

***Topsfield Conservation Commission***  
***Minutes of Meeting September 28, 2022***  
 By Video/audio conference

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

**Other Attendees:**

Bill Manuell, Wetlands and Land Management, Inc.  
 Max Flaherty, 242 Ipswich Road  
 Michael DeRosa, DeRosa Environmental Consulting  
 Jay Pierce, 9 Garden Street  
 Elza Leo, 145 Salem Street  
 Ann Marton, LEC Environmental Consultants  
 Alan Taubert, Exec Director of Salem/Beverly Water Supply Board

Shamroth called the meeting to order, by video/audio conference, at 7:03 pm with a quorum present. She made the following announcements:

Pursuant to Chapter 22 of the Acts of 2022, 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 on the agenda to join the meeting by Zoom videoconference or to call 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 [Topsfield-ma.gov/](http://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 Topsfield Cable TV and ZOOM; is there anyone else present who wishes to record the meeting?

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 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.

- Previously continued to October 12, 2022, no action needed

**NOI 307-0830: 242 Ipswich Road** (Map 21, Lot 005) Flaherty/Wetlands and Land Management Inc. – repair tennis court, install cabana, remove concrete water garden, brick walk repair, repair pond deck, relocate fence.

Mulholland read the legal notice and Gaffney confirmed that abutter receipts have been received.

Bill Manuell, representative for the applicant, shared the site plan, discussed the recent Enforcement Order action stating that the required restoration work will begin soon and then discussed the work proposed under the submitted Notice of Intent. Manuell stated that the tennis court needs to be leveled off and resurfaced, and perimeter walls repaired next to the landscaped pond. They will restore the fieldstone wall and clean its cinderblock base. Manuell described the other aspects of the proposed work including the removal of the existing dry concrete pond water feature, installation of a cabana, repair of the existing brick walkway and deck as well as the related work. Upon completion, the gravel driveway will be removed and the isolated wetland area will be reestablished. Gaffney and the TCC asked to have dimensions added to the plan. Also, a dewatering detail should be required on the plan in anticipation of dewatering being necessary for the removal of the old concrete pond. TCC stated no machinery is allowed while accessing entry into the pond area during resetting the stone walls, that work will need to be done by hand. The TCC requested environmental oversight during that portion of the work. TCC noted the required as-built plan should incorporate restored areas and underground utilities leading to the tennis cabana as well dimensions for the existing wood deck and tennis cabana. Manuell state that the tennis cabana is the only structure that will require building permit. A stockade fence will be used at the edge of the tennis court. TCC was concerned with wildlife passage with the stockade fence. A 6-inch space from ground to stockade will exist to allow for wildlife passage. A split rail fence will run along back of tennis court. TCC wants to see specific notation of areas of fence line and restoration planting. Flaherty intends to complete work before November 2023 and pull out the temporary road after that date. He noted the equipment to remove the crushed stone, is the same machine that does the next step on the tennis court. Flaherty asked if they could level the tennis court and pull-out stone at same time. Gaffney stated that this will not be possible as the work under the NOI cannot begin until the requirements of any resulting Order of Conditions are completed. Manuell requested to continue this discussion to the next meeting on October 12, 2022.

- *DiCarlo made a motion to continue the hearing on NOI 307-0830: 242 Ipswich Road (Map 21, Lot 005) to the Oct 12, 2022 meeting. Shea seconded the motion and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shea – yes Shamroth – yes*

Documents: Notice of Intent Plan prepared by LeBlanc Survey Associates, Inc. dated 9/6/2022

Notice of Intent Application by Wetlands & Land Management, Inc. dated 9/12/2022

Notice of Public Hearing in the Salem News by Sue Winslow dated 9/19/2022

Amended Enforcement Order issued by TCC dated 9/28/2022

### **Request to Amend Order of Conditions #307-0819, 145 Salem Road (Map 77, Lot 002) Leo/Wetlands and Land Management, Inc.**

Gaffney confirmed the abutter notifications have been received and Mulholland read the legal notice. Gaffney showed the original site plan. Leo presented the Amendment Request. Leo explained the pump chamber from the barn was moved to the other side of the driveway. They would like to add hot top where the pump chamber was originally proposed, reconfiguring a portion of the driveway to make it straight. They will remove material from an existing area (shown on the plan) and will add that material where the pump tank was proposed. The engineer noted 220 sq ft of additional impervious area is required for the change. The propane tank has been installed, but only one tank was installed instead of the two originally proposed. Gaffney noted this particular site has a large amount of riverfront area, they are well under the 10% threshold. The engineer has stated that the proposed infiltration can handle the addition to this area.

- *Mulholland made a motion to close the hearing. Shea seconded that motion, and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shea – yes Shamroth – yes*
- *DiCarlo made a motion to issue an Amended Order of Conditions for DEP File #307-0819 for the changes as shown on the plan with a revision date of 9/9/22 showing reallocation of the paved area*

*and a reduction of propane tanks from two to one. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents: Amended Site Plan submitted by Griffin Engineering Group, LLC dated 9/9/22  
Revised Plan and Request to Amend the order of Conditions by Wetlands & Land Management, Inc. dated 9/12/2022  
Notice of Public Hearing TCC in the Salem News dated 9/19/2022  
Abutters List dated July 27, 2022

### **REQUESTS:**

**RDNI 2022-12: 15 Brookside Road** (Map 26, Lot 055) King – Request is to remove 4 trees in Riverfront Area and/or Buffer Zone

The applicants have had an arborist evaluate the trees and included the arborists write up. Replacement plantings will be required for the 3 live trees, per the Tree Removal Policy. Gaffney shared photos of the trees, as well as a sketched plan of the area. The trees are in bad shape and have a lot of dead branches. Also, the arborist noted that one additional tree next to grass line, has begun to rot due to a broken section in the upper trunk, giving the strong possibility of it falling and causing damage to the nearby deck and house. Request to remove five trees instead of four, including that particular tree in danger of falling onto the deck. Gaffney specified no stump grinding allowed for the tree located within the woods. TCC stated the replacement of four trees and an additional fifth tree or shrub will be required.

- *DiCarlo made a motion to issue a Determination of Negligible Impact for the removal of the 4/5 trees as requested, with the required replacement plantings. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents: Request for Determination of Negligible Impact by Bill and Shannon King dated Sept 26, 2022  
Proposal for Tree Service by Steve Salisbury dated September 29, 2022

### **MEETING MINUTES:**

- **September 14, 2022** – no action, review in progress

### **OTHER:**

- **Enforcement Orders** – update/status of compliance, report review and/or restoration plan review:
  - **Enforcement Order 2022-02: 56 Boston Street** (Map 69, Lot 001) – *restoration plan*  
DeRosa reviewed the restoration plan stating it has been carefully written and reviewed. The property owner (Salem Beverly Water Supply Board) must be copied on all submitted progress & monitoring reports.  
Gaffney stated the complex restoration is due to the construction of a temporary haul road resulting in the placement of stone and soil fill within wetland resource area and buffer zone. A gravel road was installed and historic stones were pulled out of stone walls at the rear of the property. Gaffney, DeRosa and Marton have walked the site multiple times and incorporated changes to restore the site. DeRosa is seeking approval to move forward with the submitted restoration plan. DeRosa showed the site plan, indicating the delineated boundary of the wetland resource areas, as well as disturbance within the buffer zone. Flagged areas of disturbance were shown on a google earth image. Most of the activity was located within the wetlands and buffer zones. The entire area of the access road will be restored. Gravel and riprap will be removed and the area will be hay mulched and seeded. In a cleared area, a seed mix that includes shrub species will be

planted, restoring the area back to its original condition. Timeline for project includes replacing harvested boulders within the stone walls and restoring the road to its original condition. Monitoring by a qualified environmental professional will be required for the next 5 years. This oversight includes an after-care maintenance plan, monitoring the new growth within that time. Proposed timelines include implementing the restoration plan by Nov 1, 2022, based on weather and submittal of a construction completion report on 12/15. Annual reports will follow as detailed in the restoration plan. Discussion ensued regarding the nature of the violation and responsible parties. Gaffney confirmed that the property owner did not cause the violation and that the violation was reported by the property owner, Salem/Beverly Water Supply Board. Responsible parties were identified and issued Enforcement Orders, one of the responsible parties hired DeRosa Environmental Consulting to prepare the restoration plan. Ann Marton, the environmental representative for the Salem/Beverly Water Supply Board, reviewed the restoration and will assist with ensuring the restoration is completed in accordance with the plan. TCC questioned why this area was disturbed in the first place and Gaffney noted the environmental police are involved as well. Alan Taubert, Executive Director of Salem/Beverly Water Supply Board, noted that signs have been ordered to mark various areas and property boundaries. The Salem/Beverly Water Supply Board will be closely monitoring their properties. Gaffney noted the Restoration Plan will have a final revision date of September 28, 2022.

- *Di Carlo made a motion to issue an Amended Enforcement Order for Enforcement Order 2022-02: 56 Boston Street (Map 69, Lot 001) implementing the Restoration Plan dated September 28, 2022 as written, but subject to the amendments that were discussed during this meeting.---Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents: Restoration Plan, Response to Enforcement Order No. 2022-02 Issued by the Topsfield Conservation Commission, prepared by DeRosa Environmental Consulting dated Sept 17, 2022, with revisions as discussed and with a final revision date of September 28, 2022.

- **Amended Enforcement Order 2022-03: 242 Ipswich Road (Map 21, Lot 005) – ratify**  
Gaffney noted the amended enforcement order included what the TCC required at the last meeting for the restoration plan, which indicated the markers to be used and the mitigation planting schedule. The planting schedule and split rail fence installation for areas 1 & 2 is to be completed by Nov 15, 2022 and areas 3 & 4 are to be completed by Nov. 15, 2023. Monitoring and oversight specifications are written into the plan. The restored area will require demarcation by posts and signs or the split rail fence as discussed.

- *DiCarlo made a motion to ratify the Amended Enforcement Order 2022-03: 242 Ipswich Road (Map 21, Lot 005) as written —Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents: Amended Enforcement Order 2022-03: 242 Ipswich Road (Map 21, Lot 005)

- **Amended Enforcement Order 2022-04: 25 & 20R John's Lane (Map 76, Lot 004)**
- **Enforcement Order 2022-05: 21 John's Lane (Map 68, Lot 041)**

An update will be provided on the status and progress to date for both John's Lane EO's.

Mike DeRosa acknowledged the property owner has retained DeRosa and Morin-Cameron Group for engineering services. They have delineated the boundary of the wetland resource area, the Morin-Cameron Group will locate the flags and put them on a plan. DeRosa is awaiting a plan to work from to develop a restoration plan. Gaffney noted the bulk of the fill material has been removed from the one area as required. A meeting on site will occur shortly to review plans for the area.

- *Shea made a motion to grant an extension for compliance for Enforcement Order 2022-05: 21 John's Lane (Map 68, Lot 041) requiring the restoration plan or an appropriate update to be provided for the October 12, 2022 meeting. Mulholland seconded the motion, and it was approved by a roll call vote.*  
DiCarlo – yes    Mulholland – yes    Shea – yes    Shamroth – yes

- **Enforcement Order 2022-06: 37 River Road (Map 48, Lot 13) – ratify**
  - *To be tabled.*

### **ADMINISTRATOR'S REPORT / OTHER BUSIENSS**

#### • **Updates**

- Topsfield Fair – Gaffney noted the site walk is tomorrow at 3:30 for those who can make it.
  - Pre-fair/pre-activity letter received today, Sept 28, fairgrounds look in better shape than last year, drier season.

Document: Pre-Activity Letter by Greg Hochmuth dated September 26, 2022

### **ADJOURNMENT**

*DiCarlo made a motion to adjourn the meeting at 8:50pm, Mulholland seconded the motion, and it was approved by a roll call vote.*

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

The next meeting will be held on October 12, 2022 at 7:00pm, by Videoconference.

Respectfully submitted,

*Chris Lahiff*

Chris Lahiff

Recording Secretary

*Minutes approved at the TCC meeting on 1/18/2023*

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.