

***Topsfield Conservation Commission
Minutes of Meeting May 12, 2021***
By Video/audio conference

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

Other Attendees:

Thor Akerley, Williams & Sparages
Chip Nysten, Esq.
Alex Weisheit, Esq., KP Law
David Cowell, Hancock Associates
Devon Morse, Hancock Associates
Larry Haug, 14 Central Street

Chuck Johnson, C.G. Engineering, Inc.
Bob and Kathy Moriarty, 141 Washington Street

Dodds Shamroth, Chairperson, called the meeting to order, by video/audio conference, at 7:00 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 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.

Shamroth announced the applicant requested a continuance to May 26, 2021.

Luther moved to continue the hearing for TCC 2019-01: 371 Boston Street to May 26, 2021 at the request of the applicant. Betts seconded the amended motion and it was approved by roll call vote:

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

Continuance NOI 307-0809: 15 Evergreen Lane (Map 50, Lot 035) Vocino/Williams & Sparages – install in-ground pool and paver patio

DiCarlo recused herself from the Hearing due to her firm’s business relationship with the applicant.

Representing the applicant, Thor Akerley, Williams & Sparages, provided an overview of the proposal to install an in-ground swimming pool and paver patio. He reviewed the jurisdictional areas at this single-family home in the Hickory Beech subdivision noting that a portion of the proposed work is located within the 100-foot buffer zone to the intermittent stream but out of the buffer zone of the BVW.

Akerley discussed the concerns raised by the TCC at the May 12, 2021 hearing on this application. To improve the drainage and attenuation of storm water runoff into the buffer zone, plantings will be installed including five highbush blueberries and six silky dogwoods. Also, a dewatering area has been added outside of the buffer zone area.

A discussion was held on the Hickory Beech subdivision condition that does not permit work in the Buffer Zone as well as the Bylaw regulation that does not permit work in the buffer zone for lots developed after May 2000. Alex Weisheit, Esq. of KP Law, reviewed mechanisms for the TCC to consider to permit the project. He explained that the applicant must overcome the presumption of significance of the buffer zone of the intermittent stream, and assuming they haven’t overcome the presumption of significance, determine if the applicant is entitled to a waiver of the no-disturb set back requirement. There are four criteria in the regulation in order to grant the waiver.

Akerley acknowledged that criteria for the waiver is not met. Discussion continued on the project’s effect on the intermittent stream. Akerley explained how they are attenuating runoff, the intermittent stream is upslope from the existing lawn area and noted that single family homes are exempt from Mass. DEP stormwater requirements.

Luther moved that the applicant has overcome the presumption of significance of the buffer zone to the interest of the intermittent stream resource area.

Chip Nylen, Esq., counsel for the applicant said he agreed with Akerley that they have overcome the presumption of significance and felt that Akerley has presented evidence to this. He also noted that work in the buffer zone was previously allowed on this lot.

Betts seconded the motion on the floor and it was approved by roll call vote of 3 in favor and 1 recused, as follows:

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

Luther moved to close the hearing for NOI 307-0809: 15 Evergreen Lane. Betts seconded the motion and it was approved by roll call vote of 3 in favor and 1 recused, as follows:

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

Luther moved to permit the project subject to the standard and usual conditions as imposed. Betts seconded the motion and it was approved by roll call vote of 3 in favor and 1 recused, as follows:

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

Documents:

- Complete Notice of Intent Application with required attachments dated March 3, 2021
- Plan titled “Plan to Accompany Notice of Intent – 15 Evergreen Lane, Topsfield MA”, prepared by Williams & Sparages, dated February 24, 2021 and revised April 19, 2021
- Photos

NOI 307-0810: 14 Central Street (Map 41, Lot 040) Haug/Hancock Associates – proposed addition to single family home

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

Representing the applicant, David Cowell of Hancock Associates, reviewed the proposal to construct an addition to a single-family home and to remove two old barn structures. Gaffney commented that she agrees with the flags but the delineation is off property so cannot confirm the flags.

Cowell reviewed the plan and pointed to the resource areas to School Brook and the BVW off property. The work proposed within 200’ riverfront area includes the removal of the barns and a corner of the new addition. There is no work proposed in the 100-foot buffer zone. The existing septic is proposed to be replaced. There will be no change to the existing leach field. The area of the barns will be loamed and seeded.

Gaffney displayed an aerial photo of the property and questioned the infiltration as required under the Bylaw, and if the tree in the backyard will remain. Devon Morse, Hancock Associates could not confirm the plan for infiltration.

The property owner, Larry Haug, said he wants to retain the tree in the backyard but it will depend on the septic system replacement. Gaffney suggested that the tree removal be requested in the application, in case it is needed, to avoid having to apply for an amendment to an Order of Conditions. Cowell requested that tree removal be added to the application as a contingency. They will replace any trees that are removed.

There were no public comments.

Luther moved to close the hearing for NOI 307-0810: 14 Central Street. Betts seconded the amended motion and it was approved by roll call vote:

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

Luther moved to permit the project subject to the requirement that appropriate storm water infiltration will be provided for the new addition and that in the event that the tree has to be removed, a suitable native replacement will be planted. Betts seconded the amended 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 April 27, 2021
- Plan titled “Permit Site Plan, 14 Central Street, Topsfield MA 01983”, sheets 1 and 2, prepared by Hancock Associates, dated April 27, 2021
- Photo

NOI 307- : 141 Washington Street (Map 30, Lot 034) Moriarty/C.G. Johnson Engineering, Inc.- on-site wastewater treatment & dispersal system upgrade

Shamroth announced the hearing, Luther read the legal notice and Gaffney confirmed that proof of abutter notice was received. A DEP number had not yet been issued.

Representing the applicants, Chuck Johnson of C.G. Johnson Engineering Inc., presented the plan for a septic system upgrade. Johnson reviewed the resource areas as noted on the plan. The existing septic tank and leaching pits are behind the house. Deep soil tests and percolation tests were performed. A discussion was held on the trees that will need to come down where bottomless sand filter is placed and within 10 feet of the filter.

Johnson described the placement and technology of the new septic system. No grades will be changed. Johnson noted that a Title 5 inspection was not done on the system but the system is being replaced to be proactive before it fails.

Property owner Bob Moriarty requested a waiver to the Tree Removal Policy, also submitted in writing. After discussion, it was agreed that the tree policy was not applicable to this project because the site of the new system necessitated the removal of the trees. The property owner agreed to plant shrubs as a form of mitigation, on a voluntary basis.

DiCarlo moved to waive strict compliance to the Tree Removal Policy under the circumstance where there has been mitigation and an overall reduction in the number of trees being removed to accommodate the system, and an agreement by the property owner to plant shrubs at a location of his / her choosing on the site. Luther seconded the motion and it was approved by roll call vote:

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

Luther moved to continue the Hearing for NOI 307-XXX: 141 Washington Street to May 26, 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 April 27, 2021
- Plan titled "Proposed On-Site Wastewater Treatment and Dispersal System Update for Residence Located at 141 Washington Street Topsfield MA", prepared by C.G. Johnson Engineering, Inc., dated April 27, 2021
- Letter from R. Moriarty re: Tree Removal Policy Request

REQUESTS:

N/A

MEETING MINUTES:

No action.

OTHER / ADMINISTRATOR'S REPORT:

Gaffney provided an update on the search for a new commissioner,

ADJOURNMENT

At 8:21 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 May 26, 2021 at 7:00 pm, by Videoconference.

Respectfully submitted,

Theresa Coffey

Theresa Coffey
Recording Secretary

Minutes approved at the TCC meeting on 5/26/2021

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.