

***Topsfield Conservation Commission  
Minutes of Meeting August 10, 2022  
By Video/audio conference***

**Present:** Dodds Shamroth – Chair, Jennifer DiCarlo – Vice-Chair, Andrew Mulholland-Member, Molly Shea - Member and Heidi Gaffney – Administrator

**Other Attendees:**

Max Flaherty, Russell Garrity, Robert Grasso PE, Kristan Farr, Jen Hutt, Elizabeth Wallace

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](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.”

**ANNOUNCEMENT**

Chair Shamroth welcomed new members Andrew Mulholland and Molly Shea to the Commission and thanked them for their volunteer service to the Town.

**HEARINGS**

**Continuation 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. *Request to continue to the September 14, 2022 Meeting.*

*DiCarlo moved to grant the request to extend the hearing for NOI #307-0829 for 71 Howlett Street (Map 33, Lot 019) to the September 14, 2022 Meeting. Mulholland seconded the motion and it was approved by roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea- yes*

**NOI (Bylaw only) TCC 2022-03: 152 Haverhill Road (Map 05, Lot 009) Shaker-Walden Property Solutions LLC/Engineering Land Services LLC – repair septic system**

Ms. Gaffney read the Legal Notice into the record to open the public hearing. Ms. Gaffney informed the Commission that the septic system replacement filing is under the Bylaw only. The Resource Area is a Bylaw Intermittent Stream which is from drainage off of Rt 97. Robert Grasso from Engineering Land Services addressed the Commission to describe the system: a 2 bedroom dwelling with a septic system being repaired to comply with Title 5. Mr. Grasso showed the system plan dated June 17, 2022 with a proposal to pump and crush the existing system to be replaced by a gravity fed system, 1500 gallon tank and Presby System. There will be no grade changes to the site. Erosion controls are proposed and the septic system has been approved by the Board of Health. Chair Shamroth asked if there were any questions from the Commission or the public. There were none.

*DiCarlo moved to close the public hearing. Mulholland seconded the motion and it was approved by a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

*DiCarlo moved to issue an Order of Conditions for Notice of Intent TCC 2022-03 related to 152 Haverhill Road (Map 05, Lot 009) as shown in the plan dated June 17, 2022 as discussed at this meeting under the Topsfield General Wetlands Bylaw only with our usual and special conditions. Mulholland seconded the motion and it was approved in a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

**Documents:**

- Septic Design Plan for 152 Haverhill Road (Map 05, Lot 009) dated June 17, 2022

**RDA 2022-07: 28 Parsonage Lane (Map 32, Lot 078) Sharma/DeRosa Environmental Consulting, Inc. – request to remove 5 trees**

Mulholland read the legal notice to open the public hearing. Ms. Gaffney informed the Commission that no representative from DeRosa was available for this meeting so she presented the photograph of the five pine trees and their location. Ms. Gaffney presented a letter from an arborist commenting that the trees are compromised. Ms. Gaffney referred to the plan for the residence with notation on the location of the trees the homeowner is seeking to remove. Ms. Gaffney expressed that this request still constitutes work in a buffer zone, however, with the replanting required under the tree removal policy and the stumps left in place and the normal conditions required by the Commission, Ms. Gaffney

believes the Negative Determination would be appropriate. Chair Shamroth asked if anyone from the Commission or the public had any questions. There were no questions.

*DiCarlo moved to close the hearing on this matter. Shea seconded the motion which was approved in a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

*DiCarlo made a motion to issue a Negative Determination of Applicability for the removal of the five pine trees under the Act and the Bylaw with the usual and special conditions and also including the replacement as specified. Seconded by Shea and approved in a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

#### Documents:

- Application for RDA 2022-07: 28 Parsonage Lane (Map 32, Lot 078) Sharma/DeRosa Environmental Consulting, Inc. – request to remove 5 trees.
- Photograph of 28 Parsonage Lane (Map 32, Lot 078) trees.

## **REQUESTS**

### **Request for a Certificate of Compliance #307-0445: 19A Averill Street (Map 25, Lot 072) Stark/Hayes Engineering**

Elizabeth Wallace, Wetlands Scientist from Hayes Engineering, represented the homeowner for this request for a Certificate of Compliance. Ms. Wallace presented the request is related an Order of Conditions that was issued in 2007 regarding a waterline installation under the Bylaw. Ms. Wallace presented a plan that showed the waterline was originally supposed to follow the driveway, but in 2007 it was reconfigured to another location near 19 and 19A Averill Street and an Amended OOC issued. It is presumed that the waterline was installed in the area indicated by the easement on the plan. 19A does have water, so the waterline is in place. Ms. Wallace indicated that the Conservation markers are in place and the area is vegetated with lawn and shrubs, and the site is stabilized. Ms. Gaffney showed a recent photo from a site visit that confirmed placement of the posts. Ms. Gaffney also checked with the Water Department and there are no known issues. DiCarlo expressed concern that the plan should not be considered as an As Built plan because the word ‘proposed’ is on the plan. Ms. Gaffney said that it can be considered an As Built Plan because the Water Department has accepted it as such and former Conservation Administrator Lana Spillman’s notes indicated that she was involved with the project. It cannot be stamped as an As Built plan by an Engineer because the Engineer didn’t physically see the installation of the waterline, although there is no doubt that it exists in the area of the easement. DiCarlo indicated that the Certificate of Compliance should note that the waterline is somewhere in the area indicated by the easement on the plan, but the exact location of the water line is unknown. DiCarlo also noted that the plan misspelled the street name which should be spelled Averill not Averhill. Ms. Gaffney pointed out that the map and lot numbers are correct on the plan, but the misspelling of the street will be noted. Chair Shamroth asked if there were any questions or comments from the Commission or the public. There were none.

*DiCarlo moved to issue a Certificate of Compliance for DEP #307-0445 for 19A Averill Street (Map 25, Lot 072) with the continuing conditions as specified in the Order and with the additional notation that the exact location of the water line as installed has not been determined but is in the general vicinity of the easement on the plan and also with the notation on the plan that Averill Street is misspelled on the plan. Seconded by Mulholland and approved in a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

Documents: Plan showing the water line easement area at 19A Averill Street and Complete Request for Certificate of Compliance.

**Request for a Certificate of Compliance #307-0196: 14 Fuller Farms Road (Map 31, Lot 036)**  
Jamison/Hancock Associates

Kristen Farr, Project Wetland Scientist for Hancock Associates presented that this is a request to close out an old project from 1993. Ms. Gaffney showed the plan indicating that the house was constructed within Buffer Zone in Topsfield and there is an inground pool which is in Boxford. At the time the Order was written, there weren't any requirements for posts and the site has been vegetated and stable for many years. The request is to close out and issue a Certificate of Compliance. Ms. Gaffney added that the applicant is the original homeowner from 1993 and Ms. Gaffney has confirmed that there are no outstanding issues on the Boxford side. Chair Shamroth asked if there were any questions from the Commission. Ms. Shea, Ms. Farr and Ms. Gaffney discussed the original Order and confirmed that the order although quite basic and from many years ago was for the construction of the house, driveway and appurtenances. Chair Shamroth asked if there were any further questions from the Commission or the public. There were none.

*DiCarlo moved to issue a Certificate of Compliance for DEP # 307-1096 regarding 14 Fuller Farms Road (Map 31, Lot 036) subject to the conditions outlined in the Order. Mulholland seconded and the motion was approved in a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

Documents:

- Complete Request for a Certificate of Compliance and Plan Attachment to Certificate of Compliance dated 7/7/2022 – Hancock Associates

**Request for a Certificate of Compliance #307-0811: 76 Campmeeting Road (Map 20, Lot 039)**  
Laverdiere/DeRosa Environmental Consulting, Inc.

Ms. Gaffney informed the Commission that DeRosa Environmental was not able to attend this meeting. Ms. Gaffney read a letter from Mr. DeRosa informing the Commission that he had met with Ms. Gaffney at the site and the plantings are doing well. The dense vegetation of the buffer strip is filtering the runoff as designed before it enters Howlett Brook. The walkway was completed as per the plan with no

disturbance and Conservation markers are installed. Because of these reasons, Mr. DeRosa requests that the Commission issue a Certificate of Compliance. Ms. Gaffney met with Mr. DeRosa at the site and showed photos of the site to Commission members. This started as an Enforcement Order due to unauthorized removal of a shed and pumphouse near the Howlett Brook dam. An after-the-fact NOI application was submitted for this work as well as to rebuild the wooden walkway over the dam. Photos of the restoration were shown. The Order of Conditions required two growing seasons of monitoring. The homeowner would like to close out the project for a home sale even though the project has not reached the full two growing seasons outlined in the Order of Conditions. Restoration was completed by DeRosa. DiCarlo asked if it was possible to tack onto the CoC a request for photos and a report at the end of the two year monitoring period to ensure carryover compliance with a new homeowner. Ms. Gaffney responded that the continuing conditions and order of conditions require the lasting integrity of vegetation and the Conservation markers must be in place in perpetuity. DiCarlo expressed concern that the full monitoring period should be over the two growing seasons as required and she is concerned about circumventing that process. Mulholland supported the concerns voiced by DiCarlo and the possibility of setting a precedent. Chair Shamroth asked if there were further questions from the Commission or the public. There were none. The Commission determined that the two year period must be maintained.

*DiCarlo moved to issue a Certificate of Compliance for DEP 307-0811: 76 Campmeeting Road (Map 20, Lot 039) subject to the continuing conditions specified in the Order. Seconded by Mulholland and disapproved by a roll call vote:*

*DiCarlo – no; Mulholland- no; Shamroth – no; Shea – no*

**Documents:**

- Request for Certificate of Compliance #307-0811 for 76 Campmeeting Road (Map 20, Lot 039)

**Request for a Certificate of Compliance #307-0650: 34 Towne Lane (Map 33, Lot 060) Hutt/Hayes Engineering, Inc.**

Elizabeth Wallace from Hayes Engineering representing homeowner Jenn Hutt asked the Commission to issue a Certificate of Compliance for a 2009 replacement of a septic system. The As Built plan from 2009 was displayed and location of Conservation markers was confirmed. Photos were shown to confirm that lawn is in place. This is requested due to the possible sale of the home. Ms. Gaffney confirmed that the Board of Health issued a septic Certificate of Compliance which differs from the Conservation Certificate of Compliance. Ms. Gaffney conducted a site walk and agrees with the assessment from Ms. Wallace. Chair Shamroth asked if there were comments or questions from the Commission or the public. There were none.

*DiCarlo moved to approve the issuance of a Certificate of Compliance for DEP #307-0650 for 34 Towne Lane (Map 33, Lot 060) with the continuing conditions as specified in the Order. Seconded by Shea and approved by a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

## Documents:

- Order of Conditions #307-0650 for 34 Towne Lane (Map 33, Lot 060)
- Request for Certificate of Compliance for #307-0650 for 34 Towne Lane (Map 33, Lot 060)

**RDNI 2022-08:** 16 Aaron Drive (Map 12, Lot 007) Tallaksen - request to build deck and install sonotubes

Ms. Gaffney showed an aerial indicating house location and wetland area. The 18' x 16' deck extends into the 200 foot outer Riverfront area, thus requiring an RDNI under the Bylaw. It is exempt under the Act. Chair Shamroth asked if the Commission or the public had any questions. There were none.

*DiCarlo moved to issue a Determination of Negligible Impact for RDNI 2022-08 for 16 Aaron Drive (Map 12, Lot 007) for the deck as proposed. Seconded by Mulholland and approved in a roll call vote: DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

## Documents:

- Application for RDNI 2022-08 16 Aaron Drive (Map 12, Lot 007)
- Aerial Photograph of 16 Aaron Drive

**RDNI 2022-09** 58 Central Street (Map 41, Lot 113) Donaldson – request to remove 3 Hemlock Trees.

Ms. Gaffney showed a photo of the trees in question and informed the Commission that this is before the Commission because the trees in question are in Riverfront area. Chair Shamroth asked if the Commission or the public had any questions. Mulholland asked if there is a list of native trees that are part of a requirement for replanting. Ms. Gaffney answered that the type of tree is not dictated by the Commission, but it must be a native species with the exception of Dogwood trees which are also allowed. After determining that there were no more questions, Chair Shamroth called for a motion.

*DiCarlo moved to issue a Determination of Negligible Impact for the removal of three trees per the tree removal policy for RDNI 2022-08 for 58 Central Street (Map 41, Lot 113). Seconded by Shea and approved in a roll call vote.*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea – yes*

## Documents:

- Application for RDNI 2022-09 58 Central Street (Map 41, Lot 113)
- Photos of 3 Hemlock trees at 58 Central Street

**MEETING MINUTES:**

6/8/22, 6/22/22, 7/6/22 Meeting Minutes are tabled.

**OTHER BUSINESS / ADMINISTRATOR'S REPORT:****Minor Modification Request to RDA: 17 Bare Hill Road (Map 17, Lot 038)**

Ms. Gaffney informed the Commission that the homeowner received a Negative Determination of Applicability for various activities. The dug pond from the 1970s is identified as a potential vernal pool. The homeowner wants to change a portion of the project and build a different patio in a different area. The new proposed patio will consist of a smaller patio, steps and a small retaining wall but will be closer to the pond area on existing lawn. Homeowner Mr. Garrity explained the process that he went through to submit the initial RDA application and further discussion revealed that the process and regulations may have been misunderstood. The proposed deck also was constructed different than shown on the plan. The change in the deck is fairly minor and would be permissible but she had concerns about the request to move the patio as a minor modification as the work is now proposed closer to the Resource Area. The proposed patio is smaller than the patio originally permitted, but it is closer to the pond. Ms. Gaffney clarified that minor changes may be considered administratively, but the scope of the change before the Commission due to the location of the proposed patio is large enough to require Commission consideration. DiCarlo expressed concern that this is not a minor consideration and could be considered a separate filing. Mulholland agreed. Shea agreed with DiCarlo and Mulholland. DiCarlo suggested that the applicant could get a modification to the RDA for the deck shape change which is further from the Resource Area and that the proposed covered patio and steps were not and will not be constructed. The homeowner could then apply for an RDNI for the patio he wishes to build closer to the pond, noting that historically there was a deck and steps in that area. Shea confirmed that the planting mitigation will still be in effect for the RDA. Chair Shamroth asked if there were questions from the Commission or the public. The homeowner asked for clarification on the Commission's decision. DiCarlo reiterated that the RDA modification would include the change in configuration of the deck and the decision not to build the covered patio. She suggested the applicant come back to the Commission with the RDA modification request at the next meeting and also submit a separate RDNI application for the construction of the new patio. Mr. Garrity will do so.

*No vote taken on this item which will be reviewed at the September 14, 2022 meeting.*

**Documents:**

- Plan Attachment to DOA 2021-08; 17 Bare Hill Road
- Aerial photo of proposed patio and pond area

**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. An initial plan has been received showing the areas of disturbance but it was just a draft form so it has not been sent out to Commission members. The site visit was cancelled due to extreme heat and will be rescheduled. Ms. Gaffney will meet with them the week of August 15, 2022 in preparation for a restoration plan to be submitted.

Chair Shamroth asked if there were further questions or comments from the Commission or the public. There were none.

*DiCarlo made a motion to grant an extension in connection with Enforcement Order 2022-02 for 56 Boston Street (Map 69, Lot 001) to make a status update or present a restoration plan at the September 14, 2022 Meeting. Seconded by Mulholland and it was approved by a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

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

Bill Manuell from Wetlands & Land Management, representing homeowner Max Flaherty, presented a site plan to the Commission showing Areas 1, 2, 3 and 4. Based on comments from the Commission, Mr. Manuell said he has made changes to the plan. Area 4 has been added which will be a restored isolated wetland to be discussed at a future meeting. DiCarlo questioned whether Mr. Manuell is fully restoring area 2. Mr. Flaherty informed the Commission that the grassy area around the rock beyond the tennis court was a dumping area before the year 2000. Around that same time, landscapers removed the dumped material and it became lawn between the tennis court and island of trees. Ms. Gaffney referred to TCC Meeting Minutes from 2001 in which an agreement was made not to mow beyond 8 feet beyond the tennis court. Mr. Flaherty wanted to know if that was followed by a site visit to ensure compliance. This is not clear. Ms. Gaffney informed the Commission that she will investigate the file further. Mulholland expressed concern that there would be enough replanting of trees to ensure that erosion will not take place. Mr. Manuell informed the Commission that Area 1 will be restored with nursery stock to replace the Candlestick Pines that were removed from Area 2. Mr. Flaherty added that there is a Dogwood and a Beech in Area 1 that have thrived since the removal of the pines. Ms. Gaffney expressed concern that the removal of 18 pine trees would normally have required a letter from an arborist as part of an application to the commission and that replacement planting is almost always in the same location, even if the replanting is with more some tree and some shrub type replantings as a compromise. DiCarlo suggested the compromise might be replanting trees in the ‘hockey stick’ grass area beyond tennis court. Both Shamroth and Mulholland agreed that some tree restoration must take place in Area 2. Mr. Flaherty asked if planting in 50 trees and 40 bushes in Area 1 would be more pleasing to the Commission. DiCarlo expressed concern about what will replace the crushed stone that was brought in. Ms. Gaffney said that a large amount of appropriate soil to nurture wetland plantings will be required to replace the gravel once it is removed after the tennis court restoration, and the area will be required to return to its original grade. Mr. Manuell informed the Commission that a wetland seed mix will be used as well. This will stabilize the soil and allow nature to take its course in subsequent growing seasons. Deadlines will be discussed at the next meeting. Chair Shamroth asked if there was further Commission or public comment. There was none.

*DiCarlo moved to extend the Enforcement Order 2022-03 242 Ipswich Road (Map 21, Lot 005) to September 14, 2022 to provide an update and/or updated restoration plan. Amended to add that the homeowner must provide the updated restoration plan in time for the September 14, 2022 meeting. Shea seconded, and it was approved by roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

**Documents:**

- land and aerial photographs of 242 Ipswich Road
- existing conditions survey for 242 Ipswich Road
- restoration plan for 242 Ipswich Road



**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 the enforcement order: this was a large and complex violation. The property changed hands during the violation. Ray Lawton, the new owner who did not create the violations, has hired a new engineer and a wetland scientist to address the violations. The amended enforcement order was based on the request to remove a large amount of fill and to install the erosion control. Ms. Gaffney suggested that the Commission extend the enforcement order to the September 14, 2022 meeting because Mr. Lawton has hired a new engineer and wetland scientist and is moving forward to address the violations, but starting over. Chair Shamroth asked if there were further comments or questions from the Commission or public. There were none.

*DiCarlo moved for Enforcement Order 2022-04 for 25 Johns Lane (Map 76, Lot 004) and Enforcement Order 2022-05 for 21 John's Lane (Map 68, Lot 041) that the property owner or their representative submit to the Commission an update and/or a restoration plan in time for the next meeting on September 14, 2022. and to place this on the September 14, 2022 Agenda. Mulholland seconded the motion and it was approved by a roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

**DROUGHT**

The drought is at critical level and is ongoing. DEP gives periodical updates.

**SPOTTED LANTERN FLY**

Request to be on the lookout for the Spotted Lantern Fly.

**MS4**

An Engineering Firm will help the town with compliance. Ms. Gaffney is assisting with this. The Town's Stormwater Regulations must be revised. The Planning Board will be working on this.

**MASTER PLAN COMMITTEE**

The Town's Master Plan is scheduled to be redone. A consultant has been hired but there has been a request for a volunteer from the Conservation Commission to join the Master Plan Committee. This will require attendance at one meeting a month for sixteen months, starting in November.

**68 RIVER ROAD**

Clean Soils is working on the clean-up at the site. The oil tanks have been pumped and removed. The propane tanks have been removed. Ms. Gaffney has issued an Emergency Certification to Clean Soils for the staging and access within Riverfront Area. The asbestos removal will commence once MA DEP has approved the Asbestos Abatement plan. Once the asbestos has been removed, the process will be started to determine if any heating oil that leaked from the tanks into basement water has gone into the soil.

**ADJOURNMENT**

*At 9:31 pm, DiCarlo moved to adjourn. Shea seconded the motion, and it was approved by roll call vote:*

*DiCarlo – yes; Mulholland – yes; Shamroth – yes; Shea - yes*

The next meeting will be held on September 14, 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.