

***Topsfield Conservation Commission
Minutes of Meeting June 22, 2022
By Video/audio conference***

Present: Dodds Shamroth – Chair, Jennifer DiCarlo – Vice Chair, Holger Luther and Heidi Gaffney – Administrator

Other Attendees:

Tony Capachietti, Dan Lawlor, Frankie Lawlor, Nancy Luther, John Morin PE

Chairperson Dodds Shamroth called the meeting to order, by video/audio conference, at 7:02 pm 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 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

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.

John Morin PE from the Morin-Cameron Group, Inc. representing Maureen and Randy Sabino informed the Commission that on June 22, 2022 he submitted the final ANR Plan to the Conservation Commission and fully engineered Septic Design Plan to the Board of Health. These constitute the “other required permits” to complete the requirements for approval following the submission of the Site Redevelopment Plan on October 14, 2021. Mr. Morin informed the Commission that the ANR Plan does not change the work in the Buffer Zone and requested the Waiver. Chair Shamroth asked if there was further Commission or public comment. There was none.

Luther made a motion to grant the Waiver based on the following findings:

- *There are no alternatives that would allow a project to proceed in compliance with the regulations. **It is not possible to further develop this property resulting in the need for parking and stormwater management without altering more than 400 sf of the buffer zone.***
- *Mitigation measures are proposed that will allow the project to be conditioned so as to contribute to the interests identified in the Bylaw. **Stormwater mitigation measures are proposed that comply with State and local regulations to ensure that the proposed project will not have any adverse impacts to the resource area or the neighborhood. The proposed stormwater system will treat runoff where there is currently no treatment.***
- *Where alteration of a Wetland, Bank, Land Under Water of Body of Water is proposed, replication is proposed in accordance with the State regulations and Section R:1-22 of the Topsfield regulations. **The proposed work alters buffer zone only.***
- *The waiver is necessary to accommodate an overriding public interest, or that it is necessary to avoid an order that so restricts the use of the property as to constitute an unconstitutional taking without compensation. **The mixed use development proposed on this site is the result of a zoning district change created a few years ago for this area by the Town of Topsfield to promote this type of use in Town. This property, along with other properties owned by the Sabinos in this area, combine to provide one of the only properties in this district that has enough land area to support a mixed use development and still meet the nitrogen loading limitations for the sanitary disposal system. We feel this meets the public interest component. The total buffer zone on this property is approximately 20,480 sf; approximately 18,060 sf buffer zone is existing maintained lawn and occupied by an existing structure. To only allow the alteration of 400 sf of this buffer zone is existing maintained lawn and occupied by an existing structure. To only allow the alteration of 400 sf of this buffer zone would constitute an unconditional taking without compensation.***

DiCarlo noted that the finding related to the phrase, “To only allow the alternation of 400 sf of this buffer zone would constitute an unconditional taking without compensation” was not necessary.

Luther amended the motion to remove that phrase. DiCarlo seconded the amended motion and it was approved by a roll call vote:

Luther – yes; DiCarlo – yes; Shamroth – yes

Luther made a motion to close the public hearing. DiCarlo seconded the motion and it was approved by a roll call vote:

Luther – yes; DiCarlo – yes; Shamroth – yes

Luther made a motion to permit the project based on the plan dated October 14, 2021. DiCarlo seconded the motion and it was approved by a roll call vote:

Luther – yes; Di Carlo – yes; Shamroth – yes

Documents:

371 Boston Street Site Redevelopment Plans dated October 14, 2021.

371 Boston Street ANR Plan dated June 21, 2022

371 Boston Street Form A Application of Endorsement of Plan Believed Not To Require Approval

371 Boston Street Aggregate Septic System Plan

NOI 307- 0829: 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

Luther made a motion to continue NOI 307-9829: 71 Howlett Street to the August 10, 2022 meeting based on the request from Hancock Associates. DiCarlo seconded the motion and it was approved by a roll call vote:

Luther – yes; DiCarlo – yes; Shamroth – yes

No Documents

REQUESTS:

Request for COC #307-0821: 129 Washington Street (Map 31, Lot 017) Riley – request for certificate of compliance

Ms. Gaffney informed the Commission that the septic system replacement has been built in compliance with the Order of Conditions. The site is stabilized and erosion controls have been removed. Upon inspection on June 22, 2022, Ms. Gaffney noticed that two Conservation posts/markers have been pulled out and left on the ground. For this reason, the site cannot be considered in compliance and a CoC cannot be issued at this time. Ms. Gaffney has reached out to the closing attorneys, the previous owners of the property and the current owners to rectify the issue.

Luther moved to continue the CoC request #307-0821: 129 Washington Street (Map 31, Lot 017) to the July 6, 2022 Meeting. DiCarlo seconded the motion, and it was approved by roll call vote:

Luther – yes; DiCarlo – yes; Shamroth – yes

Documents:

- CoC Request #307-0820 2 Pemberton Road

MEETING MINUTES:

6/8/22 Meeting Minutes were tabled.

OTHER BUSINESS / ADMINISTRATOR'S REPORT:
Enforcement Order Update: 2022-01: 9 Millbrook Lane (Map 31, Lot 014) – *unauthorized activities*

Ms. Gaffney gave an update on the status of this enforcement order: delineation has been done and a restoration plan has been submitted. The Commission still needs a report identifying the number of trees removed to ensure that the restoration plan is one-to-one. The Commission discussed removal of a post and rail fence and determined it to be a separate issue that may be handled with a TCCAP. The Conservation Agent will issue an amended enforcement order once the number of trees removed has been confirmed. Chair Shamroth asked if there was further Commission or public comment. There was none.

Documents:

- Photographs of 9 Millbrook Lane

Enforcement Order Update: 2022-02: 56 Boston Street (Map 69, Lot 001) – *unauthorized activities*

Ms. Gaffney gave an update on the status of this enforcement order: a consultant has been hired and surveyor has visited the property. This has been extended to June 29, 2022.

Enforcement Order Update: 2022-03: 242 Ipswich Road (Map 21, Lot 005) – *unauthorized activities*

Ms. Gaffney gave an update on the status of this enforcement order: a consultant has been hired and this has been extended to June 29, 2022.

Enforcement Order Update: 2022-04: 25 John's Lane (Map 76, Lot 004) and 2022-05 21 John's Lane (Map 68, Lot 041) – *unauthorized activities*

Ms. Gaffney gave an update on the status of this enforcement order: a wetland scientist is involved, a survey has been done, and all resource areas have been flagged. Ms. Gaffney showed aerial photographs to show before and after extensive tree clearing and an area with fill. Request to extend to June 15, 2022. Mr. Lawton is the new owner of the property and informed the Commission that he is willing to work with Ms. Gaffney to ensure restoration and compliance with the Enforcement Order. Ms. Gaffney clarified that Mr. Lawton did not perform the unauthorized activities. It was determined that the fill will be removed immediately and a silt fence will be installed. Tony Capachietti from Hayes Engineering added that he is working on a restoration plan that will include stabilization of the area to address potential runoff. It was determined that there will be an Amended Enforcement Order related to

the removal of the fill. The Commission thanked Mr. Lawton for his efforts to address the issues. There will be an update at the July 6, 2022 meeting. Chair Shamroth asked if there was further Commission or public comment. There was none.

Luther made a motion to amend the Enforcement Order for 21 Johns Lane and 25 Johns Lane to prioritize the stabilization of soil and the removal of fill as discussed immediately. DiCarlo seconded the motion and it was approved by a roll call vote:

Luther – yes; DiCarlo – yes; Shamroth - yes

- Documents:
- Aerial and location photographs of 21 Johns Lane and 25 Johns Lane

HOOD POND BEACH

Ms. Gaffney and Chair Shamroth attended the delivery of sand to the Hood Pond Beach on June 22, 2022. Mike DeRosa of DeRosa Environmental was in attendance as the Environmental Monitor. Ms. Gaffney reported that the project was conducted in compliance with the Order of Conditions.

Documents: photos of beach sand in place

POND STREET CULVERT

Ms. Gaffney has been checking on the progress of the Pond Street culvert daily. Ms. Gaffney showed photos of the project and reported that it has been completed. Chair Shamroth also visited the site. The site is scheduled to be loamed, seeded and guardrails installed by Monday, June 27, 2022.

Documents: photos of culvert

THANK YOU TO HOLGER LUTHER

Chair Shamroth announced that the June 22, 2022 was the last meeting before Holger Luther completed his tenure on the Conservation Commission. Ms. Shamroth expressed gratitude to Mr. Luther for over twenty years of service on the Commission as well as his service to the Town in other roles including Select Board, Planning Board, Zoning Board of Appeals and Board of Health. The entire Commission expressed thanks and best wishes to Mr. Luther.

ADJOURNMENT

At 7:56 pm, Luther moved to adjourn. DiCarlo seconded the motion, and it was approved by roll call vote:

Luther – yes; DiCarlo – yes; Shamroth – yes

The next meeting will be held on July 6, 2022, at 7:00 pm, by Videoconference.

Respectfully submitted,

Susan Winslow

Susan Winslow

Recording Secretary

Minutes approved at the TCC meeting on 9/14/2022

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.