

Topsfield Conservation Commission

Minutes of July 27, 2011
Topsfield Library Meeting Room

Present: Chairman George Hall, Holger Luther, Cheryl Jolley, Mark Erickson, and Lisa-Marie Cashman, Minutes Secretary

Absent: Jim MacDougall and Administrator Lana Spillman

Others Present: Tim Ward, Greg St. Louis, Dick Gandt, Larry Beals, Jim Carroll, Jim O'Brien, Joe Geller, Gregg Demers, Kate Connelly, Greg Hochmuth

Chairman Hall called the meeting to order at 7:20 PM.

PUBLIC HEARINGS:

7:20 p.m. Continuation Nol 307-0676: 20 Hickory Lane, (Map 50, Lot 21), Annis/Beals Associates

Greg St. Louis and Larry Beals of Beals Associates presented. The owners (Annis) also were present.

The TCC sought answers to the following questions from the July 13th meeting:

Q: What is the size of buildable uplands? A: 14,200 square feet

Q: How much of the Buffer Zone would be impacted?

A: Impacted area within the Buffer Zone would be 4,988 sq. ft. Beals and owners are proposing to plant high wildlife value shadbush (serviceberry) and Juneberry as mitigation for proposed Buffer Zone alterations.

TCC made a site visit on July 18.

Hall also asked about the number of trees to be taken down. Currently, Hickory, Beech, and Ash have been denoted on the site plan. No trees under 4 inches in caliper would be touched, according to the proposal. St. Louis discussed the benefits of shrub plantings.

Hall expressed deep concern about setting a precedent with this lot. He explained that there was a lot of negotiation regarding the construction of the development of this subdivision. Previously, there were a lot of direct Resource Area alterations and there was a lot of Buffer Zone alteration necessary to build the roadway structure, and there was considerable negotiation over the layout of lots in order to provide adequate buildable area for an ample size house on every single one of these lots **without** further infringement in the Buffer Zone. The TCC gave direction then with a clear statement in the OoC that further alteration of Buffer Zone would not be allowed without meeting the local waiver requirements. Even though the impact to wetland functions and values on this site may be small, there are a number of lots left to be developed in the subdivision. Jolley noted there are 10-12 additional lots to be

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developed. Hall also expressed deep concern about the number of people calling, probing to see how committed the TCC is to those requirements of no further Buffer Zone alteration. Hall stated that there is additional concern regarding the loss of Buffer Zone; it had been represented that the upland areas on these lots were big enough to build houses on and that that is where the houses were going to be built. He stressed that he did not, in his opinion, see a reason to allow it, and he noted that there is a lack of alternative options to review and discuss, of which he would be amenable. Erickson agreed with Hall.

The applicants have 14,000 sq. ft. of buildable lot. It is evident to TCC that there are alternatives.

Erickson commented that alternatives have not been offered and should be presented, especially since this is a potentially a precedent setting case. Jolley asked if an alternative would be to move the house closer to the circle, although the owners reiterated that they need the first floor larger due to senior living needs and the configuration was designed with this in mind

Luther asked if there would be a retest of the perks if the house was moved or should the test bed be moved further south on the lot. St. Louis mentioned that they would need to reschedule in March with BOH if this were the case. There would still be a need to utilize perk holes due to the fact that Beals is using the Presby system, an alternative septic system which has a reserve system of 200-300 percent backup. Groundwater is established at 24 inches below the ground surface.

Luther asked if the pool shown on the submitted plan would be permitted in the OoC. St. Louis indicated that that permit would be sought separately.

Luther mentioned that, in his experience, he felt each case should be decided on its own merit.

Hall felt strongly that allowing this to move forward would create expectations. Luther disagreed and suggested that TCC sets the expectations and not the applicants. After significant discussion and deliberation, including the merit of intermittent stream management, Erickson added that he felt uncomfortable moving forward due to the lack of alternatives being considered. Currently the applicant did not put forward alternatives. Hall emphasized that rules need to be applied evenhandedly.

Hall revisited, asking how many trees would be saved. Although he mentioned that he is not opposed to grading, he is concerned about the issue of setting precedent for the rest of the subdivision. Hall asked for a revised planting plan and some detail about the protection of the existing trees during construction. He would feel comfortable in this situation to allow some grading into the Buffer Zone that would allow benefit to the forested Buffer Zone. Luther suggested no net loss of trees.

Beals initially suggested oak trees and asked for TCC's input. Luther advised that Beals additions should include grey bark dogwood, high bush blueberry and shadbush.

Hall reminded everyone that there are written Regulations that establish strong presumption against Buffer Zone infringement. Those Regulations were already substantially waived to allow for more infringement on Buffer Zones (with the subdivision OoCs).

Hall stated that he would be amenable to a revised planting plan including trees that will grow to maturity in this environment and some detail about the protection of existing trees during construction. He would feel comfortable grading into Buffer Zone so long as it was net beneficial.

Beals asked for clarification from Holger on the additional plantings. Luther confirmed: high bush blueberry, shadbush, winterberry, and grey bark dogwood.

Beals will – in the new plantings plan:

1. Define limit of fill, caliper of trees to be planted.
2. Document the trees saved;
3. Document inconsequential trees being removed and replace on a one by one basis.
4. Draw up a new plan to present for final consideration.

Hall suggested—as time was of the essence -- to hold a meeting for August 10 to continue discussions.

Erickson moved to continue the hearing on the Nol until the plan was presented on August 10. Luther seconded, and the motion carried with a UNANIMOUS VOTE.

Beals is to present a new planting plan to TCC on August 10.

8:13 PM: Nol 307-0___: 207 & 233 Boston Street (Topsfield Fairgrounds) and 37 River Road (South Main Street Frontage)(Map 57 Lots 4-1, 4-2 & 7; Map 48 Lot 13; and Map 49 Lot 82)Essex Agricultural Society and Aftandilian/The Neve Morin Group

Representing the group were Greg Hochmuth of The Neve-Morin Group, Kate Connelly, Attorney of Murtha-Cullina, and Jim O'Brien, General Manager of the Topsfield Fairgrounds.

Hochmuth presented a topographical shot of the areas under the EO, which was issued for three separate areas: Rte. 1 Field 1 the main fairgrounds parking area (next to the Ipswich River), the parking area between Route 1 and Maple Street (below Petco), and the parking area at the corner of South Main Street and Salem Road. He added a triangle of area on other side of Salem Road and the field off of Rte. 97. While

coming to address the EO, Hochmuth presented that the group would like to “get everything on the table.”

According to Hochmuth, Jim O'Brien and his crew worked with Kate Connelly and Dan Lenthall of NRCS to address alleged Resource Area alterations stated in the EO. He explained that he sat down and went through old files in the TCC office and found that there have been numerous filings for the Fairgrounds. Back in the 1980s, with Field 1 a permit was issued to fill the whole area. Work was stopped by the Army Corps of Engineers and the area was restored. It has been frustrating for the Fairgrounds, which is surrounded by wetlands. This is a high profile site. People drive by and wonder whether it is permitted.

Hochmuth stated that since 1910, they have been parking cars in the field closest to the River, Field 1. The Fair brought Dan Lenthall (agriculture in wetlands specialist) in and asked him for advice – if these are truly agricultural fields, how can the Fair make it better? Lenthall put a conservation plan together for each field. He did soil testing and found that the biggest problem is compaction. They are not getting a good crop, the soil is holding water, and there is sanding. The fields are Resource Areas. Field 1 is floodplain.

Hochmuth continued that in Lenthall's plan, he recommends for each field to be tilled with a plow with not a lot of disturbance above ground, but to loosen up below to yield a crop.

A question arose: Is the field to park or not to park? Can the two co-exist?

Luther and Hall feel that the plan is vague and not specific enough, although a start.

Hochmuth indicated that they re-delineated the field up near Central Street and that they are using the relatively recent delineation of Field 1. He indicated that the BVW boundary is about 50 – 75 feet upslope of the telephone poles.

Much discussion ensued concerning the level at which the lot was flooded. Hochmuth presented that in order to evaluate the soil profile, Field 1 had been blanketed with test pits. He found floodplain soils down about 36 inches by Route 1 and somewhere along the line gravel that had been brought in to 12-30 inches (well drained and free of silt and clay) and found that it is floating on muck, and there is a spongy layer. He added that when the field is flooded, one can drive on it. If it is flooded and there is repeated traffic, however, it turns to mud. He acknowledged that there are some years they cannot park in the field. He was struggling with the findings, admitting that it is “almost impossible to put something [a plan] in place because everything is different each year.”

Hall cautioned that if one went by the standard of parking cars, the outcome of the decision would be different. Luther questioned how essential is the piece of property that is south of the telephone poles to the parking effort. O'Brien responded that the

15 acres was tantamount to alleviating any traffic backup on Route 1. Hochmuth explained that there now is a plan in place for after the Fair is over, to restore the fields.

Some further questions regarding Lenthall's plan and the method of tilling were asked of the applicants. Hochmuth said that in order to avoid large machinery, Lenthall recommended the ridge till system.

TCC members were still grappling with the lack of detail in the report indicating how the repairs would be made according to the criteria set forth.

Hall addressed his comments directly to Connelly, counsel for the Fairgrounds, stating that he does not buy that fair parking is agricultural use; they can submit a conservation plan, but he doesn't buy it. So any soil amendment should be for agricultural uses, not for stabilizing the soil for parking.

Hall further addressed the issue, stating that if they are aerating and decompacting and preparing for a commercial hay crop, 50/50 mix doesn't pass the smell test. He is prepared to accept that the two uses co-exist, but any kind of soil amendment or decompaction has to be related to the growing of hay, not to the growing of cars. Hall does not see their narrative being specific as to what kind of material is being used and what decompaction will consist of. He wants to tease the two things – growing hay and parking – apart, and is not only prepared to approve things obviously related to growing of crop, he is prepared to make the determination that it does not need TCC approval. But, he does believe activities necessary to promote Fair parking are not exempt under the Wetlands Protection Act.

Connelly assured the TCC that the Fairgrounds was "on the same page," noting that there are less than 2 weeks used for parking. She stated that the major use has traditionally been for agricultural purposes.

O'Brien noted that there is not much reaped; however, the Fairgrounds did hay for bedding for the animals and did sell some. Hochmuth tried to present the historical precedent that the area in question had been a parking lot since 1910. Luther warned him, as did Hall, to be careful about this presumption, as the TCC would have no other alternative under the assumptions than to declare it wetlands.

Hall and Luther again went back to the concern that not enough detail was given about uses and repairs of the specific areas in question and that these be amplified in a revised conservation plan; too much emphasis is placed on Field 1 and there needs to be more understanding of what protocol is being used for the other areas.

Hochmuth explained that Spillman had concerns that fill was dumped in the floodplain in the field adjacent to Maple Street. He added that when they tied into the topos they discovered that the fill was not brought into floodplain. There is a culvert under the old rail bed. Floodplain for School Brook goes under the culvert back along the rail bed; in

a very intense storm it would push up on the other side. The access road below the bike path has gigantic culverts. Fill in that field has some growth – the 50/50 mixture was brought in to mitigate a very wet area, which was an emergency situation during the Fair season. The original intent was for emergency repair.

The discussion moved to the question of how to deal with making a pathway to the Fair that did not encroach on wetlands and present erosion issues. Hochmuth said that currently people make their own way but that they are proposing a paved path near the bike path with a planting of spruce trees at the bottom of the corner field to help “funnel” people that way. O’Brien confirmed that the Fairgrounds would invest in and plant hundreds of spruce.

Hochmuth explained that the proposal is for each of the fields to be cut back year after year. Hall questioned if that would be edge maintenance. Hochmuth confirmed that it would be.

O’Brien explained that Spillman already approved installation cement pads for utilities. Hochmuth asked about installation of a fence along Field 1 and installation of cement barriers to separate landscaping materials.

Hall asked for the group to indicate in the revised plan what is under TCC’s jurisdiction and what is not. He mentioned that currently TCC only has a plan of Field 3. Hochmuth indicated he will draw up an isolated plan identifying other activities.

Hall indicated that if satisfactory conditions for Field 1 are defined and agreed upon, then those criteria could be adequate for other areas as well. Field 1 is the real challenge. Hochmuth stated that the intent is to make the current field better for crop.

Hall suggested a site walk to look at the crossing area from Field 4.

Hall indicated that he would like to see the group back on August 24 to continue the review of a revised plan, giving more detail on what the Fairgrounds proposes to repair for soil amendments in areas that are BVW. And, for aeration methods vaguely referenced he would like additional detail. He would like some delineation on Field 4 to help determine what is and what is not in TCC jurisdiction.

Luther wanted to understand the true planting off of Field 2. Hall asked for audience input. Dick Gandt suggested that it would be better to implement posts and have the area well fenced rather than plant trees and it would delineate rail trail from parking area. O’Brien felt it would make more sense if the fence were out to the edge of the property line, and Geller, from the Rail Trail Committee, agreed with O’Brien.

Erickson made a motion to continue the hearing to the August 24 meeting. Luther seconded, and the motion carried with a UNANIMOUS VOTE.

Action: Hochmuth is to ask Lenthall to revise the conservation plan, and Hochmuth is to prepare more clearly defined topos on areas and indicate what is within TCC jurisdiction with an isolated plan.

REQUESTS:

CoC 307-0648: 14 Perkins Row (Map 10 Lot 15), Sanger

A post-activity inspection is needed. Luther moved to continue the review. Jolley seconded and there was a UNANIMOUS VOTE for continuance.

Emergency Certification 2011-03, Hovey Road Culvert at Pye Brook Community Park/Topsfield Highway Department

The Emergency Certification is for removal of beaver dam material from the culvert under Hovey Road and installation of protective fencing. Mike Callahan is doing the work, which is within a Natural Heritage and Endangered Species protected species area.

Luther moved to ratify the Emergency Certification dated and signed July 21, 2011, allowing the Highway Department [Callahan] to perform the work at the Hovey Road culvert. Jolley seconded the motion, which passed with a UNANIMOUS VOTE.

Enforcement Order #2011-01, Geller/Rail Trail Committee c/o BoS – Update of compliance status of the Rail Trail

Geller indicated that they were making progress with the removal and restoration. The walk with Bill Manuell and Luther went well. Luther mentioned that 4-5 areas where material from the old rail bed was pushed beyond the sedimentation controls/limits of work still need touching up. Geller responded that there would be a work party on Saturday. Volunteers would be shoveling, raking and seeding those areas.

Geller explained new developments: Iron Horse has been delayed with installation of siltation barriers. The Iron Horse boss did not want to part with money. 650 feet of barrier were delivered tonight. The remainder was shipped and will soon arrive. There is a problem area where there are twin culverts and they have a proposal for fixing that. Luther pointed out that vegetative cover will help, but they cannot do with the vertical wall right now. Geller and Gandt proposed using granite riprap from the Highway Department to stabilize where the pipes are. Luther asked if the Hwy. Dept. could provide a short description or speak to him about the work. Hall said he would be happy to allow it to be a field judgment if Luther and Manuell approve in the absence of Spillman, as long as it is compliant with the OoC.

Concerning sedimentation barriers, Geller stated that they have graded and compacted and are waiting for stone delivery for tomorrow. Stone dust is down and compacted by rain. Phase I is completed. He gave Iron Horse marching orders based on Manuell's direction. Concerning a stone dust holding area, they met with JD and Kurt (of Ironhorse) who are going to let them use the #4 parking lot for a day or two and from there the stone dust will be transferred to the trail.

Luther asked if the gate at Route 97 where the trail crosses over required any blessings from Ma Dept. of Highways. Geller indicated it is just a Town highway, and a cross walk already has been approved by the safety committee.

Geller announced that the MA Dept. of Conservation and Recreation awarded RTC another grant, \$50K, which is good news. They are starting to think about how to spend it. One possibility is a crossing alert system at Route 1. It would be a solar powered system. A pole will be located on each side of the road. There will be LED lights for trail users. This system is used in Salisbury although does not work that well due to high traffic and light pollution.

Jolley asked if they would stop traffic. Geller said it would just caution that someone is walking.

Geller said that within a week the trail will be finished along Rte. 97. Luther volunteered to issue a report for the August 10 meeting.

Ipswich River Access at High Street/Route 97, continued

Luther explained that the area of the canoe landing next to Route 97 is severely eroded and eventually will cut into the street. MacDougall is looking into whether work needs to comply with the ADA (Americans with Disabilities Act). Jolley asked if someone would be willing to work on the restoration.

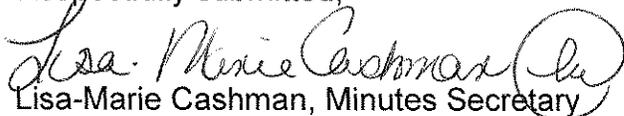
Hall explained that there was a similar problem in Middleton. They got a stone mason to put down wide steps – sometimes the steps are under water, but this allows one to step on the surface without causing erosion.

MacDougall is looking into a potential source of money. One interested person said there is a concern that the proposal might not be legal due to ADA requirements.

Hall suggested these items carry over to the August 24 meeting.

Luther moved to adjourn. Jolley seconded, and the motion passed with a UNANIMOUS VOTE. Meeting adjourned at 9:33 PM

Respectfully submitted,


Lisa-Marie Cashman, Minutes Secretary

Accepted at the TCC meeting on September 28, 2011

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.