

***Topsfield Conservation Commission
Minutes of Meeting February 10, 2021
By Video/audio conference***

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

Other Attendees:

Thor Akerley, Williams & Sparages
Carol Lloyd, Essex County Trail Association
Mike DeRosa, Derosa Environmental Consulting, Inc.
Effie Ypsilantis
Jim Ragan

Dodds Shamroth, Chairperson, called the meeting to order, by video/audio conference, at 7:03 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.

“While we are conducting town business using remote participation via ZOOM, we ask that those of you not recognized by the chair or otherwise engaged in the discussion of the moment to please mute your microphone to avoid interruptions outside the conversation. Thank you.”

HEARINGS

Continuation ANRAD 307-0776: 5 East Common Street (Map 33, Lot 36), Congregational Church/Beals Associates – verification of Wetlands Resource Area boundaries

Gaffney informed the TCC that the applicant requested a continuance to February 24, 2021.

Luther moved to continue the hearing for ANRAD 307-0776: 5 East Common Street to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Continuation NoI (Bylaw only) TCC 2019-01: 371 Boston Street (Map 26, Lot 014), Sabino/The Morin-Cameron Group, Inc. – re-construction of an existing building, construction of an addition, paved parking areas and driveways, utilities, stormwater management structures & grading.

Gaffney informed the TCC that the applicant requested a continuance to February 24, 2021.

Luther moved to continue the hearing for NoI (Bylaw only) TCC 2019-01: 371 Boston Street to March 10, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Continuation NoI 307-0792: ECTA Town Wide Trail Maintenance Plan, ECTA/DeRosa Environmental Consulting, Inc. – town-wide trail management plan.

Carol Lloyd, Essex County Trail Association, and project consultant Mike DeRosa, DeRosa Environmental Consulting, Inc., informed the TCC that the Trail Maintenance Plan was modified to reflect DEP comments, and is essentially back to the original basic maintenance plan. The proposal to continue the maintenance plan in perpetuity was discussed. Gaffney stated that she consulted with KP Law, town counsel and they were of the opinion that the TCC could issue the order with of perpetual ongoing conditions, or for a period of years, to survive the issuance of a Certificate of Compliance for maintenance or monitoring conditions. Gaffney will draft perpetual conditions for the TCC to review and discuss.

DeRosa requested a continuance to February 24, 2021.

Luther moved to continue the hearing for NoI 307-0792: ECTA Town Wide Trail Maintenance Plan to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- DEP Comments for ECTA NoI as of 1-8-21
- Supplemental Information / Notice of Intent by DeRosa Environmental Consulting, Inc. dated December 15, 2020

- Essex County Trail Association Maintenance Plan, dated February 26, 2020 and revised December 15, 2020

Continuation NOI 307- : 71 Howlett Street (Map 33, Lot 019) Djordjic/Hancock Associates – after-the-fact construction activities with ecological restoration proposed

Gaffney discussed the applicant's request to withdraw the Notice of Intent application without prejudice. The NOI was submitted as a result of an Enforcement Order, and the application and the necessary survey were insufficient and not fully completed. The project consultant, Hancock Associates, acknowledged this was through no fault of the property owner. The applicant has requested to withdraw the Notice of Intent without prejudice to allow time to complete the survey work. Gaffney explained that the EO would need to be extended to remain in compliance. She recommended an extension for the EO 2020-01 to April 14, 2021.

Luther moved to grant an extension for the EO 2020-01: 71 Howlett Street to April 14, 2021. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Luther moved to accept the request to withdraw the Notice of Intent without prejudice. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

NOI 307-0803: 148 Washington Street (Map 39, Lot 068) Frontinan/Hancock Associates – after-the-fact tree clearing within Bordering Vegetated Wetland and Buffer Zone with restoration proposed

Gaffney informed the TCC that the applicant requested a continuance to February 24, 2021.

Luther moved to continue the hearing for NOI 307-0803: 148 Washington Street to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

NOI 307- : 8 Coppermine Road (Map 79, Lot 002) Ypsilantis/Williams & Sparages – construct an addition, in-ground pool, patio and cabana in Riverfront Area and Buffer Zone to Bordering Vegetated Wetlands

Luther read the legal notice and Gaffney confirmed that proof of abutter notice was received. A DEP file number has not yet been issued.

Gaffney noted that the wetland line cannot be confirmed at this time due to current weather conditions.

Representing the applicant, Thor Akerley, Williams & Sparages, displayed the site plan and reviewed the characteristics and resource areas on the property located in the Coppermine subdivision. He described the proposed project to construct an in-ground pool, surrounding patio and cabana in the backyard, all in existing maintained lawn area. The pool will be constructed approximately 35' from BVW and will have a no backwash, cartridge filtration system. There will be no discharge of pool water in buffer zone. Also proposed is a three-story addition to the house with a garage underneath and living space above. The footprint has not yet been finalized.

Discussion as held on the locations of the cabana and concrete pad for the pool equipment. The TCC asked that the cabana be moved away from the retaining wall, and that the concrete pad be moved to the top of retaining wall, bringing both further out of the resource area. The TCC asked for more detail on the addition to the house including a clear side view of the structure and infiltration plans for stormwater runoff. In addition, plantings should be added as mitigation for infringement on the resource area.

The applicant requested a continuance to February 24, 2021.

Luther moved to continue the Hearing for NOI 307- : 8 Coppermine Road to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- Complete Notice of Intent Application with required attachments, dated January 21, 2021
- Plan titled “Plan to Accompany Notice of Intent 8 Coppermine Road, Topsfield MA”, prepared by Williams & Sparages, dated January 27, 2021

NOI 307- : 45-49 Salem Road (Map 63, Lot 004) DiGrazia Salem Road Realty Trust/Williams & Sparages – construct an in-ground pool, patio & retaining wall in Buffer Zone to Bordering Vegetated Wetland

Luther read the legal notice and Gaffney confirmed that proof of abutter notice was received. A DEP file number has not yet been issued.

Representing the applicant, Thor Akerley, Williams & Sparages, described the existing conditions of the property. An Order of Conditions was issued in 2006 for the repair of a septic system located in the buffer zone. Akerley provided an overview of the proposed project to construct an in-ground/above-ground pool, patio and retaining wall in Buffer Zone to Bordering Vegetated Wetland. He explained why alternative locations for the pool are limited. The pool would utilize non-backwash infiltration system. The retaining wall design has not yet been finalized.

Gaffney noted that the wetland line cannot be confirmed due to current weather conditions. She shared aerial photos of the property and pointed to the raised patio where the pool will be partially above ground.

Gaffney noted that a previous Order of Conditions needs to be closed out and an Enforcement Order addressed before this project should be approved. The TCC asked that plantings be added to the plan for mitigation.

The applicant requested a continuance to February 24, 2021.

Luther moved to continue the Hearing for NOI 307- : 45-49 Salem Road to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- Complete Notice of Intent Application with required attachments, dated January 27, 2021
- Plan titled “Plan to Accompany Notice of Intent 45-49 Salem Road, Topsfield MA”, prepared by Williams & Sparages, dated January 27, 2021

REQUESTS:

COC 307-0569: 45 – 49 Salem Road (Map 63, Lot 004) DiGrazia/Williams & Sparages – request for Certificate of Compliance

Gaffney informed the TCC that the Order of Conditions was for septic work. The work was completed and the as-built plans certified by Williams & Sparages. However, the required conservation markers were not installed. Representing the applicant, Thor Akerley, Williams & Sparages, requested a continuance to February 24, 2021.

Luther moved to continue the Hearing for COC 307-056: 45-49 Salem Road to February 24, 2021 at the request of the applicant. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- Recorded Order of Conditions 307-0569
- Amended Recorded 307-0569 Order of Conditions
- 45-49 Salem Road Request for Certificate of Compliance dated January 27, 2021 / Form 8A 45-49 Salem Road
- 49 Salem Street As-Built Plan titled “Record Conditions Plan f Land located in Topsfield Mass.”, prepared by Meridian Associates, Inc., dated November 6, 2007, Sheets 1-3

RDNI 2021-01: 36 Central Street (Map 41, Lot 048) Ragan – request to remove one tree

Gaffney shared a photo of the Norway maple tree proposed to be removed at 36 Central Street. The applicant confirmed that Iron Tree has inspected the tree and will use a crane from a neighbor's driveway to remove the tree. The applicant will replace the tree in the spring, as required by the Tree Policy.

Luther moved to issue a Determination of Negligible Impact with the usual conditions. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- Complete Request for Determination of Negligible Impact Application dated: []

MEETING MINUTES:

No action.

OTHER:

- **Enforcement Order 2019-07: 49 Salem Road & 130 Boston Street** (Map 63, Lots 003 & 004), DiGrazia – *restoration discussion*

Gaffney reviewed Enforcement Order that was issued in 2019 for unauthorized mowing and brush removal. The property owners did appear at a TCC meeting with plans to replant but follow up was delayed due to COVID. Gaffney shared photos of the area of discussion. Representing the property owners, Thor Akerley, Williams & Sparages, stated that the area has been growing well, naturally, and proposed that conservation posts with markers be installed and the vegetation be left to grow in naturally. The required posts and markers would be installed this spring.

Luther moved to issue an amended Enforcement Order 2019-07: 49 Salem Road and 130 Boston Street. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

Documents:

- Enforcement Order 2019-07, 49 Salem Road and 130 Boston Street, dated October 9, 2019
- EO Response Letter from Williams & Sparages, dated January 27, 2021

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

Gaffney reviewed background information for the amended enforcement order for 76 Campmeeting Road. A Notice of Intent was due on January 29, 2021 and was not submitted, therefore, the

Amended EO is out of compliance. After discussion, the TCC directed Gaffney to ask the property owner to attend the TCC meeting on February 24, 2021 to discuss the project.

Documents:

- Amended Enforcement Order 2020-07, 76 Campmeeting Road, dated September 28, 2020
- E-mail communication with Jim Laveridere re: 76 Campmeeting Road, most recent date October 27, 2020

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• **Violation: 150R Washington Street** (Map 39, Lot 70)

Gaffney provided information on a violation at 150R Washington Street. A structure and patio, visible from the street, were constructed in the Buffer Zone without permits. She noted that the work also violates the standard continuing condition in the prior Order issued for septic system which is “Additional Alteration Prohibited: There shall be no additional alterations of areas under TCC jurisdiction without the required review and permit(s).”

Luther moved to issue an Enforcement Order for violations at 150R Washington Street. Betts seconded the motion and it was approved by roll call vote:

Betts – yes; DiCarlo – yes; Luther – yes; Shamroth – yes

ADMINISTRATOR’S REPORT:

Gaffney provided an update on the search for a new Conservation Commission member and upcoming vacation time.

ADJOURNMENT

At 8:39 pm, Luther moved to adjourn. Betts seconded the motion and it was approved by roll call vote:

Betts - yes; DiCarlo – yes; Luther – yes; Shamroth – yes

The next meeting will be held on February 24, 2021 at 7:00 pm, by Videoconference.

Respectfully submitted,

*Theresa Coffey*_____

Theresa Coffey

Recording Secretary

Minutes approved at the TCC meeting on March 10, 2021

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.