

***Topsfield Conservation Commission  
Minutes of Meeting November 3, 2021  
By Video/audio conference***

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

**Other Attendees:**

David Cowell, Hancock Associates  
Elizabeth Wallis, Hayes Engineering, Inc.  
John Riley, 2 Pemberton Road

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 Chapter 20 of the Acts of 2021, this meeting/public hearing will be conducted via remote means. Members of the public who wish to access the meeting may do so in the following manner: Zoom Meeting – see connection information below to join the meeting by Zoom videoconference or calling in by phone. Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Topsfield Town Website, at <https://www.topsfield-ma.gov/>. You may also reach out to Conservation at [Conservation@topsfield-ma.gov](mailto:Conservation@topsfield-ma.gov) or 978-887-1510 for information/assistance. No in-person attendance of members of the public will be permitted, and public participation in any public hearing conducted during this meeting shall be by remote means only. 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 and ZOOM; is there anyone else present who wishes to record the meeting? No response.

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**

**NOI 307- : 71 Howlett Street** (Map 33, Lot 019) Djordjic/Hancock Associates – after-the-fact construction of guest house and related activities and ecological restoration within 100’ Buffer Zone

Representing the applicant, David Cowell of Hancock Associates provided an update on the ecological restoration plan required by an Enforcement Order issued for constructing a guest house within 100’ Buffer zone. Cowell reviewed the outstanding after-the-fact permits and said he is following up with DEP for the outstanding project number. Cowell displayed and reviewed aspects of the restoration plan

of treatment and removal of invasive species by mechanical and hand removal and the re-planting plan with native species.

Cowell requested a continuance to December 15, 2021.

*Luther moved to continue the Hearing for NOI 307- : 71 Howlett Street to December 15, 2021 at the request of the applicant. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Notice of Intent Application with required attachments dated May 12, 2021
- Plan titled “As-Built Plan of Land in Topsfield MA” for 71 Howlett Street prepared by Hancock Associates, dated April 27, 2021
- Plan titled “Wetland Buffer Zone Enhancement Plan” prepared by Hancock Associates, dated October 25, 2021

**Continuation NOI 307-0817: 124 Haverhill Road Pye Brook Park** (Map 05, Lot 002), Ipswich River Watershed Association – remove weir upstream of concrete culvert at Hovey Road (access road to Pye Brook Park)

Shamroth announced that the applicant requested to withdraw the NOI application without prejudice. Gaffney explained that the project will not move forward at this time.

*Luther moved to accept the withdrawal of NOI 307-0817: 124 Haverhill Road Pye Brook Park without prejudice. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Notice of Intent Application with required attachments, dated June 23, 2021
- Aerial Photos
- Division of Fisheries & Wildlife Letter dated August 6, 2021
- Request to withdraw email dated 11/2/2021.
- Photos

**Request for COC Bylaw File #2006-01: 72 Hill Street** (Map 69, Lot 016) Malinowski/Hayes Engineering, Inc. – request for Certificate of Compliance

This agenda item was taken out of order to in order complete the Certificate of Compliance before a NOI Hearing on the same property.

Representing the applicant, Elizabeth Wallis of Hayes Engineering, presented the request for a Certificate of Compliance for an Order issued on January 4, 2007, followed by amendments in 2009 and 2010. The Order covered house and driveway construction with associated septic system and relocation of intermittent stream and associated grading. Wallis reviewed the changes and discrepancies from the approved plan as are detailed in the COC application. Gaffney confirmed that the as-built plan has been submitted and that the site is stable, the conservation markers were installed, and the project was completed in substantial compliance with the Order of Conditions.

*Luther moved to accept the as-built plan titled “As Built Topographic Plan 72 Hill Street Map 69 Lot 16 Topsfield MA” dated September 30, 2021 as shown to be in substantially in compliance with the Order of Conditions, as amended twice. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

- Complete Certificate of Compliance application with required attachments
- Plan titled “As Built Topographic Plan 72 Hill Street Map 69 Lot 16 Topsfield MA” prepared by Hayes Engineering, Inc., dated September 30, 2021
- Photos

**NOI 2021-01 (Bylaw only): 72 Hill Street** (Map 69, Lot 016), Malinowski/Hayes Engineering – installation of in-ground pool, hot tub, fire pit and patio

Representing the applicant, Elizabeth Wallis of Hayes Engineering presented the proposed improvements to the site including a swimming pool with surrounding paver patio, pool house, enclosed outdoor shower, concrete pad for a hot tub and a fire pit. The plan was updated to note the relocation the concrete pad to move it away from the trench and intermittent stream. A discussion was held on the location of the septic system and tank. Gaffney commented that the septic design engineer submitted a letter that the location was okay. She discussed concerns raised by Health Agent related to the septic system. Luther discussed concerns he had about drainage on the site with the additional proposed impervious area and historical drainage issues due to the fragipan layer.

Wallis requested a continuance to November 17, 2021 to be able to respond to drainage concerns.

*Luther moved to continue the Hearing for NOI 2021-01 (Bylaw only): 72 Hill Street at the request of applicant to November 3, 2021. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Notice of Intent Application with required attachments, dated August 27, 2021
- Plan titled “Plan of Land in Topsfield MA #72 Hill Street”, prepared by Hayes Engineering, Inc., dated August 27, 2021, revised September 30, 2021
- Photos
- NOI Supplemental Information prepared by Hayes Engineering, Inc., dated October 5, 2021

**Request for COC 307-0469: 2 Pemberton Road (Map 49, Lot 005) John Riley – request for Certificate of Compliance**

This agenda item was taken out of order to in order complete the Certificate of Compliance before a NOI Hearing on the same property.

Gaffney displayed the submitted as-built plan and confirmed that the site is stabilized and completed according to what was approved.

*Luther moved to issue a Certificate of Compliance for 307-0469: 2 Pemberton Road as the work was completed in substantial compliance with the Order of Conditions. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Request for Certificate of Compliance application with required attachments dated October 4, 2021

**NOI 307- : 2 Pemberton Road (Map 07, Lot 063) Riley – build 1-car garage**

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

The applicant, John Riley, discussed the plan for a proposed one car garage in the outer portion of the Riverfront Area, Cleveland Brook is across the street. Gaffney displayed the plan and noted the resource areas and that roof runoff infiltration is proposed as required and a portion of the proposed garage is over the existing driveway.

The applicant requested a continuance because a DEP number had not yet been issued.

*Luther moved to continue the Hearing for -NOI 307- : 2 Pemberton Road to November 17, 2021 at the request of the applicant. DiCarlo seconded the motion and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Notice of Intent Application with required attachments dated October 12, 2021
- Photos
- Plot Plan for 2 Pemberton Road
- Elevation Renderings of Proposed Garage October 2021

**REQUESTS:**

**Request for COC 307-0791: 32 Fox Run Road** (Map 39, Lot 102) Collins/H.L. Graham & Associates  
- request for Certificate of Compliance

Shamroth announced the request to continue the hearing for COC 307-0791 because the conservation markers were not yet installed.

*Luther moved to continue the Hearing for COC 307-0791: 32 Fox Run Road to November 17, 2021 at the request of the applicant. DiCarlo seconded the motion and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

**Documents:**

- Complete Request for Certificate of Compliance Application with required attachments, dated September 27, 2021
- Plan titled: “Record Plan of Subsurface Sewage Disposal System Repair prepared for James R. Collins 32 Fox Run Road Topsfield MA” prepared by Graham Associates, Inc., dated August 30, 2021
- Photos

**MEETING MINUTES:**

No action.

**OTHER:**

**2022 Meeting Dates and Filing Deadlines schedule** – This item was tabled to November 17, 2021 for further discussion.

**ADMINISTRATOR REPORT / OTHER BUSINESS**

Gaffney shared photos of DeRosa Environmental Consulting restoration projects.

Gaffney discussed an issue at 109 Salem Road with sediment coming out of the construction area and going into Wheel Brook.

**ADJOURNMENT**

*At 8:10 pm, Luther moved to adjourn. DiCarlo seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Luther – yes; Muka – yes; Shamroth – yes*

The next meeting will be held on November 17, 2021 at 7:00 pm, by Videoconference.

Respectfully submitted,

Theresa Coffey

Theresa Coffey

Recording Secretary

*Minutes approved at the TCC meeting on 12/15/2021*

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.