

Topsfield Conservation Commission
Minutes of Meeting September 13, 2023
By Video/audio conference

PRESENT: Dodds Shamroth – Chair, Jennifer DiCarlo –Vice-Chair, Andrew Mulholland – Member, Jane Wheeler – Member, Heidi Gaffney – Administrator

ATTENDEES:

Kelly Radochia
John Morin, The Morin-Cameron Group, Inc.
John Costanza
Jim Scanlan, Scanlan Engineering
Dan Powers, The Morin-Cameron Group, Inc.
Bill Manuell, Wetlands & Land Management, Inc.
Nathan Billings
Ray Lawton, 21 John's Lane
Michael DeRosa, DeRosa Environmental Consulting
John Speridakos
Greg McCarthy, 42 East Street
Dick Gandt

7:01 pm **OPEN MEETING:**

Dodds Shamroth – Chair, called the meeting to order, by video/audio conference at 7:01 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 <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 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 RDA 2023-02: 37 River Road (Map 48, Lot 013), Mscisz/DeRosa Environmental Consulting, Inc. – culvert installation and maintenance, installation of retaining wall, maintenance of stream channel, expansion of fields.

Mike DeRosa, DeRosa Environmental Consulting, Inc. shared and reviewed the new USDA Farm Plan with the TCC. The new USDA Farm Plan has been submitted along with a letter from the consultant and includes several items. Gaffney reviewed the original EO which identified 5 activities including the dredging of stream which may be exempt if conditions outlined in the exemption are followed, however it cannot be deepened or widened and the conditions of the exemption were not followed. Gaffney noted several discrepancies in the submitted plans and information and also noted that the proposed culverts included in the farm plan were not part of the enforcement order, however the EO required an RDA to be submitted for all work proposed or already undertaken which the applicant believes is exempt under the WPA agricultural exemption. Gaffney explained the two proposed new culverts are not exempt. She suggests TCC finds a positive determination regarding the new crossings. The pond near the proposed culvert A is identified as a potential vernal pool. Jane Wheeler, member, was recused from ongoing discussion as the agenda item has been ongoing prior to her becoming a TCC member. DiCarlo clarified the new culverts are for crossing to access the hay field and keeping water flowing. Gaffney noted that bylaws are prohibited from further regulating agricultural activity that is truly exempt. Shamroth expressed concern about the fill outside of the barn areas as well as the turn around. DeRosa noted the barn and the mitigation areas on the plan, noting the lush plantings in that specific area. DeRosa asked for culvert clarification to see if there was additional input. He would like to complete all the culverts under the exemption. DeRosa requested a continuance. Gaffney would like to request a site walk with the consultant before the October 11th meeting, DiCarlo is agreeable to a continuance and asked the consultant for a bulleted list to vote on.

- *Mulholland made a motion to continue RDA 2023-02: 37 River Road (Map 48, Lot 013) to October 11, 2023, at the applicant's request. DiCarlo seconded the motion, and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - recused*

Continuation NOI 307-0836: 39 Pemberton Road (Map 49, Lot 018) Costanza/Wetlands & Land Management, Inc. – dwelling addition and septic upgrade

Bill Manuell shared the site plan, noting the addition onto the existing home, the existing home was built in 1951. Manuell reviewed that the owner is proposing to add a garage addition with a room above as well as installing a replacement septic system stating that this area is largely a riverfront redevelopment project. The addition is almost entirely over the existing paved driveway. A swale will be constructed w/ a crushed stone wick to allow water to percolate into the ground away from the new leaching field. This gives a place for the new roof run-off to channel to. A revised plan has been submitted showing the compensatory flood storage and infiltration for the roof area. Proper erosion control has been installed. The septic system has been proposed as far from resource areas as possible and an alternative design has been proposed to reduce impacts. The proposed garage footprint is almost entirely within the existing paved driveway area and is no closer to resource areas than existing degraded pavement area and is slightly further away. The foundation will be a slab and will not have a sump pump. The proposed work appears to meet the performance standards of 10.58(5) {redevelopment within Riverfront} and proposes to improve existing conditions by infiltrating clean roof runoff and removing and restoring existing pavement and concrete.

Gaffney suggests that when the existing concrete shed pad is removed, it is replaced with native shrubs. Mulholland noted the infiltration looked good.

- *Mulholland made a motion to close the hearing for NOI 307-0836, 39 Pemberton Road (Map 49, Lot 018). DiCarlo seconded the motion and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - recused*
- *Mulholland made a motion to issue an Order of Conditions for NOI 307-0836, 39 Pemberton Road, under the Act and the Bylaw, as shown on the revised plan dated 8/7/2023, as discussed and with the usual and*

special conditions as well as mitigation planting in the area where concrete pad will be removed.

DiCarlo seconded the motion and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – recused

Documents:

NOI dated June 2023 by Wetlands & Land Management, Inc.

Revised Plan & Flow Profile dated 8/7/2023 by Scanlan Engineering, LLC.

Site photos

NOI 307-0840: 28 Parsonage Lane (Map 32, Lot 078), Sharma/DeRosa Environmental – after-the-fact approval of expansion of lawn; and proposed construction of deck expansion, patio, fire pit, walkway, shed, boulder wall, fence, footbridge and grading.

Mulholland read the legal notice. Gaffney confirmed the abutter receipts have been received. DeRosa, the consultant presented the NOI. He shared site photos noting the DEP # and discussed the proposed work. DeRosa explained they are in the process of monitoring the 2-year growing season for the plantings that were installed under the Enforcement Order, everything is growing according to plan. This NOI is for addition work and the TCC may want to do a site walk. Consultant reviewed the proposed work including the patio, walkway and mitigation. TCC suggested the consultant submit a bullet list outlining the major project items. Gaffney clarified the NOI includes a retaining wall, shed, and fire pit as well. Gaffney noted that after-the-fact approval of the expansion of lawn to within 7' of the wetland is also being requested. This expansion of lawn occurred within previously wooded Buffer Zone and is the subject of EO 2020-06. The proposed footbridge would be partially on land owned by Mass Electric. Mulholland suggested a site visit to review project.

- *Mulholland made a motion to continue NOI 307-0840: 28 Parsonage Lane (Map 32, Lot 078), to October 11, 2023, at the applicant's request. DiCarlo seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

“Proposed Plan #28 Parsonage Lane, Topsfield, MA”, by Donohoe Survey, Inc., dated August 23, 2023

NOI dated 8/30/2023 by DeRosa Environmental Consulting, Inc. including all attachments

Request to Return to Compliance dated 6/14/2023 by DeRosa Environmental Consulting, Inc.

Approved Restoration Plan dated 11/24/2020 by DeRosa Environmental Consulting, Inc.

Site Photos

NOI 307-0841: 42 Parsonage Lane (Map 24, Lot 035), Moran/DeRosa Environmental –

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

DeRosa, the consultant presented the NOI inclusive of the site plan with new areas, and review of the increases in impervious area and proposed mitigation. Compensatory flood storage is proposed as this proposed work is partially within Bordering Land Subject to Flooding. DeRosa outlined the proposed project: driveway expansion, construction of garage, patio, spa, cabana, walkways and retaining wall, grading, remove 11 trees, and mitigation & restoration planting. Trees are in danger of falling during storms. They are also proposing planting 20 new trees as well as various shrubs. Gaffney noted removal of 11 trees is cited in the NOI, however there are 12 trees within the Buffer Zone shown on the tree removal plan and noted in the arborist email. An email report from the arborist is included in the NOI, however a more thorough tree evaluation could be requested. Tree #12 on the arborist report states, “no defects observed”. She noted significant tree removal has been proposed. Gaffney asked for clarification in how compensatory flood storage would be accomplished. DeRosa discussed and Dan Powers, Morin Cameron group reviewed the proposed compensatory flood storage. DeRosa explained the driveway runoff will be going into an infiltration trench. Gaffney noted the significant increase of impervious area. TCC asked how infiltration would occur? Powers stated infiltration trenches will be about a foot deep, and 2 feet wide to improve infiltration. Gaffney will set up a site walk with DeRosa and TCC prior to next TCC meeting.

- *Mulholland made a motion to continue NOI 307-0841: 42 Parsonage Lane (Map 24, Lot 035), to October 11, 2023, at the applicant's request. DiCarlo seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

Complete NOI dated 8/30/2023 by DeRosa Environmental, Inc., with attachments and plans
Site photos

REQUESTS:

Request for Certificate of Compliance: #307-0790, 42 East Street (Map 13, Lot 12) McCarthy/HL Graham Associates

Gaffney showed a plan and aerial images reviewing current site conditions showing that 6 mature trees were cut and removed within the inner Riverfront Area and Buffer Zone without authorization from the TCC. The owner had an arborist look at the old white pine trees, which had severe rot. Gaffney noted they require replacement plantings. It appears that several stumps were removed as well. This OOC was for a 3-season porch, deck, patio and firepit. Gaffney explained the work as completed is a bit different than proposed. TCC discussed that the above-ground pool shown on the as-built plan was not part of the original OOC and has not been approved. Gaffney explained above ground pools are typically filed for as an RDA. Gaffney discussed the options available to address the COC request and unauthorized work. Mulholland noted the deviations on the deck are acceptable. Greg McCarthy, property owner explained the pool was temporary, up for only 3 months in the summer and then disassembled and stored inside. TCC agreed a temporary pool should not be shown on the as-built plan. McCarthy requested a continuance to submit a revised as-built plan.

- *Mulholland made a motion to continue the request for the CoC#307-0790 42 East Street (Map 13, Lot 12) to the Oct 11, 2023, meeting at the applicant's request. DiCarlo seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - yes
- *DiCarlo made a motion to issue an Enforcement Order for the unauthorized removal of the 6 trees at 42 East Street (Map 13, Lot 12) mandating replacement trees to be planted no later than October 31, 2023. Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

As Built Plan dated 8/16/2023 by Graham Associates, Inc.
COC Request dated 8/16/2023 by Graham Associates, Inc.
Revised Permit Plan dated 8/13/2020 by Graham Associates, Inc.
Aerial and Site photos

Mulholland made a motion to recess until 9:15. DiCarlo seconded the motion, and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

DiCarlo made a motion to reconvene the TCC meeting at 9:19. Mulholland seconded the motion, and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Request for Certificate of Compliance: #307-0784, 276 Rowley Bridge Rd (Map 83, Lot 004) North Shore Heritage Associates, Inc/The Morin-Cameron Group, Inc.

Representative for the applicant, John Morin of The Morin-Cameron Group, discussed the Request for a Certificate of Compliance. Morin requested to close out this old order of conditions as no work was started and a new order has been issued for future work.

- *Mulholland made a motion to issue a Certificate of Compliance for #307-0784, for 276 Rowley Bridge Road, citing that no work was ever started. DiCarlo seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

Request for Certificate of Compliance dated 8/28/2023 by The Morin-Cameron Group, Inc.

RDNI 2023-08: 17 North Street (Map 18, Lot 061) Radochia – tree removal

Gaffney showed photos of the property, and reviewed the RDNI and arborist letter, indicating a request is to remove 6 dead ash trees.

- *Mulholland made a motion to issue a Determination of Negligible Impact for RDNI 2023-08 17 North Street (Map 18, Lot 061). Wheeler seconded the motion, and it was approved by a roll call vote.*

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - yes

MEETING MINUTES:

- **July 12, 2023** - tabled
- **August 9, 2023** - tabled

OTHER:

- **Discussion: Soil Testing Application, 21 Johns Lane** (Map 68, Lot 041)
 - Gaffney noted that a soil testing application has been submitted, however the soil testing has not been signed off at this point due to an unconfirmed wetland delineation. DeRosa noted the area in question has been impacted by trees cut, a mini excavator will dig test pits for septic and the test pits will be covered up the same day. Morin explained all the trees are cleared already and access to the site would be simple. He explained erosion control could be put between the isolated wetlands and soil testing areas. Gaffney asked if TCC is comfortable approving the soil testing at this time. After discussion, the TCC decided to allow the soil testing to proceed. TCC directed Gaffney to sign off on the soil testing with the understanding she will visit and monitor the area during the active testing. No vote was needed.
- **Enforcement Orders** – update/status of compliance, report review and/or restoration plan review:
 - **Enforcement Order 2022-06: 37 River Road** (Map 48, Lot 013)
 - Gaffney states this is tabled until RDA is solved.
 - **2nd Amended Enforcement Order 2022-04: 25 & 20R John's Lane** (Map 76, Lot 004) – discuss/ratify
 - **Amended Enforcement Order 2022-05: 21 John's Lane** (Map 68, Lot 041)
 - These will both need to be discussed and then voted to ratify them - either as issued or as amended if any modifications come during discussion.
 - DeRosa explained delineation was looked at during a site walk with Gaffney. DeRosa noted that Mr. Lawton purchased property with the intent to restore the site of the recent violation. The prior owner to Lawton cut down approximately 6 acres of canopy portions of which are within

Buffer Zone. DeRosa is currently waiting to have the wetland line reviewed. TCC did vote to accept the initial restoration plan to facilitate and expedite the replanting of a portion of the Buffer Zone. An additional restoration plan will be submitted soon. An ANRAD was required to be filed by 8/30/23, but DeRosa was seeking an extension to file by the end of December. DeRosa showed the 100-foot buffer zone on plan where the restoration area is proposed. DeRosa identified 2 wetland areas, however, they cannot find evidence of drainage from those areas. DeRosa discussed his review of the wetland resource areas within or near the violation. DeRosa is seeking an extension to file the ANRAD until December, and an extension to install the plantings to November 15, 2023. Lawton asked if Gaffney is comfortable with the restoration timeline, Gaffney stated restoration should move forward on the back area of property. TCC discussed a date to file the ANRAD. DeRosa suggested an extension request to submit ANRAD to Oct 25th filing for the Nov. 8, 2023, TCC meeting.

- *DiCarlo made a motion to extend Enforcement Order 2022-04: 25 & 20R John's Lane (Map 76, Lot 004) and 2022-05: 21 John's Lane (Map 68, Lot 041) extending the time to install the plantings along the rear property line Buffer Zone area to be completed by Nov 15, 2023, and further the applicant submit the ANRAD by October 25, 2023, for the Nov 8th TCC meeting. Mulholland seconded the motion, and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes*

Documents:

2nd Amended EO dated 8/16/2023 for 25 & 20R John's Lane submitted by TCC

Amended EO dated 8/16/2023 for 21 John's Lane submitted by TCC

Restoration Plan submitted by DeRosa Environmental

- **Enforcement Order 2023-02: 46 Alderbrook Drive** (Map 68, Lot 015) – discuss/ratify
 - Bill Manuell, consultant for the owner, discussed progress and reviewed the violation which was related to replacement and expansion of an existing paver patio around an inground pool. Paver installation is complete around the pool, however a fence has yet to be installed around the pool. Consultant will file NOI for work around the pool and installation of fence. Manuell will try to meet the filing deadline for the NOI by Sept 27th. Gaffney noted the NOI is anticipated to be submitted after-the-fact for the hardscape to remain and to install a fence.
 - *Mulholland made a motion to ratify Enforcement Order 2023-02: 46 Alderbrook Drive (Map 68, Lot 015) as discussed at the TCC meeting tonight. DiCarlo seconded the motion, and it was approved by a roll call vote. DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes*

Documents:

EO dated 8/11/2023 issued by TCC

Site photos

ADMINISTRATOR'S REPORT:

- Topsfield Fair parking OOC prep. Gaffney will meet onsite to mark parking areas with the consultant.
- Mulholland has an update for the Town of Topsfield master plan, working on existing plans and vision statement over the next 10 years. Strategies will be given out by various boards for their input. Mulholland will send out details to TCC via email.

Mulholland made a motion to adjourn the meeting at 10:32 pm. Mulholland seconded the motion, and it was approved by a roll call vote.

DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - yes

The next meeting will be held on October 11, 2023, at 7:00pm, by Videoconference.

Respectfully submitted,

Chris Lahiff

Chris Lahiff

Recording Secretary

Minutes approved at the TCC meeting on 1/10/2024

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.