

Topsfield Conservation Commission

Meeting of Wednesday, May 27, 2009

Topsfield Library Meeting Room ~ 7 PM

The meeting was called to order by the Chair at 7:04 p.m. with a quorum present: George Hall, Chair; Holger Luther, Jud Pratt; Jim MacDougall; Mark Erickson; Jennie Merrill
Also present: Lana Spillman, TCC Administrator; Catherine Tinsley, Minutes Secretary

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

BOS – Board of Selectmen

OoC – Order of Conditions

EO – Enforcement Order

BVW – Bordering Vegetated Wetland

OPEN MEETING:

Bills, authorizations, and time sheets were signed.

HEARINGS:

Continuation NOI 307-0647: Essex County Trails Association, Lloyd/DeRosa Environmental Consulting, Inc.

Joe Geller of the Rail Trail Committee questioned why there had been no mention of control of invasive species in the NoI. Spillman responded that Mike DeRosa had explained that construction of the Rail Trail and control of invasive plants were not intended to be part of the NoI. MacDougall added that exotic plant control should be under a separate system, town-wide, and not just on trails. TCC suggested that the Rail Trail Committee continue to mow the invasives and address additional activities and procedures with the anticipated Rail Trail NoI.

Pratt made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Erikson made a motion issue an Order of Conditions under the Act and the Bylaw incorporating suggested Conditions and others as discussed. Pratt seconded and the motion carried by majority vote with the Chair abstaining due to his absence at the previous hearing date.

Continuation NoI 307-0638: 57 Candlewood Drive/109R Perkins Row, (Map 43, Lot 7), Skeffington, Jr./Hayes Engineering, Inc.

Attorney Nicholas Decoulos and engineer Peter Ogren of Hayes Engineering presented.

Ogren said he had nothing to add to his plans and he understood that there was a question about access from Perkins Row. Decoulos submitted a 2-page copy of a street acceptance document for Candlewood Drive that recorded at the Registry of Deeds, then asked that the hearing be closed. He stated that there was no longer access from Perkins Row after the barn burned down in 1994 and that the last lot was sold in 1998/1999. When comments from the audience were entertained, MA Audubon Sanctuary Director Carol Decker stated that there is access off Perkins Row, and that nothing new had been presented to show that there is not access from Perkins Row, so there is no reason to enter from Candlewood Drive. TCC questioned whether Decoulos had contacted the abutters on Perkins Row. Decoulos responded that he had received a verbal denial of access from one of the abutters. TCC briefly discussed the title history of the relevant parcels on Perkins Row.

Luther made a motion to close the Public Hearing. The motion was seconded and carried by unanimous vote.

Decoulos handed Hall a copy of the request for a superseding ORAD that had been submitted to DEP.

MacDougall made a motion to deny the application. The motion was seconded and discussion followed.

TCC discussed that there was an absence of Riverfront Area alternatives presented, the current owner owned property on Perkins Row until 1999, work is proposed in the first 100 feet of Riverfront Area, there is fill on the property and flooding on adjacent properties, with no effort to mitigate those impacts, and mitigation of harm to Riverfront interests has been completely inadequate.

The motion carried by unanimous vote.

AOoC 307-0620: 160 Perkins Row, (Map 43, Lot 10), Gilfeather

Proof of abutter notification was submitted previously; MacDougall read the legal ad.

Kathy Gilfeather was present. This is a request for an Amendment to the Order of Conditions, to accept a plan revision showing modifications including a proposed addition, instead of a patio, steps, etc. within Buffer Zone of an Intermittent Stream.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Luther made a motion to grant the application and issue an Amended Order of Conditions under the Act and the Bylaw referencing the revised plan to extend the building rather than build the patio as previously submitted. The motion was seconded and carried by unanimous vote.

NoI 307-0648: 14 Perkins Row, (Map 10, Lot 15), Dana Sanger/CEC Engineers

Bruce Eaton of CEC Engineers presented. Mr. Sanger was present.

Proof of abutter notification was submitted previously; MacDougall read the legal ad.

The proposed project is to construct an addition to a single-family home within the Buffer Zone of a Bordering Vegetated Wetland. Eaton explained that the wetland was flagged by Fred Giesel, who is an engineer. TCC asked about two trenches, found at a site visit and in aerial photographs but not shown on the submitted plan, that run parallel through the BVW at the rear of the property. Eaton responded that the Sangers have stated that the trenches have been there since 1953. TCC commented that they look like mosquito control activities. Eaton added that reportedly there is flow in the trenches in the spring, but they were stagnant when he was there. When asked about the large temporary structure in Buffer Zone behind the house, Mr. Sanger stated that it would be removed.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Luther made a motion to grant the Order of Conditions with usual conditions under the Act and Bylaw. The motion was seconded and carried by unanimous vote.

RDA 2009-05: 139 Washington Street, (Map 39, Lot 35), Richard and Mary Cawthorne

Mr. Cawthorne was present.

Proof of abutter notification was collected; MacDougall read the legal ad.

The project is a proposed replacement of a 3-season room to a 4-season room with an 8-foot expansion on sono tubes within Buffer Zone of Bordering Vegetated Wetland and Riverfront Area of an unnamed perennial tributary of Fish Brook. This is a perennial stream listed in the Wetlands Bylaw and shown on the USGS map as perennial. A sketch plan was received 5/26/09.

Pratt made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Luther made a motion to issue a Negative Determination of Applicability with Conditions for the proposed work in Buffer Zone and Riverfront Area. The motion was seconded and carried by unanimous vote.

RDA 2009-06: 28 Surrey Lane, (Map 31, Lot 50), Jeff and Cynthia Johnson

No representative was present, although Cynthia Johnson arrived later in the meeting and was informed that the application had been approved.

Proof of abutter notification was submitted previously; MacDougall read the legal ad.

The project is proposed construction of a 5-foot x 14-foot addition on sono tubes and also a deck enclosure within Buffer Zone of Bordering Vegetated Wetland.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Erikson made a motion to issue a Negative Determination of Applicability with Conditions for the proposed work in Buffer Zone for 28 Surrey Lane. The motion was seconded and carried by unanimous vote.

RDA 2009-07: 32 Lockwood Lane, (Map 30, Lot 2), Carolyn Richardson

Proof of abutter notification was submitted previously; MacDougall read the legal ad.

This is an after-the-fact filing for construction of a patio/deck & walkway partly within Buffer Zone of Bordering Vegetated Wetland and within Riverfront Area of Fish Brook.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Erikson made a motion to issue a Negative Determination of Applicability with Conditions for the proposed work in Buffer Zone and Riverfront Area. The motion was seconded and carried by unanimous vote.

RDA 2009-08: Near Routes 1 and 97, (Map 58, Lot 52, Map 49, Lot 80, & Map 49, Lot 81), Topsfield Rail Trail Committee

Greg Demers and Joe Geller were present for the Rail Trail Committee (RTC).

Proof of abutter notification was submitted previously; MacDougall read the legal ad.

Proposed activities are removal of steel rails (involving 3 locations), placement of wooden decking on a bridge, and relocation of a rail stop, to support Topsfield Rail Trail, within Buffer Zone of Bordering Vegetated Wetlands and Riverfront Area of School Brook, and the Ipswich River near Routes 1 and 97. Ralph Stump questioned if there would be erosion control, and asked if the ties would remain. The ties will be left in place. The RTC responded there is no formal erosion control planned.

Luther made a motion to close the hearing. The motion was seconded and carried by unanimous vote.

Merrill made a motion conditions as recommended. The motion was seconded and carried by unanimous vote.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Enforcement Order #2 10/16/2008: 215 Washington Street, (Map 46, Lot 7), Galka – update

Enforcement Order #4 5/14/2009: 215 Washington Street, (Map 46, Lot 7), Galka – ratify

Luther made a motion to ratify the E.O. dated 5/14/2009. The motion was seconded and carried by unanimous vote. TCC signed the document.

This action will allow certain activities, as requested, with conditions, and an extension to the deadline for filing. A lengthy discussion ensued. TCC agreed to extend the deadline for the NOI for one more meeting, and not to grant additional extensions afterward, but to start fining the property owner.

The TCC talked about the legalities of issuing an Enforcement Order and/or OoC for work done on abutting land not owned by the offender. Galka is required to file a NOI for proposed restoration.

MacDougall expressed concern that, as proposed, there are actual structures on the abutter's properties that would remain with point source discharge into Fish Brook. TCC asked that representative Joe Orzel be encouraged to notify the abutters with return receipt what is going on and to submit the green cards at the next TCC meeting as evidence of a good faith effort.

Enforcement Order, Violation Notice & Bylaw Ticket #2007-11: 270 Boston Street, (Map 41, Lot 87) Bear Albright – update

Spillman will arrange to meet with DeRosa at the site and take photos of the site for discussion at the next TCC meeting. The TCC noted their concerns that the swale has not been stabilized.

MEETING MINUTES:

Approve minutes of **3/11/2009, 3/11/2009 Executive Session, 4/10/2002, and 7/10/2002**

Luther made a motion to accept the minutes of 4/10/2002 & 7/10/2002 without comment.

The motion was approved and carried by unanimous vote.

Luther made a motion to accept the meeting minutes of the regular session of 3/11/2009 as amended.

The motion was seconded and carried by unanimous vote.

*Merrill made a motion to accept the **Executive Session** meeting minutes of 3/11/2009 with corrections to spelling. The motion was seconded and carried by majority vote with Luther abstaining.*

REQUESTS:

Continuation CoC 307-0631: 189 Ipswich Road, (Map 20, Lot 50), Masters
No request has been received for a follow-up site visit. No Action was taken.

Partial CoC 307-0589: Asbury Street, (Map 21), Town of Topsfield
No request has been received for a follow-up site visit. No Action was taken.

CoC 307-0413: 64 Prospect Street, (Map 48, Lot 16), Gibeley
No request has been received for a follow-up site visit. No Action was taken.

Extension OoC 307-0541, 38 Summer Street, (Map 41, Lot 52), Sabino/ Neve-Morin Group, Inc.
The tear down/new SFH Project has not begun; The request is for a two-year extension.
Merrill made a motion to issue a 2-year Extension to the Order of Conditions under the Act and the Bylaw, as requested, to expire on August 8, 2011. The motion was seconded and carried by majority vote with Hall abstaining.

End of Gail Street Drainage, Mercier-Link

The proposal is to add more riprap to the area that has problematic erosion off the end of Gail Street cul-de-sac. Luther will contact DEP about the need for a filing for the proposed activities including addition of riprap and restoration of areas within Riverfront Area and Bordering Land Subject to Flooding, possibly within BVW. Erosion control was discussed. Pratt suggested and it was agreed that the Town should take responsibility and have an Engineer prepare a solution; funding this was identified as a problem. An lengthy discussion followed. Selectman Gandt was present in the audience and participated in this discussion.

Erikson will work with the Highway Department regarding erosion control using mesh, and Selectman Gandt will notify the Highway Department. TCC recognizes that this is as a temporary, not permanent solution. If there is continuing erosion, TCC could request that it be addressed more formally.

49 Candlewood Drive, (Map 43, Lot 9), Cragg – discussion

Present at the May 19th site visit were Luther, MacDougall, Merrill, Erickson, Spillman, and Selectman Gandt. Luther reported on the May 19th site visit saying this is a large basin where the water accumulates. This issue is between landowners and not under the jurisdiction of the TCC. TCC concluded that it would be very difficult to figure out what the previous condition was and no way to determine if a proposed remedy would be better than the status quo. A letter will be issued by the TCC office; Luther will review it.

RDNI 2009-03: 11 Boxford Road, (Map 31, Lot 42) Hunt/Ambrosina

Mr. Ambrosina was present and discussed the limb that came down over the winter.

The proposal is to take down a large mature Ash tree in outer Riverfront Area, the stump would be ground down.

Luther made a motion to issue a Determination of Negligible Impact (letter). The motion was seconded and carried by unanimous vote.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

120 High Street Subdivision – review of deed; conveyance of conservation property through the Planning Board to the Town.

Spillman noted errors in the document and reiterated the importance to reference to Article 97 of the State Constitution (not mentioned in current deed). Hall will review the document.

Strawberry Festival;

The TCC will have a booth at the Festival.

Students are available for community service hours to help with flyers and manning the booth.

Erikson and Merrill will work with Spillman.

Conservation Commission administration

The TCC requested a copy of the job descriptions for Administrator and Secretary for review. Administrative responsibilities were compared to business necessary to come before the TCC. How the TCC can best serve the Community was a part of this discussion. The TCC members will spend time in the TCC office over the next few weeks to familiarize themselves with the office staff , organization, and responsibilities. Erikson will review invoices to bids.

**ADMINISTRATOR’S REPORT:
TCC Meeting Preparation and Procedures**

The advantages of the new use of the projector to display plans, etc. were noted.

Rules for Conservation Properties - The TCC received a draft for their review.

EXECUTIVE SESSION: Potential litigation – update
Executive Session was held (separate minutes).

The meeting was adjourned by a unanimous vote at the conclusion of the Executive Session, at 10:46 p.m.

Respectfully submitted,

Catherine Tinsley

Accepted at the TCC meeting on September 9, 2009.

<p>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 statement.</p>
