

**Topsfield Conservation Commission**  
**Meeting of Wednesday, October 28, 2009**  
Topsfield Library Meeting Room ~ 7PM

The meeting was called to order at 7:10 p.m. with a quorum present: Commissioners George Hall, Chair; Holger Luther; Jim MacDougall; Jennie Merrill; Jud Pratt; Mark Erickson  
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  
RDNI – Request for Determination of Negligible Impact  
MACC – Massachusetts Association of Conservation Commissions  
BOS – Board of Selectmen  
OoC – Order of Conditions  
EO – Enforcement Order  
BVW – Bordering Vegetated Wetland

**OPEN MEETING:**

TCC signed bills, authorizations and time sheets.

**RDNI:**

**2009-09: 193 Perkins Row** (Map 34, Lot 54), Davison/The Neve-Morin Group, Inc.

Present: Mr. Davidson

The project is the proposed demolition of a house (due to fire) back to the foundation within Buffer Zone of BVW and an Intermittent Stream. Mr. Davidson told the TCC that a small backhoe would be used and dumpsters would be placed on existing paved drive.

*Mr. Luther made a motion to issue a Determination of Negligible Impact for 193 Perkins Row. Mr. Erickson seconded and the motion carried by unanimous vote.*

**HEARINGS:**

**Continuation NoI 307-0653: 20 Wilmor Road**, (Map10, Lot 4), Pratt/The Neve-Morin Group, Inc.

The TCC had received a written request for TCC to schedule a site visit and to continue the hearing to November 4. A site visit was scheduled for Saturday, October 31, 2009.

*Mr. Luther made a motion to continue the hearing to November 4, 2009. Mr. Erickson seconded and the motion carried by majority vote with Mr. Pratt abstaining.*

**Continuation RDA 2009-13: 171 Haverhill Road**, (Map 2, Lot 8), Williamson

The TCC had received a written request from the Williamsons to withdraw the RDA. They are in the process of filing a NOI.

*Mr. Luther made a motion to approve the request for withdrawal of the RDA and apply the Bylaw filing fee to the forthcoming NoI Bylaw filing fee. Ms. Merrill seconded and the motion carried by unanimous vote.*

**ENFORCEMENT, APPEAL REPORTS, UPDATES:**

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

Present: Mike DeRosa, DeRosa Environmental; Bear Albright

Mr. DeRosa reported that all plantings on the proposal plan were installed and soundings on the pond were done September 8, 2009. Written results were presented to the TCC. Mr. DeRosa reported that the average depth of the pond is 3.35 feet, with the deepest point at 6 feet (plan shows 4 feet) and the depth around the planting shelf at 6 inches. He reported that the vernal pool species will be monitored in the spring, noting an adult tree frog was observed at the pond. The restoration will be monitored quarterly and monitoring will continue for two years. Any invasive plants will be removed and non-viable plants will be replaced with plants that are found to grow well at the site so that at the end of the two years there will be at least 75% viability.

*Mr. Luther made a motion to accept the work as shown to date by Mr. DeRosa as in substantial compliance with the plan entitled "Albright Pond 270 Boston Road revised dated August 21, 2008," subject to the monitoring and 75% survival of the plants. Mr. Erickson seconded and the motion carried by unanimous vote.*

The TCC discussed Mr. Albright's request to abate the \$6,250 Bylaw fine and reviewed the actual costs if this had been a project that could be permitted. The calculated Bylaw fees are over \$17,000. The scope and seriousness of the violations was reiterated – there is evidence that a vernal pool, intermittent stream, and mature forest were present at the site prior to the alterations. Although DeRosa did a great job, significant resource area values and functions were lost and the area is not functioning near what it was before. Mr. Albright offered to consider putting a Conservation Restriction (with Essex County Greenbelt) on the property.

*Mr. Pratt made a motion to take no action until the November 18, 2009 meeting, to allow Mr. Albright to consider mitigation action as he suggested. Mr. MacDougall seconded. Hall clarified that putting the land in a restriction was not part of mitigation from the TCC. The motion carried by unanimous vote.*

Hall clarified that the Conservation Commission would not be a party to the contemplated Conservation Restriction, but it would be additional information that the Commission would consider.

**2<sup>nd</sup> Amended Enforcement Order #4: 215 Washington Street, (Map 46, Lot 7), Galka – update and request for extension**

The TCC reviewed a letter received electronically (October 28, 2009) from Joseph Orzel, Gulf of Maine Environmental Consulting Services requesting for an extension of the October deadline set by TCC and requesting a modification to the Enforcement Order #4 issued 7/2/2009. Modifications proposed included directing discharge from the house roof to a drywell on the slope adjacent to the house rather than removing the drainage pipes that are in place. The pipes would be capped. Financial hardship was cited as the reason for an extension request; the TCC observed there is no way to confirm this.

*Mr. Luther made a motion to grant the extension to May 30, 2010 and hold off issuing fines subject to Galka voluntarily recording the Enforcement Order at the Registry of Deeds and to deny the request to leave the pipes where they are. Mr. Erickson seconded and the motion carried by unanimous vote.*

**Violation Notice #2009-01: 72 Hill Street, (Map 69, Lot 16), Malinowski – update**

Ms. Spillman reported that during a "pre-activity" meeting for the septic system installation she observed three plans being used. One plan showed a difference in buffer zone grading and an addition of a stone wall within the grading. There were discussions about a change from a bolder slope to erosion control mats on the slope of the leaching field area. The septic system area has been cleared and Ms. Spillman allowed work on the septic system to continue. Gordie Rogerson of Hayes Engineering has agreed to file for an Amended Order of Conditions for revised grading and the proposed addition of a stone wall in the Buffer Zone by Wednesday, November 4, 2009.

**SORAD 307-0640: 57 Candlewood Drive & 109R Perkins Row**, (Map 43, Lot 7), Skeffington – update and discussion (Held for ES)

A conference call Tuesday, October 20<sup>th</sup> was nonproductive. A prescreening conference at DEP-NERO is scheduled for October 27<sup>th</sup> and the adjudicatory hearing is scheduled for January 26, 2010.

**MEETING MINUTES:**

Approve minutes of **September 9, 2009 & September 23, 2009**

*Mr. Pratt made a motion to accept the minutes of September 9, 2009 as amended. Mr. Luther seconded and the motion carried by unanimous vote.*

*Mr. Luther made a motion to approve the minutes of September 23, 2009 as amended. Mr. Pratt seconded and the motion carried by unanimous vote.*

**REQUESTS:**

**CoC 307-0393, 119 Hill Street**, (Map 68, Lot 5), Sanidas

Ms. Spillman reported that the required Buffer Zone plantings are in, but Conservation Posts have not been installed. Sanidas has requested that the matter be continued to the November 4<sup>th</sup> meeting; the matter was continued as requested.

**Continuation CoC 307-0433: 131 Haverhill Road**, (Maps 2 & 5, Lots 10 & 15), Topsfield Beach Association – Continued to the next meeting.

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

**General Permit** – Discussion – Mr. Hall talked about the draft document of the General Permit.

**Ipswich Road Project** – discussion of proposed reduced frequency of inspections by Eriksen.

*Mr. Luther made a motion to require inspection reports once a month, and after any major storm event.*

*Mr. Pratt seconded and the motion carried by unanimous vote.*

**ADMINISTRATOR'S REPORT:**

**Violation reports, etc.**

Ms. Spillman reported she observed fill in the Wetland Resource Area on a Washington Street property across from Lockwood Lane of old tires, horse manure, and other dumped rubbish. The TCC talked about how best to inform the town of the impact to the wetlands and water quality, such as printing an informative article in the newspaper and posting the information on the website.

South Main Street – the TCC office received a call about a resident on South Main Street cutting vegetation near the stream. Ms. Spillman made a site inspection from South Main and confirmed new clearing an additional 8-10 feet along the edge of the stream. This was identified as Peter Campo's property. He will be issued a letter to cease mowing and be informed that this activity requires a permit and if he wishes to continue he must file with the TCC.

**National Grid application**

National Grid proposes replacement of a series of poles on Route 97. Three poles are less than 20 feet from BVW. Ms. Spillman said it is her interpretation that this requires a Bylaw RDA since the Topsfield Wetlands Bylaw is silent about utility exemptions that are allowed under the Wetlands Protection Act. It was the consensus of the TCC for National Grid to file a RDA.

**Monitoring reports received:**

94 South Main Street, OoC 307-0613

39 Prospect Street, OoC 307-0462

**Update – Rail Trail**

TCC discussed that both owners' signatures (National Grid and MBTA) should be sought for the anticipated NoI for the Rail Trail, so that recording of the OoC would not cause problems.

**EXECUTIVE SESSION: (ES) Potential litigation – update**

*Mr. Luther made a motion to enter into ES for the purpose of discussing strategy with respect to pending litigation as related to Cross Street and 57 Candlewood Drive -109R Perkins Row, and to adjourn upon the conclusion of the ES. Mr. Erickson seconded and the motion carried by roll call vote.*

Respectfully submitted,

Catherine Tinsley, Minutes Secretary

*Accepted at the TCC meeting on November 18, 2009*

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.