

***Topsfield Conservation Commission  
Minutes of Meeting October 14, 2020***  
By Video/audio conference

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

**Other Attendees:** Richard Gandt, Greg Hochmuth, Susan Knowles, Tim Martins, Dan Peabody, Hadley Coonley, Seth Nicholson, Gillian Frontinan

Cheryl Jolley, Chairperson, called the meeting to order, by video/audio conference, at 7:01 p.m. with a quorum present. She made the following announcements:

“Pursuant to Governor Baker’s March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor’s March 15, 2020 Order imposing strict limitations on the number of people that may gather in one place, this public hearing of the Topsfield Conservation Commission is being conducted via remote participation. No in-person attendance of members of the public will be permitted, but the public can listen to and/or view this meeting while in progress by joining the Zoom Meeting at the link listed on the posted agenda or by calling 1-929-205-6099 and entering meeting ID and password listed on the agenda. Members of the public attending this meeting virtually 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 BCTV via ZOOM to be posted on the Town Website for public viewing; is there anyone else present who wishes to record the meeting?” There were no responses.

**HEARINGS**

Jolley read the following announcement:

“In accordance with Section 17(b)(vii) of Chapter 53 of the Acts of 2020, the following three hearings, which were pending as of March 10, 2020, shall be automatically tolled and continued to the first hearing date of the permit granting authority following the termination of the state of emergency or to a date otherwise prescribed by law, whichever is later; provided, however, that the date is not later than 45 days from of the termination of the state of emergency or the date otherwise prescribed by law, whichever is later.”

- Continuation ANRAD 307-0776: 5 East Common Street (Map 33, Lot 36), Congregational Church/Beals Associates
- Continuation NoI (Bylaw only) TCC 2019-01: 371 Boston Street (Map 26, Lot 014), Sabino/The Morin-Cameron Group, Inc.
- Continuation NoI 307-0792: ECTA Town Wide Trail Maintenance Plan, ECTA/DeRosa Environmental Consulting, Inc.

**NOI 307- : 9 Coventry Lane** (Map 17, Lot 053) Martins – request for approval of after-the-fact landscaping improvements with restoration.

Jolly announced the meeting, Luther read the legal notice and Gaffney confirmed that proof of abutter notice was received.

Gaffney provided background information on the after-the-fact Notice of Intent resulting from a violation notice. The applicant installed a patio with pergola and a fire pit within buffer zone. The lawn was expanded beyond the originally approved limit with a small portion into the 50-foot no disturbance area that was required when the property was developed under MA DEP File #307-0303. The applicants are seeking after-the-fact approval for the patio, pergola and fire pit, approval of a 5' x 14' BBQ area and restoration of the encroachment into the 50-foot no disturbance area. Gaffney displayed photos of the pergola and fire pit areas and pointed to the No Disturb area. There is 6 feet between the existing patio and the 50' No Disturb Zone. The proposed BBQ area will extend 5 feet toward the No Disturb Zone.

The property owners, Hadley Coonley and Tim Martins, explained that they moved into the home in the past year and did not have a clear understanding of the wetlands.

A discussion was held on the construction of the BBQ pit and the possibility of a retaining wall and how they would allow for the existing slope. The applicants explained why they were not able to relocate the proposed BBQ pit. Luther requested that a sketch be submitted before the next meeting to show the location and construction detail of the proposed BBQ pit.

Gaffney noted that a DEP number was not yet issued so the Hearing would have to be continued.

*Luther moved to continue the Hearing for the NOI for 9 Coventry Lane subject to the submission of a sketch. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

Documents:

- Notice of Intent Application with required attachments, dated September 14, 2020
- Plan of Site Features, prepared by Donohoe Survey, Inc., dated September 25, 2020
- Photos

**RDA 2020-10: 70 Campmeeting Road** (Map 20, Lot 069) Peabody – request to install shed on slab within Riverfront Area and grading associated with an addition to back of garage.

Jolley announced the hearing and confirmed that proof of abutter notice has been received. Luther read the legal notice.

Gaffney provided an overview of the plan and resource areas and the proposal consisting of a shed with roof runoff infiltration and some grading and paving within the outer portion of the Riverfront Area. No work is proposed within the Buffer Zone.

The applicant, Dan Peabody, explained that the proposed shed is 18'x25' with a frost wall on a slab. The proposed addition will have a 4' frost wall and slab. There is one oak tree proposed to be removed. The oak tree will be replaced and native plantings will be installed under the trees where there is an existing mulch bed.

A discussion was held on required erosion controls, and the commission stated a staked straw wattle will be required.

*Luther moved to close the Hearing for RDA 2020-10 70 Campmeeting Road. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

*Luther moved to issue a Negative Determination of Applicability with the condition that suitable erosion control measures be taken north of the construction area and a suitable replacement for the oak tree is included in the plan. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

Documents:

- Complete Request for Determination of Applicability Application with required attachments dated September 29, 2020
- Plan - Shed and Garage Addition for 70 Campmeeting Road, Topsfield MA, prepared by Eastgate Garden Design LLC, dated September 29, 2020

**NOI 307-0798: 11 Evergreen Lane** (Map 50, Lot 036) Nicholson/Williams & Sparages – construction of in-ground swimming pool and patio area; removal of play area and installation of fence in the rear of yard.

Jolley announced the hearing, Luther read the legal notice and Gaffney confirmed that proof of abutter notice was received.

Representing the applicant, Greg Hochmuth, Williams & Sparages, provided information on the location of the property in the Hickory Beech Subdivision. The original ORAD was issued in 2004 and when the subdivision was approved, the only resource areas impacted were for the roadway and drainage which was under MA DEP File #307-0507. Wetland markers were placed behind the lots in 2010-2012 at the 100-foot buffer zone at that time. A Certificate of Compliance has not been requested or issued for 307-

0507 for the roadway and drainage. When work was done at a neighboring property, it was learned that the wetland lines have changed.

The proposal consists of the construction of an in-ground swimming pool and patio area, removal of a play area and installation of fence in the rear of yard. Hochmuth displayed the site plan and showed the changes in the wetlands. He noted that 95% of the project is outside jurisdictional area.

Hochmuth explained that the existing lawn on the property was installed legally, before the wetlands line changed. The proposed work is in the existing lawn area which is now in Buffer Zone.

Gaffney stated that she has reviewed the flags and agrees with the wetland as shown on the site plan. She discussed a condition in the Bylaw Order 307-0507 that prohibits activity in the Buffer Zone Resource Area unless a waiver was issued. Gaffney opined that the restriction would consist of development not to infringe on buffer zone or resource area and waivers may not apply to this project.

When asked if the size of the pool could be reduced to reduce the impact on the Buffer Zone, Hochmuth showed that only the pavers infringe on the Buffer Zone, not the pool.

Discussion was held on the Bylaw standard and how it would apply to the lots that have been developed. Gaffney will consult with Town Counsel to interpret the condition in the Bylaw Order 307-0507 and how it applies to the existing lawn area.

Gaffney noted that a letter from abutter was received and will be discussed at the next Hearing.

Hochmuth requested a continuance to October 28, 2020.

*Luther moved to continue the Hearing for NOI 307-0798: 11 Evergreen Lane to October 28, 2020 at the request of the applicant. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

Documents:

- Complete Notice of Intent Application with required attachments, dated September 29, 2020
- Plan to Accompany Notice of Intent 11 Evergreen Lane, Topsfield MA prepared by Williams & Sparages, dated September 29, 2020
- Letter and Photos from abutter Roger Hale, 10 Caitlin Lane, Topsfield MA received October 7, 2020
- Photos

**MEETING MINUTES:**

*Luther moved to accept the minutes of the meetings held on August 12, 2020 and September 9, 2020. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

**ADMINISTRATOR’S REPORT:**

N/A

**OTHER:**

**Agricultural Exemption Discussion**

A discussion was held with Scott Jackson about the Agricultural Exemption in the Wetlands Protection Act. Mr. Jackson is a professor at UMass and the chair of a conservation commission in Whately, MA. Mr. Jackson discussed the Farming in Wetland Resource Areas guide that can be used for reference. The exemption applies to commercial enterprises and he provided examples of how this regulation is applied to farms. A key concept for exemption is there needs to be a commodity produced with the intention of making a profit. He provided examples of business activities that would meet the exemption and noted that it is the activity that is exempt and not the land. Mr. Jackson told the TCC that he is available to them to provide guidance and “unofficial” advice when needed.

**Enforcement Order 2020-08: 148 Washington Street (Map 39, Lot 068) Frontinan**

Gaffney showed photos and an aerial image of the property. The Enforcement Order was issued for unauthorized tree removals in a jurisdictional area.

The property owner Gillian Frontinan explained that she has only recently purchased the property and was unaware of the resource areas on the property despite having inquired about wetlands prior to buying the property. The trees under discussion were removed to provide an exercise area for horses. She has retained Hancock Associates to develop a restoration plan and an after-the-fact Notice of Intent. Gaffney noted that the restoration plan and after-the-fact Notice of Intent is due December 2, 2020

*Luther moved to ratify Enforcement Order 2020-08 for 148 Washington Street. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

**Documents:**

- Enforcement Order 2020-08, 148 Washington Street, dated October 1, 2020
- Photos

**Amended Enforcement Order 2020-07: 76 Campmeeting Road (Map 20, Lot 039) Laverdiere**

*Luther moved to ratify Amended Enforcement Order 2020-07 76 Campmeeting Road. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

Documents:

- Amended Enforcement Order 2020-07, 76 Campmeeting Road, dated September 28, 2020
- Enforcement Order 2020-07: 76 Campmeeting Road
- Photos
- E-mail from Jim Laverdiere dated September 21, 2020

**Enforcement Order 2020-01: 71 Howlett Street (Map 33, Lot 019) Djordjic – update**

Gaffney informed the TCC that another extension request was received from the project consultant, Hancock Associates. She explained that the delay is due to the consultant and not the property owner. She recommended granting a final extension to December 2, 2020 to file a restoration plan and Notice of Intent.

*Luther moved to grant a final extension for the submission of a restoration plan to December 2, 2020 with the condition that if the plan is not submitted by that date, the owner of the property will be ordered to hire another consultant.*

After discussion, Luther amended the motion on the floor with the additional requirement as follows:

*The property owner or a representative must appear at the December 2, 2020 meeting prepared to answer questions regarding the inability of the present consultant to deliver and show plans. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

Documents:

- E-mail from Erik Swanson, Hancock Associates, dated October 14, 2020

**Agricultural Exemption: 37 River Road (Map 48, Lot 013)**

No action.

**Public Hearing**

Gaffney informed the TCC that a Public Hearing will be held during the Topsfield Select Board meeting October 19, 2020 regarding the Topsfield Hazard Mitigation Plan and Municipal Vulnerability Preparedness Plan

**ADJOURNMENT**

*At 8:55 pm, Luther moved to adjourn. Shamroth seconded the motion and it was approved by roll call vote:*

*Jolley – yes; Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes*

The next meeting will be held on October 28, 2020 at 7:00 pm, by Videoconference.

Respectfully submitted,  
*Theresa Coffey*

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Theresa Coffey  
Recording Secretary

*Minutes approved at the TCC meeting on 10/28/2020*

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.