

# ***Topsfield Conservation Commission***

**Meeting of Wednesday, March 24, 2010**

Topsfield Library Meeting Room

Mr. Hall called the meeting to order at 7:08 p.m. with a quorum present: Commissioners George Hall, Chair; Jim MacDougall; Jennie Merrill; Jud Pratt

Not Present: Mark Erickson; Holger Luther

Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary;

Selectman Dick Gandt, Liaison

Abbreviations used:

TCC – Topsfield Conservation Commission

DEP – Department of Environmental Protection

NoI – Notice of Intent

CoC – Certificate of Compliance

ORAD – Order of Resource Area Delineation

BVW – Bordering Vegetated Wetland

BOS – Board of Selectmen

OoC – Order of Conditions

EO – Enforcement Order

ES – Executive Session

Public Information: Agenda

## **OPEN MEETING:**

TCC signed authorizations and time sheets

## **HEARINGS:**

**RDA 2010-03: 16 Wilmor Road** (Map 10, Lot 3), Cloutier

Present: Dan McCraine, Representative/Builder

The project is a small addition to the garage in Riverfront Area of Pye Brook. Ms. Merrill read the legal ad. Proof of abutter notification was submitted.

Ms. Spillman reported that she made a site visit and has no concerns.

*Ms. Merrill made a motion to close the hearing. Mr. MacDougall seconded and the motion carried by unanimous vote.*

*Ms. Merrill made a motion to issue a Negative Determination with Conditions under the Act and the Bylaw. Mr. MacDougall seconded and the motion carried by unanimous vote.*

## **ENFORCEMENT, APPEAL REPORTS, UPDATES:**

**2nd Amended Enforcement Order #4: 215 Washington Street**, (Map 46, Lot 7), Galka – Update

Ms. Spillman reported that she called Ron Stelline (DEP) and left messages; he has not yet returned her calls.

**SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row**, (Map 43, Lot 7), Skeffington – Update

Ms. Spillman reported that she called Gary Bogue (DEP) and left voicemail messages; he has not yet returned her calls.

## **REQUESTS:**

**Continuation CoC 307-0597: 49 Rowley Road** (Map 6, Lot 13), Rabines/Hancock Assoc.

This is a new home construction site. Ms. Spillman reported on her site visit; photos were referenced showing crushed stone placed beside the driveway in an effort to control erosion. Ms. Spillman noted that the water is high due to rain and silt has traveled as far as the large vernal pool on the abutting property; wood frogs can be heard. The soil is unstable.

Mr. MacDougall gave input saying that the driveway needs to be stable to minimize the silt into the vernal pool, he noted as being an important pool with rare species. The site needs to be stabilized immediately as best they can and they need to have a plan for long-term stabilization. Spillman will call John Dick about this. TCC will monitor the pool into the summer. There is a question about whether there is enough sediment in the vernal pool to warrant removal.

*Mr. Pratt made a motion to deny of the CoC at this time due to the site being inadequately stabilized, with reconsideration after the side of the driveway (in Buffer Zone of the Vernal Pool) is stabilized, with no additional fee if the request is made within 90 days. Mr. MacDougall seconded and the motion carried by unanimous vote.*

### **OLD BUSINESS, UPDATES, & MISCELLANEOUS:**

**279 High Street** (Map 71, Lot 26), – Follow-up and discussion (Encroachment onto Conservation Property)

Present: Haskell Crocker

Ms. Spillman reported on her site visit; photos were referenced.

Mr. Crocker told the TCC that he will remove the horse manure pile down to fully compacted dirt, taking it off site with his own light equipment to Brick Ends Farm in Hamilton, and he will level that out and over-seed the site. He will update Spillman.

Regarding the split rail fencing on the Conservation property, Mr. Crocker agreed to remove it when the weather permits. TCC asked to be kept apprised of his intentions and progress. The TCC requested an update from the Administrator at the first meeting in May.

**19 and 19A Pheasant Lane** (Map 6, Lot 23 and Map 11, Lot 2), – Follow-up and discussion

Present: Timothy & Bridgette O'Malley, property owners

There were 2 building permits issued, one for the larger structure, “garage” and a second for an addition, “barn” to the rear of the garage. Current aerial photos indicate that the addition part and clearing extend onto the Town Conservation land. The O'Malleys were sent a letter informing them that it is possible a portion of their garage/barn is on Conservation property. They stated that they built the garage/barn 5 years ago and the Building Inspector had not requested a certified plot plan. They stated that they had a survey done (for bank purpose) in 2001 when they purchased the property, prior to the construction of the barn. They presented the TCC with copies of their Building Permit application, permit, and sketch plan of the building in question. An aerial photo was included. The O'Malleys have gotten an estimate for a partial survey from The Neve-Morin Group, including staking, which they said is close to \$3,000. They explained that the manure pile is behind the turnout; they compost it and use it on their property. The Commission is more concerned about the placement of the structure.

TCC reviewed the plan for 19 Pheasant Lane recorded at the Registry of Deeds, which has little detail and shows no monument on the common boundary line. Mr. Pratt suggested that the Town work with the O'Malleys, citing that it is not a property actively used by the Town. The TCC talked about a short-term agreement until a survey can be done. It was identified that the Conservation land is Article 97 land, so any proposed changes would have to go before the State Legislature. There was a lengthy discussion with the O'Malley's.

With respect to funding for a survey, Spillman informed the Commission that there is sufficient funding in the Conservation Fund, which she believes could be used for that purpose since this is Conservation land. The TCC will talk with the Building Inspector, and other local surveyors regarding the cost. The TCC and O'Malleys agreed to share the cost of the surveying of the one lot line in question.

*Mr. Pratt made a motion to table the March 9, 2010 memo from the TCC Administrator to Timothy and Bridgette O'Malley. Mr. MacDougall seconded and the motion carried by unanimous vote.*

In conclusion, Mr. Hall summarized that the TCC will explore the possibility of getting a survey due to the inadequate information and the TCC gave no indication of what the possibilities would be if there were an encroachment.

The O'Malleys gave permission for the TCC to access the property but requested to be notified when anyone wants to walk the property.

**66 Prospect Street** (Map 48, Lot 7), drainage concerns – discussion

Present: Gail Hochanadel, owner. The issues are flooding and drainage concerns. Ms. Spillman reported on her site visit. Photos were referenced of erosion, flooding, silt piles.

It was Ms. Spillman's observation that that way back when the house was built an Intermittent Stream was filled. The stream is trying to re-establish itself. Ms. Hochanadel questioned if the neighbor's driveway installation has increased water flow onto this property with the culverts discharging onto specific points on 66 Prospect Street. Ms. Hochanadel asked for advice on how to handle the silt and flooding and what action is allowable.

The TCC discussed possible sources of the water flow/silt. Ms. Hochanadel was informed that a silt screen is allowable.

**95 River Road** (Map 47, Lot 31), – discussion

Discussion regarding drainage concerns as the result of construction of a paddock on the abutting property above/to the North. Mr. Luther had made a site visit and this agenda item was held to the next meeting.

There was a lengthy discussion regarding the drainage problems in this area and in general in Topsfield.

**Ipswich Road Project** – discussion

Ms. Spillman updated the TCC saying Dave Bond had reported that the inlet was reinforced. There are ongoing concerns about silt into the BVW at Pine Street.

**South Main Street/Salem Road culvert** (Map 48, Lot 13), – discussion

Installation of a 2-foot(?) culvert in the Intermittent Stream/BVW/Bordering Land Subject to Flooding/dug drainage ditch in the farm field. There is a question about (agricultural) exemption for such activity in Resource Areas. The TCC will consult the Farming in Wetlands manual for information about crossings and road creation. Mr. Hall will report back to the TCC at the next meeting.

**March Flooding**

Problems, Complaints, Documentation of levels

The TCC acknowledged complaints received during flooding. The TCC observed that non-specific flooding issues are out of the jurisdiction of the TCC and it is not the responsibility of the TCC to engineer. Residents will be advised to hire an Engineer.

**72 Hill Street** – Regarding significant erosion in the dug trench and sediment onto abutting property to the east (Salem and Beverly Water Supply Board property). The TCC referenced photos of the site taken March 24, 2010. The Engineer, Gordon Rogerson, will be asked to attend to the site to prevent the erosion on the site and to stabilize the site.

**Rail Trail** – update

Ms. Spillman gave an update, saying rails, no ties are being removed between Maple Street and the Fairgrounds. Two small motor oilcans were found leaking oil in the water near the culvert down from Maple Lane and this issue was appropriately dealt with by the Topsfield Fire Department with diapers. Iron Horse Preservation Society is reporting to the TCC office as required. The TCC reviewed photos taken by the Administrator this week.

**12 Boston Street/English Commons, (Map 81, Lot 1) – update**

Luther and MacDougall continue their weekly monitoring visits, with written reports to TCC.

**Water Quality Monitoring, School Brook behind Town Library – update**

The water volume is too high for testing.

**207 Boston Street, Topsfield Fairgrounds –Follow-up**

MacDougall has prepared map to create a list of properties; the chair will draft the letter.

**Conservation Properties – Schedule site visit**

Commissioners will walk the 255 High Street property.

**ADMINISTRATOR’S REPORT:**

**Staff schedule for April**

The TCC office personnel will be on vacation in April.

**EXECUTIVE SESSION:** Potential litigation – update

*Mr. Hall made a motion to enter into ES (3) To discuss strategy with respect to litigation regarding the Nash property on Cross Street.*

*Mr. Pratt seconded and the motion carried unanimously by roll call vote.*

10:40pm the TCC returned to open session.

Mr. Pratt made a motion to adjourn and it was unanimous to do so.

Respectfully submitted,

Catherine Tinsley

*Accepted at the TCC meeting on April 14, 2010*

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.