be done in the summer when no water flows through them.

Gaffney reviewed the history of the file which shows EPA involvement specifically to do with the farm pond and a trench through the woods. Discussion was held on the subject of the notifying the EPA because they oversaw the pond restoration project.

Gaffney commented on the large amount of Burning Bush in the Buffer Zone and DeRosa stated that the removal of these invasives is part of the Farm Management Plan.

Discussion was held on the requirements for agricultural exemption. Jolley commented on the requirement that the farm has to have commercial for profit activity to be exempt. Collins stated that they have commercial activity on the farm with the sale of hay. DiCarlo requested that Gaffney check on the tax status of the Farm to ensure there hasn't been a lapse in the agricultural status of the farm.

Gaffney noted that the exemption for stone walls in the Act does not apply to stone wall work in wetlands or land subject to flooding.

DeRosa stated that there has to be some maintenance on the farm in order to function. The field edge needs to be maintained and to not allow maintenance of the ditches impedes the function of the farm and will cause backup which will affect neighboring property.

Discussion was held on the history of the property and drainage ditches with concern raised by the TCC that determination must be made that they are not streams and qualify under the agricultural exemptions. It was agreed that a site visit will be arranged for the TCC to view and assess the ditches. Gaffney will contact the DEP regarding the agricultural exemptions related to the drainage ditches and will also look into stone walls under the Act. If the farm is agriculturally exempt, the work can still be conditioned under the Bylaw.

Donna Page, an abutter to Meredith Farm, expressed her concern about disturbance to the wildlife and the birds in the area of the streams along her property.

Carol Ann Dawe, 14 Alderbrook Drive, discussed the affect that previous work had on her backyard with water flowing in her backyard and causing it to be wet. She also expressed concern about the maple tree area. Gaffney informed her that the majority of maple tree area is not in TCC jurisdiction.

Cathy Granata, 10 Alderbrook Drive, said her property also has water issues.

Mark Mscisz, 20 High Street, commented that the maintenance is necessary to maintain the intended use of the property.

DeRosa requested a continuance to the next meeting.

Luther moved to continue the hearing for RDA 2019-05 until May 8, 2019, at the request of the applicant. Shamroth seconded and the vote was unanimous in favor.

RDA 2019-04: 5 East Common St. (Map 33, Lot 036), Barnard/Congregational Church - tree removal, installation of fence & placement of gravel

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

Gaffney provided an overview of the activity at 5 East Common Street. Trees have been removed within a Buffer Zone to a Bylaw Vernal Pool. Work has stopped but the applicant would like to remove additional trees, put up a fence and add gravel to the access area for the field which is leased to the town for athletic use.

Gaffney reviewed the site, the Vernal Pool and Buffer Zone area. The exact limit of the resource areas has not been determined. The remaining trees proposed to be removed are out of the jurisdiction but access to the trees is through Buffer Zone.

David Barnard of the Congregational Church, 5 East Common Street, was present and provided a brief history of work done to date. A preschool is located in the church building. There are dead and diseased trees in the area of the preschool playground area that needed to be removed for safety reasons. Some trees were taken down in the Buffer Zone after which they received a cease and desist order.

In addition to tree work, they want to erect a 4 foot post and rail fence, of which a portion is in the outer Buffer Zone, and add gravel to the field access/walkway area. Discussion continued on the replanting of trees under the TCC Tree Policy. Barnard said that they will move some existing sugar maple trees from another area. There was discussion as to whether or not the invasive trees should be replaced given that the application is being made after-the-fact.

Further discussion was held on the proposed gravel for the walkway in the Buffer Zone. Barnard said that the town uses this access to bring mowers in and equipment to maintain the ball field. It is the only access for machinery. Mayer Tree will also need to bring in equipment for tree removal and will use a track vehicle to access the trees. It was discussed that the entrance typically is stable with grass growing. Gaffney informed the applicant that after tree removal any disturbance will need to be smoothed and seeded.

Mark Mscisz, 20 High Street discussed the history of the entrance to the fields and commented on parking that was eliminated because of resource area concerns.

Dick Gandt, 31 Timber Lane commented on the gravel proposed for the access path and opined if this area is in the Buffer Zone, the gravel would protect the area for equipment going in and out. Gaffney said if the area stays stabilized and smoothed that the gravel may not be necessary. However, if it is approved, erosion control measures should be put in place to protect the vernal pool.

Luther moved to close the hearing for RDA 2019-04. Shamroth seconded and the vote was unanimous in favor.

Luther moved to issue a Negative Determination of Applicability for the erection of the fence and a Negative Determination of Applicability of previously removed trees and those that are yet to be removed, and a Positive Determination of Applicability for the placement of gravel, stating it would only be allowed if it is absolutely required.

Gaffney informed the TCC that a waiver for Bylaw fees has been requested as a non-profit organization.

Luther moved to reopen the hearing for RDA 2019-04. Shamroth seconded and the vote was taken by roll call:

*Jennifer DiCarlo - yes
Nicholas Betts – yes
Dodds Shamroth – yes
Holger Luther – yes
Cheryl Jolley - yes*

A discussion was held on granting the request to waive the Bylaw fees considering the application was made after-the-fact.

Luther moved to waive the Bylaw fees for RDA 2019-04. Shamroth seconded. The vote was 4 in favor and 1 not in favor (Jolley).

Luther moved to close the hearing for RDA 2019-04. Shamroth seconded and the vote was unanimous in favor.

Luther moved to issue a Negative Determination of Applicability for the erection of the fence and a negative Determination of Applicability for previously removed trees and those trees that are yet to be removed; and a Positive Determination of Applicability for the placement of gravel; with the usual and special conditions as discussed. Shamroth seconded and the vote was unanimous in favor.

REQUESTS:

RDNI 2019-07: 9-11 South Main Street: (Map 40, Lot 009), Mscisz/9-11 South Main Street LLC - tree removal

Gaffney discussed the application to remove 11 trees. A report and photos prepared by Iron Tree notes that only 4 of the trees proposed to be removed are living and the rest are dead.

The applicants, Chris Mscisz and Mark Mscisz, will replant trees in locations where the roots will not cause a disturbance. They propose to plant non-fruit bearing Pear trees. A discussion was held regarding the removal of stumps. The applicants would like to remove the stumps that are contiguous to the parking area for pedestrian safety and one stump that interferes with the

septic system. Gaffney noted that if a stump is in the way of an approved utility line, the stump can be removed. The infiltration trench was permitted under an approved OoC.

Luther moved to make a Determination of Negligible Impact for this project with the provision that the trees that are in the way of any underground utility can be ground to below the level of the ground. Shamroth seconded and the vote was unanimous in favor.

Continuation ANRAD 307-0767: 43, 45 & 53 Perkins Row (Map 58, Lots 026, 027 & 028) Hancock Associates/Chitro

Gaffney informed the TCC that the applicant submitted a request to continue and has asked for an extension to submit the vernal pool report.

Luther moved to continue ANRAD 307-0767 to the next meeting on May 8, 2019. Shamroth seconded and the vote was unanimous in favor.

OTHER:

Forest Management Plan: Meredith Farm/41 Cross Street, (Map 62, Lot 002; Map 63, Lot 002, Map 47, Lot 037), Collins/ DeRosa Environmental Consulting, Inc.

Mike DeRosa, DeRosa Environmental Consulting, submitted for TCC review the Meredith Farm Forest Management Plan. The submission of the plan is required under the Act and Bylaw. The document can be used to address public inquiries or concerns.

Amended Enforcement Order 2019-01: 215 Washington Street, (Map 46, Lot 007), Galka

Mike DeRosa, DeRosa Environmental Consulting, LLC provided a brief update regarding the amended Enforcement Order for 215 Washington Street. DeRosa has been retained to do the wetlands delineation and he has met with Galka and his architect. Erosion control is in place for activity in the Riverfront area. Galka plans to file a NOI.

50 Prospect Street: (Map 48, Lot 12), Carroll/The Morin-Cameron Group, Inc., - Request for clarification and interpretation of restrictions under Order of Conditions/Certificate of Compliance #307-0415 continuing conditions

John Morin, Morin-Cameron Group, was present representing the applicant's request for clarification of Special Condition C10 in Amended Order of Conditions DEP File No. 307-415. Morin reviewed three Certificates of Compliance related to the development of the lot, DEP File Nos. 307-386, 307-415 and 307-652 that all have a Continuing Condition that no new work will be done in the Buffer Zone without a permit. Special Condition C10 in DEP File No. 307-415 indicates that no new work will be done in the Buffer Zone.

Morin described the resource area. The septic was installed outside of the Buffer Zone, the house and driveway are in the Buffer Zone. An as-built plan was submitted in 2011 and all of the OoCs were closed out at the same time.

The TCC held a lengthy discussion reviewing the intent and validity of the conflicting conditions to determine if Special Condition C10 referenced above is a valid continuing condition. It was agreed that a new application could be made for proposed work in the Buffer Zone.

Enforcement Order 2019-02: 254 Rowley Bridge Road, (Map 80, Lot 012), Wetherbee – status update

Gaffney reported that Mr. Wetherbee has been in touch and is working on compliance.

Ipswich River Watershed Association – request for Letter of Support for their grant application to the National Fish and Wildlife Foundation – New England Forest and Rivers Fund

Luther moved to support the Ipswich River Watershed Association grant application to the National Fish and Wildlife Foundation and to have the Chair of the Topsfield Conservation Commission sign the letter of support. Shamroth seconded and the vote was unanimous in favor.

Revisions to the RDA, NOI, ANOI & ANRAD instructions and Abutter Notification Form

The TCC discussed the Abutter Notification letter and the fact that it does not list the date and time of the hearing for the subject matter. Gaffney explained that often times a hearing date will change which would necessitate a second notification to be sent. It was agreed that language would be added communicating how the hearing date can be found beyond contacting the Conservation Office. The Posting Box outside Town Hall is the official posting and the website can be consulted. Gaffney noted that as far as Open Meeting Law is concerned, the website is not an official posting venue. She will redraft the Abutter Notification Form.

Revisions to the Application Instructions for RDA, NOI, ANOI and ANRAD were reviewed. Gaffney noted information has been added to the instruction item for Abutter Notification that the Assessor's Office requires 10 business days to certify an Abutter List.

No action taken, item tabled to 5/8/2019.

MEETING MINUTES

Approval of meeting minutes was tabled until the next meeting on May 8, 2019.

ADJOURNMENT

Luther moved to adjourn. Shamroth seconded and the vote was unanimous in favor. The meeting was adjourned at 10:00 pm.

The next meeting will be held May 8, 2019 at 7:00 pm, Topsfield Library Meeting Room.

Respectfully submitted,


Theresa Coffey
Recording Secretary

Minutes approved at the TCC meeting on 6/12/19

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.

Documents used at or for the meeting:

NoI 307-0773: 129 Main Street

Complete Notice of Intent Application with attachments dated April 8, 2019

Proposed Plan in Topsfield MA [129 Main Street] by Donohoe Survey, Inc. dated April 8, 2019

RDA 2019-05: Meredith Farm/41 Cross Street & Forest Management Plan: Meredith Farm/41 Cross Street

Complete Request for Determination of Applicability with attachments, including the farm Conservation Plan, dated April 10, 2019

Forest Management Plan Amendment dated April 13, 2018

RDA 2019-04: 5 East Common Street

Complete Request for Determination of Applicability with attachments, dated April 8, 2019

RDNI 2017-07: 9-11 South Main Street

Complete Request for Determination of Negligible Impact Application with attachments, dated April 10, 2019

Iron Tree Service Letter dated April 18, 2019

Enforcement Order 2019-02: 254 Rowley Bridge Road

Enforcement Order 2019-02 dated April 2, 2019

Letters from Topsfield Conservation Commission to Scott Wetherbee dated March 14, 2016 and April 2, 2019

50 Prospect Street

Morin-Cameron Group Letter to Topsfield Conservation Commission re: 50 Prospect Street, dated April 16, 2019

As-Built Plan for 50 Prospect Street, Topsfield MA prepared by Hancock Associates, dated September 6, 2011

Amended Order of Conditions 307-0415, 50 Prospect Street, Issued March 3, 2004

Certificate of Compliance 307-0386, 50 Prospect Street, Issued September 28, 2011

Certificate of Compliance 307-0415, 50 Prospect Street, Issued November 10, 2011

Certificate of Compliance 307-0652, 50 Prospect Street, Issued November 10, 2011

Ipswich River Watershed Association

Draft Letter of Support re: IRWA NFWF Grant Application from Chair, Topsfield Conservation Committee, dated April 25, 2019

Howlett Brook Watershed – Comprehensive Coldwater and Diadromous Fishery Aquatic Habitat Restoration Project, Project Concept

Topsfield Conservation Commission Forms – Proposed Revisions

RDA (DEP/TCC Form 1) Application Instructions

NOI (DEP Form 3), Abbreviated NOI (DEP Form 4), ANRAD (DEP Form 4A) – Application Instructions

Draft Minutes of Meetings held on March 27, 2019 and April 10, 2019