

Topsfield Conservation Commission
Minutes of Meeting October 11, 2023
By Video/audio conference

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

ATTENDEES:

Michael DeRosa, DeRosa Environmental Consulting, Inc
Bill Manuell, Wetlands & Land Management, Inc.
Mindy Corsini, 27 Winsor Lane
Michael Cosco, 21 Valley Road
Shilpa Sharma, 28 Parsonage Lane
Brian Moran, 42 Parsonage Lane
John Speridakos, 46 Alderbrook Drive
Jason Lagross, 83 Wenham Road
Thorsen Akerley, Williams & Sparages, LLC.
Gordon Rogerson, Hayes Engineering, Inc.
Matt Cummings

7:04 pm **OPEN MEETING:**

Dodds Shamroth – Chair, 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 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

Michael DeRosa, the applicant's representative, has requested a continuance to November 8, 2023. An emailed request was received stating they are seeking input from DEP regarding the proposed culverts and if they are exempt under the Ag exemption.

- *DiCarlo made a motion to continue RDA 2023-02: 37 River Road (Map 48, Lot 013) to November 8, 2023, at the applicant's request. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents:

RDA dated 1/23/2023 by DeRosa Environmental, Inc.

USDA Conservation Plan dated 8/23/2023 by Margaret Hayes of Hayes Engineering, Inc.

Certificate of Mailing dated 11/25/2023 by DeRosa Environmental Consulting, Inc.

Supplemental Information dated 9/6/2023 by DeRosa Environmental Consulting, Inc.

Continuation 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.

Shamroth confirmed Michael DeRosa and the Commission performed a site walk on 9/27. DeRosa reviewed the NOI and history and asked the TCC to issue an order of conditions at this time.

- Gaffney confirmed the DEP comments have been received and read them aloud: *“The regulations at 10.53 notes that the preservation of natural vegetation along wetlands is important to protect the interests of the WPA. But a solid fence located less than 2' from BVW will likely have an adverse impact on BVW as well as create a barrier to wildlife and limit the Buffer Zone's ability to serve as Wildlife Habitat. Removing the privacy fence and adding evergreen trees and shrubs to the "Vegetated Buffer Strip" would not only provide privacy but would also provide improved wildlife habitat. No information was provided on the proposed bridge shown on the plan. Unable to determine if performance standards are met.”*

Gaffney explained the importance of noting that the lawn expansion is part of the Enforcement Order issued in 2020 (EO 2020-06), and a portion of this NOI essentially requests after-the-fact approval of the lawn expansion. Gaffney cautioned against any permitting of walkway access to the rail trail which is still owned by Mass Electric Company. Of note, there is nearby public access to the rail trail from Oak Street. Site photos of the area were shown. TCC discussed that Mass Electric as property owner would need to weigh in on the footbridge access. DeRosa confirmed Mass Electric were notified as abutters, and there is no existing footbridge. TCC noted their concern with the size of the lawn expansion. Gaffney explained that under the bylaw only minor expansion of lawn has been allowed under limited circumstances. DiCarlo feels the lower lawn should be revegetated, thus restoring the buffer zone. TCC members discussed the lawn and DeRosa stated a revised plan will be submitted.

- *DiCarlo made a motion to continue NOI 307-0840: 28 Parsonage Lane (Map 32, Lot 078), November 8, 2023, at the applicant's request. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents:

Final Compiled NOI dated 8/30/2023 by DeRosa Environmental Consulting, Inc.

Amended Enforcement Order dated 3/16/2020 submitted by Heidi Gaffney

Aerial images and site photos

Continuation NOI 307-0841: 42 Parsonage Lane (Map 24, Lot 035), Moran/DeRosa Environmental – proposed driveway expansion, construction of garage, patio, spa, cabana, walkways and retaining wall, grading, remove 11 trees, and mitigation & restoration planting.

Michael DeRosa confirmed the Commission site walk was done on 9/27. Gaffney and DeRosa also reviewed the wetland line on a separate site walk, however Gaffney does not agree with the line. The soil indicates that fill was added over portions of the original wetlands many years ago, aerials indicate it likely occurred during the time of the previous owner who owned the property from 1979-2018. Hydric soils, presence of hydrogen sulfide gas and wetland plants were observed upslope of the delineated line. A plan from 1994 shows the wetland line significantly higher despite the likelihood of the fill already having been in place at that time. Gaffney discussed the options to review the delineation including third party review. The TCC discussed that third-party review did not seem necessary and Gaffney suggested requesting further soils evaluation upslope of flags A6-A13 to include auger borings and/or shovel pits to support the existing delineation. DeRosa agreed to submit additional soil data. DeRosa noted they have an extensive restoration plan, over 11,000 sq ft of buffer zone restoration. DeRosa is asking TCC for an order of conditions. Gaffney noted a significant increase in impervious area is proposed, the infiltration trench is proposed within an area of high groundwater which will provide very limited infiltration. Brain Moran, property owner, stated he is concerned with the mature pine trees causing potential damage. Gaffney stated that the urgency of tree removal is up to an arborist evaluation and would typically fall under a separate filing such as an RDA. DeRosa will redesign trenches and do the soil testing in the garage area before the next meeting. He asked to continue to November 8, 2023.

- *DiCarlo made a motion to continue NOI 307-0841: 42 Parsonage Lane (Map 24, Lot 035) to November 8, 2023, at the applicant's request. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents:

NOI (final compiled) inclusive of plans, dated 8/30/2023 by DeRosa Environmental Consulting, Inc. and The Morin-Cameron Group, Inc.

Plot plan dated 5/16/1994 by Hancock Survey Assoc., Inc. showing wetland line at that time

Site photos

NOI 307- 0843: 27 Winsor Lane (Map 27, Lot 029), Haber-Corsini/Hayes Engineering – installation of a patio, Soake pool, shed, addition and driveway expansion.

Mulholland read the legal notice / Gaffney confirmed proof of abutter notification.

Gordon Rogerson, Hayes Engineering representing the owner, explained the work was to convert a section of the backyard area into an outdoor kitchen addition, with a proposed pool and patio area. Permeable pavers are proposed for the patio, spec sheets were submitted by the applicant. Gaffney confirmed the proposed work is within the existing disturbed and/or lawn areas. The pool is small at 9' x 12' and a standard condition would require a non-backwash filter. The house was built in 1961. For Riverfront, the redevelopment regulations 10.58(5) apply. The addition to the front of the house is proposed away from the river, and other proposed work is no closer than existing conditions. The shed is being moved slightly further from the resource area. The pervious patio, shed and pool meet the exemption [10.02(2)(b)2.e.] under the Act for Buffer Zone and Riverfront Area and for Riverfront Area under the Bylaw. The driveway expansion/"proposed parking area" was discussed as it requires infiltration for the increase, the applicant and representative stated they are not going to do the driveway expansion. TCC asked if the owner/applicant could resubmit a revised dimensioned plan of the pervious pavement patio. Rogerson confirmed he could get this to Gaffney within a day. DiCarlo asked Hayes Engineering to submit future plans to reflect full dimensions of any proposed structures. Mindy Haber-Corsini noted the specifics of the pool for TCC which is a small Soake pool.

- *DiCarlo made a motion to close the hearing for NOI 27 Winsor Lane (Map 27, Lot 029. Mulholland 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 Order of Conditions for NOI 307-0843, 27 Winsor Lane, as shown on the plan dated 9/20/2023, with the exception of the proposed parking area which the applicant has presented which will not be constructed and will not be part of the Order, subject to the continuing conditions that are pertinent to pools and further subject to the requirement that at the pre-activity meeting the proposed patio would be staked out and further subject to the conditions of the as-built plan provided when the project is completed and the certificate of compliance is requested will reflect the full dimensions of the project and will also have the proposed parking area omitted from it. Mulholland seconded the motion, and it was approved by a roll call vote.
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler - yes*

Documents:

NOI dated September 2023 by Hayes Engineering, Inc.

Site Plan dated 9/20/2023 by Hayes Engineering, Inc.

Paver Technical Information by Pine Hall Brick Co.

Site photos

NOI 307- : 46 Alderbrook Drive (Map 68, Lot 015) Speridakos/Wetlands & Land Management – after-the-fact replacement of pool patio, retaining wall & steps, and proposed installation of a pool fence. Mulholland read the legal notice. Gaffney confirmed abutter receipts have been received. This is for after-the-fact installation of pool decking, retaining wall and steps, as well as proposed pool fence. Bill Manuell, the consultant for the applicant, presented the Notice of Intent for work done in the buffer zone. Manuell noted two enforcements orders are open, one from 2021, and a recent one from 2023 inclusive of new work for the replacement of a patio around the existing pool, new entry steps and a paver walkway out to existing driveway. The previous landscaper dumped debris over embankment which was the subject of an EO this past summer. An Enforcement Order (2023-02) was issued for the violation associated with this work. The fill removal work in this area was completed. Manuell confirmed this area was stabilized and seeded. Last stage of the project would include the installation of the buffer zone plants. Manuell is looking for an OOC to complete the work. Speridakos noted the delay in planting was due to the work being done in the back, last year it was too late in the season for new plantings. He added the new plantings will be completed at the end of October. Manuell clarified the material did not affect the vernal pool, and they will install the front yard vegetation by early November. Gaffney noted the pool fence should be pulled up tighter to the pool area and agrees the new plantings should be installed asap. Gaffney stated infiltration should be provided for the impervious area. There is no DEP File # yet and this will need to continue.

- *Mulholland made a motion to continue the discussion for NOI 46 Alderbrook Drive (Map 68, Lot 015) to November 8, 2023, for a DEP File # and additional information. DiCarlo seconded the motion, and it was approved by a roll call vote.
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes*

Documents:

Proposed Site Plan dated 9/26/2023 by LeBlanc Survey Assoc., Inc.

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

Site photos

NOI 307-0842: 83 Wenham Road (Map 71, Lot 002), Lagross/Williams & Sparages LLC – install in-ground pool, associated hardscapes and landscaping, and removal of compromised trees.

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

Thorsen Akerley of Williams & Sparages, the applicant's consultant, presented the project. He noted it is an existing single family home on 4 + acres lot, showing vegetated wetlands, most of the property is maintained lawn which gives way to buffer zone/wooded area. Scope of project includes a proposed pool, patio area and landscape beds. Pool equipment would be located outside the buffer zone. Difficult access exists from the driveway, due to the septic system location. Therefore, construction access will occur across the lawn to the work site. The applicant is proposing to remove compromised trees. The arborist report for the trees has been provided. Replacement plantings, 2 trees and 6 shrubs are proposed at the edge of the lawn area. The proposed work is more than 50' from the wetland. Tall boulder retaining walls have been proposed to keep the work as far from the wetlands as possible. Gaffney met Akerley at the site and confirmed the wetland line as delineated. Gaffney and Akerley spent considerable time evaluating the soils in the area around the proposed tree removal to determine if it was jurisdictional. The TCC discussed requiring more trees instead of shrubs as replacement plantings given the large tree canopy that will be lost. Jason Lagross, owner, stated he is in favor of more new tree plantings as opposed to shrubs. TCC discussed planting new trees where old ones have been removed in a one-to-one ratio. Gaffney explained infiltration should be provided for the impervious areas that are in or will cause stormwater runoff into the Buffer Zone.

- *DiCarlo made a motion to continue NOI 307-0842: 83 Wenham Road (Map 71, Lot 002), to November 8, 2023, at the applicant's request. Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents:

NOI dated 9/27/2023 by Williams & Sparages, Inc.

Revised Plan of Land dated 10/5/2023 by William & Sparages, Inc.

Arborist Tree Report dated 6/15/2023 by David McDowell, ISA Arborist

At 9:22 DiCarlo made a motion to suspend TCC meeting for 5 minutes. Mulholland seconded the motion and it was approved by roll call vote.

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

At 9:32 DiCarlo made a motion to reconvene TCC meeting. Mulholland seconded the motion, and it was approved by a roll call vote.

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

REQUESTS:

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

Gaffney noted the revised as-built plan has been submitted removing the temporary seasonal pool. Tree removal will be handled under the enforcement order. Construction wise, this COC should be ready to issue.

- *DiCarlo made a motion to issue a Certificate of Compliance for #307-0790, 42 East Street (Map 13, Lot 12). Mulholland seconded the motion, and it was approved by a roll call vote.*

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

Documents:

CoC Request dated 9/16/2023 by Graham Associates, Inc.

Revised As Built Plan dated 9/21/23 by Graham Associates, Inc.

Request for Extension of Order of Conditions #307-0759: 21 Valley Road (Map 64, Lot 044) Cosco – request to extend OoC #307-0759 regarding construction of garage for additional 3 years.

Gaffney explained the applicant requested an additional 3-year extension to the Order of Conditions to allow additional time to build the garage. Health issues have delayed the work. Original expiration date would be 11/22/2023, Covid tolling provides an extended expiration date of 2/26/25, a cleaner and clearer extension would be to grant an extension to 11/22/2026, effectively a 3-year extension from the original expiration date. Gaffney suggests TCC to grant an extension out to November 22, 2026.

- *DiCarlo made a motion to grant an extension for OOC #307-0759, 21 Valley Road, to 11/22/2026. Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

OoC extension request dated 09/25/2023 by Michael Cosco

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

Michael DeRosa explained the work of restoration/mitigation was done under a prior owner. A previous request reviewed the work, and it was just waiting for the 2-year monitoring time to be completed. Photos were shown indicating the well-established stable grasses & shrubs. Gaffney added the restoration area is doing very well and was on site to verify the growth.

- *DiCarlo made a motion to issue a Certificate of Compliance for 307-0811, 76 Campmeeting Road. Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes

Documents:

COC request dated 9/27/2023 with final plant monitoring report by DeRosa Environmental, Inc.

MEETING MINUTES: Gaffney noted all meeting minutes are still being reviewed.

- **July 12, 2023**
- **August 9, 2023**
- **September 13, 2023**

OTHER:

- **Master Planning and Strategy Discussion**
 - Andrew Mulholland presented Master Plan PowerPoint presentation, highlighting conservation committee concerns.
 - Discussion ensued of seven top strategy goals: Protection of open spaces, natural resources, preserving historic spaces, linking town managed trails, etc.
- **2024 Meeting Dates & Filing Deadlines schedule**
 - TCC agreed the meeting and times are fine. 2nd Wednesday of every month
 - *DiCarlo made a motion to accept the TCC meeting dates and filing deadlines for 2024, Mulholland seconded the motion, and it was approved by a roll call vote.*
DiCarlo – yes Mulholland – yes Shamroth – yes Wheeler – yes
- **Enforcement Orders** – update/status of compliance, report review and/or restoration plan review:
 - **Enforcement Order 2022-06: 37 River Road** (Map 48, Lot 013) – **tabled pending outcome of the RDA.**
 - **2nd Amended Enforcement Order 2022-04: 25 & 20R John's Lane** (Map 76, Lot 004) – update

- **Amended Enforcement Order 2022-05: 21 John's Lane** (Map 68, Lot 041) – update
 - Gaffney updated the project, the plants are scheduled and expected to be delivered on the 25-26th of October.
- **Violations** – Violation Reports come in from various sources to Gaffney/TCC. The Commission discussed in general if it's a small report, violator should talk to the Commission before an enforcement order is issued. The first offense is a violation notice. Gaffney discussed a report from the rail trail, which included a mini retaining wall leading from a private property out to the rail trail. Another report included tree cutting near High St, with logs stacked.
- **Professional services contract** – ongoing discussion to have a consultant do follow-up on some of the enforcement matters that have already been decided by TCC. The consultant would work as needed or on call.

ADMINISTRATOR'S REPORT:

- **Updates**
 - Gaffney will be on vacation from 10/23-31.

DiCarlo made a motion to adjourn the meeting at 10:30 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 November 8, 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.