

Topsfield Conservation Commission

Minutes of December 12, 2007

Topsfield Library Meeting Room

The meeting was called to order at 7:36 p.m. with a quorum present: Walter Harmer, Chair; John Olcott; Ralph Stump; John McArdle; Lana Spillman, Administrator; Catherine Tinsley, Secretary
Absent: Wade Goldman, Thomas Warren

Abbreviations used:

TCC – Topsfield Conservation Commission

BVW – Bordering Vegetated Wetland

OoC – Order of Conditions

BoS – Board of Selectmen

EO – Enforcement Order

CoC – Certificate of Compliance

NoI – Notice of Intent

The TCC signed bills and authorizations.

HEARINGS:

Amended OoC307-0505: 198 Central Street, (Map 50, Lot 1), Gerard McCarthy, North Shore Heritage Associates, Inc.

Gerard McCarthy submitted proof of abutter notification. Stump read the legal ad. A revised plan dated 12.8.07 was submitted to the TCC office on Monday, December 10, 2007.

Spillman stated that she and Harmer made a site visit with the representatives on Wednesday, December 5th. She noted that site is small and possibilities for mitigation appear to be few.

Discussions centered around expanding the first bioretention area and making a second bioretention area on the opposite side of the property to manage stormwater and promote infiltration.

McCarthy told the TCC that the original septic system plan would be used in order to reduce the size of the wall and provide a swale. He also told the TCC that the proposed driveway has been removed from the 100-foot Buffer Zone. The TCC questioned McCarthy about cutting down trees and he responded that no trees will be cut or removed. McCarthy said he is requesting to build cement/concrete handicap ramps.

The TCC talked about having the homeowner plant trees along the driveway and having a planting plan prior to construction, for TCC review and approval.

Stump made a motion to close the hearing and to issue an Amended Order of Conditions with Special Conditions as discussed under the Act and the Bylaw. The motion was seconded and carried unanimously.

Continuation ANRAD 307-0602: 95 Wenham Road, (Map 71, Lot 1), Peter Herbert/Wetlands and Land Management, Inc.

Spillman identified that the written request to continue was received 12/12/07.

Stump made a motion to continue the hearing under the Act and the Bylaw to January 9, 2008, at the written request of the Applicant's representative. The motion was seconded and carried unanimously.

NoI 307-___: 254 Rowley Bridge Road, (Map 80, Lot 12), Diane Ingram/New England Engineering Services, Inc.

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

Ben Osgood Jr. identified himself as representing the owner (Diane Ingram) of 254 Rowley Bridge Road.

He informed the TCC that the owner is proposing to install a replacement septic system with considerable grading within the 100-foot Buffer Zone of a BVW. Spillman stated that she made an informal review of the Resource Areas prior to soils testing. She went on to confirm that the Buffer Zone boundary is approximately the same as shown on the submitted plan. Spillman added that the conditions are not ideal to perform a review of Resource Area boundaries; this is “out of season” according to the Bylaw Regulations.

Stump made a motion to continue the hearing under the Act and the Bylaw in order to receive the DEP comment sheet with file number. The motion was seconded and carried unanimously.

2nd Amended OoC: 307-0564: 5 Maple Lane, (Map 49, Lot 73), Frank & Carla Lucas/Neve-Morin Group, Inc.

Isaac Rowe of The Neve-Morin Group, representing, submitted proof of abutter notification. Stump read the legal ad.

Spillman stated that the revised plan was submitted this morning. She noted that this is the follow-up to the Emergency Certification issued for installation of the sand filter system in a slightly modified location due to the presence of a nearby gas main. The pre-activity meeting took place a couple of weeks ago. Rowe reviewed the revised plan for this second amendment to the OoC. The original OoC was for soil testing; the first amendment was for design of the new septic system. Rowe explained that the “As Built” survey was done Friday and the leaching facility for this bottomless sand filter is 91.2 feet from the wetland edge. Because of the gas main on the property, this is the only place to put the system. Harmer explained that this is the only place on the lot for a system and it is still within the 100-year floodplain, so the system still is in peril. Rowe explained that there is an alarm system, in both tanks, when water gets to a certain point, and the homeowner is to call the main company. When water gets in the motor would have to be replaced. It was identified that the tank is at existing grade, which is 2 feet above the driveway.

Stump made a motion to close the hearing and issue an Amended Order of Conditions with Special Conditions, accepting the revised plan dated 12/10/07, under the Act and the Bylaw. The motion was seconded and carried unanimously.

OTHER:

Violation Notice & Bylaw Ticket #2007-14: 37 River Road (Map 48, Lot 13), Ara Aftandilian – discussion, appeal of fine.

The TCC had asked Aftandilian to submit something substantial to show that the property has been in agricultural use and primarily used in producing or raising one or more of certain specified agricultural commodities for commercial purposes (310 CMR 10.04: Definitions Agriculture.)

Spillman identified that the date of payment for a \$600 fine was extended four weeks (to December 14th).

Aftandilian submitted a letter from Pete Gibney, a certified farmer who actively leased the fields and farmed between 1990 & 2005. Aftandilian has owned the fields since 2001. He also submitted an invoice from 2006 from Kimball Farm showing grass seed purchased and used when the fields were converted back to hay. Aftandilian requested that TCC withdraw the violation and accept that portions of the relevant property are in active agricultural use. Discussion followed.

Stump made a motion to acknowledge that this is an active farm and that the fine be rescinded. The motion was seconded and carried unanimously.

MEETING:

RDA, 2007-14: 18 High Ridge Road, (Map 65, Lot 11), Eric Caputo

This is an after-the-fact filing for construction of a pea stone play area mostly within Buffer Zone of BVW containing an Intermittent Stream.

Stump read legal ad. Proof of abutter notification previously was submitted.

Following a brief discussion, *Stump made a motion to close the meeting and issue a Negative Determination of Applicability with Special Conditions under the Act and the Bylaw. The motion was seconded and carried unanimously.*

MEETING MINUTES:

Stump made a motion to approve the minutes of February 28, 2007 and September 26, 2007 as amended. The motion was seconded and carried unanimously.

REQUESTS:

CoC TCC 05-02: 22 Forrest Road, (Map 39, Lot 55), Roger & Sherry Roach

Spillman reported that the Conservation posts have been stabilized.

Stump made a motion to issue a Certificate of Compliance with Continuing Conditions under the Bylaw (only). The motion was seconded and carried unanimously.

CoC 307-0512: 133 Ipswich Road, (Map 26, Lot 57), Janet and Michael Ierardi

Spillman had made a site inspection and recommended issuance.

Stump made a motion that the TCC issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and carried unanimously

CoC 307-0566: 27 Windsor Lane, (Map 27, Lot 29), Lorraine Theokas/ Hayes Engineering

Spillman reported that she made a site visit for a second time yesterday and found the posts sufficiently stable.

Stump made a motion a vote to issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and carried unanimously.

CoC 307-0571: 155 Haverhill Road, (Map 4, Lot 14), Dr. Chieh-Min Fan/Griffin Engineering Group

A site inspection is needed. The Administrator questioned if she could see the plantings in the bioretention area. They will need to wait until spring for her to be able to verify viability of the plants. TCC asked Spillman to write a letter explaining that the plants and functioning of the bioretention area will need to be reviewed during the growing season.

Stump made a motion to continue the review of 155 Haverhill Road until the spring. The motion was seconded and carried unanimously.

CoC 307-0486: 81 South Main Street, (Map 49, Lot 4), Wayne and Nancy Barrett

Spillman stated that she visited the property yesterday and found the property in compliance.

Stump made a motion to issue a Certificate of Compliance with Continuing Conditions under the Act and the Bylaw. The motion was seconded and carried unanimously.

CoC 307-0493: 18 High Ridge Road, (Map 65, Lot 11), Eric Caputo

Spillman reported that she made a site visit yesterday and that the posts are not sufficiently stable.

Mr. Caputo made a request to continue the review until the spring.

Stump made a motion to continue the review until the first meeting in April (April 9, 2008).

The motion was seconded and carried unanimously.

OLD BUSINESS, UPDATES, & MISCELLANEOUS:

45 Bare Hill Road, (Map 17, Lot 27), 3.46-acre property abutting Pye Brook Park Conservation Land and offered to the Town.

Spillman explained that the BOS has requested a decision from TCC as to whether to add this property to the adjoining Conservation property at Pye Brook Community Park. She referred the Committee to a copy of that portion of the Assessor's Map, in their packets. Spillman said that Dave Santomena of Essex County Greenbelt called the TCC office on Monday to say that Greenbelt may be interested in acquiring the property if the Town is not interested, noting that Greenbelt is another abutter to the east. The TCC discussed the location of the property, noting this land is mostly wetland.

Stump moved that the TCC recommend to the Board of Selectmen that, on behalf of the Town, the Selectmen accept the property through the Conservation Commission as Conservation Land, in accordance with the provisions of Article 97 of the State Constitution. The motion was seconded and carried unanimously.

103 River Road/Fox Run Road Extension Subdivision (Map 47, Lot 50), Request for Planning Board Bond Release

Spillman informed the Committee that she had spoken with Roberta Knight and Mike O'Hara. She reviewed that it was not known to the TCC that in June of 2007 the Planning Board approved Mike O'Hara's request to change the subdivision type from Open Space Subdivision to Conventional Subdivision. Thus, the proposed Open Space and CR no longer exist. Spillman added that at the TCC meeting on August 24, 2005, the Commission released Mike O'Hara from the Enforcement Order.

Stump made a motion that the TCC approve the release for 103 River Road. The motion was seconded and carried unanimously.

Denied CoC 307-0489: 22 High Ridge Road (Map 64, Lot 17), Shirley and Brian Parke – discussion of proposal.

A proposal was submitted on November 21st, as suggested by TCC, to compensate for deviations from the OoC and Plan of Record for the development of their back yard, including a swimming pool, that resulted in increased impact to Buffer Zone Resource area than was proposed and approved with the OoC. A sketch accompanied the proposal. Spillman commented that the plants are acceptable, although only two different species are proposed, and went on to suggest yearly monitoring through two growing seasons. The owner was asked to plant trees along the driveway; TCC would prefer a planted area instead of the proposed stone. The TCC directed the Administrator to talk to the owner about plantings along the driveway. A written report with photos could be submitted by the homeowner (i.e. no need to hire consultant).

Prospect Hill/Gail Street Drainage – discussion

Spillman told the TCC that she spoke with Mr. Rouseau, who also resides at 40 Gail Street. Rouseau believes that the owner, Ruth Mott, would be in favor of the Town's proposed project and would agree to a drainage easement on her property. The Administrator is waiting to hear back from Dave Bond. There was discussion about how to write the easements needed.

OoCs 307-0529 and 307-0485, 102 River Road, (Map 47, Lot 49) – update

The TCC was referred to the Building Inspector's letter asking that the BOS agree to go forward and support that the house is razed and court action be taken if necessary. Selectman Gandt was present and explained that the BOS is in support of the Building Inspector and requested him to contact Town Counsel regarding the removal of the building.

MA Environmental Bond Bill – funding for open space etc.
Spillman identified that the MACC is seeking support for this bill.
Discussion followed.

ENFORCEMENT, APPEAL REPORTS, UPDATES:

Determination of Applicability 2006-18, 41 Surrey Lane, (Map 23, Lot 3), Roy Cheever – update of noncompliance

Spillman identified that a letter was sent 12/11/07 requesting that Mr. Cheever attend the January 9th meeting to discuss needed work with the TCC.

Amended Enforcement Order, 111 River Road, (Map 47, Lot 30), Robert Nadherny – request for release from E.O. issued 6/2/2006.

Spillman reviewed that two conservation posts were missing at the time of the recent site inspection. This will be continued to April/until the TCC is notified that the posts are again in place.

Violation Notice & Bylaw Ticket #2007-09: 244 Rowley Bridge Road, (Map 80, Lot 10), Stephen DiCicco, DiCicco Landscape & Irrigation – update
The Administrator will write a letter to Mr. DiCicco.

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

Spillman reported that a NoI is expected this month.
The TCC will reconsider the fine amount when the NoI is received.

Violation Notice & Ticket #2007-04: 5 Fox Run Road, (Map 47, Lot 28), Jeffrey and Lynn Evaul – update, appeal of fine

Harmer will make a site visit in the spring, as soon as weather permits.

Enforcement Order, Violation Notice & Bylaw Ticket #2007-03: 43 Cross Street, (Map 62, Lot 2), Christopher Nash

Spillman reviewed that at the last TCC meeting, Russell Waring was asked to submit documentation by February 13 to show that the relevant field has been in agricultural use in the past five years, and to provide a plan/narrative for the completed and proposed activities in the field, including stabilization measures. Spillman will send a letter to Mr. Waring summarizing these requests and notifying him of the need for a site visit when the ground/trench is visible.

3rd Amended Enforcement Order: 64 Wenham Road & 255 High Street, (Map 71, Lot 22 & Map 65, Lot 1), Stephen Bernstein.

Spillman stated that it is not known if the Town has received the settlement money.

Enforcement Order: 50 Prospect Street, (Map 48, Lot 12), John Molloy/Hancock Associates
No update.

Amended Enforcement Order, OoC 307-0462, 39 Prospect Street, (Map 40, Lot 97), Eliot Sherr & Mary Ellen Gardiepy – update

The TCC questioned if the Enforcement Order transfers with the sale of the property. The Administrator will look into this further.

Amended Enforcement Order, Violation Notice & Ticket #2006-20: 221 Washington Street, (Map 47, Lot 2), Andrzej Galka

Spillman reported that there is no news from the District Court.

ADMINISTRATOR'S REPORT:

TCC Budget

Spillman reminded the TCC that their Budget must be submitted the first week of January 2008. She requested that the Commissioners review the related materials in their packets; included is the Finance Committee FY'09 Department Budget Guidelines, a spreadsheet of the TCC account balances (Wetlands Fees Fund and Bylaw Revolving Fees Fund), and the December 6th memo regarding funding for the Administrator's hours.

Annual Report

Spillman said she would draft the Annual Report for review.

8:55 PM - Stump made a motion to adjourn. The motion was seconded and passed unanimously.

Respectfully submitted,

Catherine Tinsley, Minutes Secretary

Approved at the TCC meeting on March 26, 2008.