

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249 * 978-772-8208 (fax)
Minutes for 7/12/12 – Approved 7/26/12

Location: Ayer Town Hall, 1st Floor

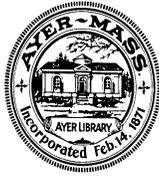
Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Jessica Gugino (JG, Clerk), Takashi Tada (TT)

APAC taped: Yes

Not present: Steven Zisk (CA, Temporary Conservation Administrator)

7:08 PM – Open Meeting

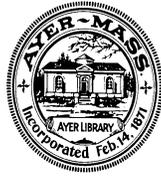
- **Confirmation of Agenda**
 - GB moved to confirm agenda as posted; TT 2nd.
 - Motion approved unanimously.
- **Meeting Minutes Approval**
 - TT moved to accept the minutes for 6/28/12 as written; GB 2nd.
 - Motion approved unanimously.
- **Public Meeting: Violation Notice (VN), Pond View Estates Homeowners Association**
 - Representing the Homeowners Association were Paul Magno, Chair; Ken Bishara, Treasurer; and Louise Moncreaff, representing the Condo Association.
 - A VN was issued on 6/4/12 for the digging and construction of an 8 ft. fence section within a buffer zone without a permit or ConCom review.
 - BD cited a 6/21 email from Building Inspector Gabe Vallente re his inspection of pond access to the right side of the Pond View dock.
 - Mr. Vallente wrote that access to the pond on the right side was adequate but underbrush was growing back in.
 - Mr. Vallente suggested ConCom give the Association permission to keep the path cleared.
 - From his drive-by, BD noted that the current fencing seems to direct people onto the dock which he understood from past discussions with the developer was to be for private use only.
 - Mr. Magno said the dock is the property of the Association, which insures and maintains it, but that they do allow public access.
 - Mr. Magno said non-Association people are avoiding the dock, making trails on either side to the water, and destroying plantings.
 - This was the reason for the installation of an additional section of fence on the left side of the dock.
 - Mr. Magno said, for the record, that he doesn't care if people use the dock, but added that the dock might have to be closed on occasion for maintenance.
 - In that case, the Association would want to direct people to the right side of the dock for access.
 - BD said ConCom would like to have a meeting on-site to discuss the right way to prepare this area so as to prevent erosion.
 - BD cited the example of a properly prepared area for boat access to the Nashua River on Rte. 119 at the Pepperell line.
 - Mr. Magno said the Association doesn't have funds for such preparation, but said they were also thinking of opening a section of fence nearer to the dock.
 - Ms. Moncreaff cited people pulling up plants on the left side to make their own path to the pond.



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- She also cited other problems, such as vandalism to the dock, fires, trash, and unauthorized camping.
- In addition, Ms. Moncreaff added that no one knows exactly where the 25-ft. public access (as required by NHESP is located), although the Association’s lawyer said it was centered in the path leading to the dock.
 - Ms. Moncreaff said they need to put up signs.
- Mr. Magno asked if the Association is liable for damage done to the bank area by others.
 - BD said it was unlikely ConCom would come after the Association for that sort of issue.
 - BD strongly suggested the Association contact the Ayer Police for help with protecting the area from clear cases of vandalism.
- BD said the correct procedure for the Association to follow if they want to clear and install more fencing on the right side is to submit a Request for Determination of Applicability to ConCom.
 - Any “work” within the buffer zone, including excavation or clearing, must go through the RDA process at the very least.
 - A ConCom determination for an RDA could include specifications that allowed for ongoing and regular maintenance/repair.
- The issue of maintenance and repair to the dock itself was brought up.
 - Mr. Magno showed ConCom a copy of the Association’s dock license (#10513) issued 3/17/06.
 - The license was secured by the developer, not the Association, and by-passed the ConCom review process for Ch. 91 licenses.
 - This license is valid for a 10-year period.
 - Licenses issued a few years later through the ConCom/DEP review process were for 15-year periods.
 - The license included specific language permitting the construction and maintenance of a seasonal floating dock.
 - BD did not see a stamp on the license and suggested the Association make sure the license was properly recorded at the Registry of Deeds.
 - Ms. Moncreaff said they were thinking of adding two poles with feet next to the dock to stabilize it.
 - BD said this was fine as long no digging was to be done.
- TT said that if the Association submits an RDA for new work, he recommended their plot plan show not only planned new fencing, but the fencing recently put in without a permit.
 - This will update the record and prevent questions down the road.
- Ms. Moncreaff responded to TT’s question that there was no CR in the vicinity of the dock area.
- JG mentioned ConCom’s receipt of some anonymous emails suggesting a stairway was being constructed, without a permit, from the back of one of the condo units down to the pond.
 - Nothing can be seen from the road directly to confirm this.
 - Ms. Moncreaff said that the land behind the condos is common land and she would look into this.
- **Public Meeting: RDA – Melissa Steeves, 32 Calvin Street**
 - Ms. Steeves submitted an RDA for permitting of her prior installation of a chicken coop on site.
 - Ms. Steeves had received a VN for this and appeared before ConCom previously on 6/14.
 - CA performed a site visit on 6/15 and found the containment and management to be sufficient.
 - The chicken coop is self-contained on a flat area, and waste is bagged and taken off site.
 - Steepness of the slope down to Flannagan Pond is not an issue.



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- BD said ConCom would issue a Negative Determination of Applicability, indicating that as long as the site was maintained as indicated by Ms. Steeves, the WPA would not apply.
 - BD cautioned Ms. Steeves to contact ConCom if any problems arose in the future that enabled waste material to get into the water (eg. very heavy rain).
 - If Ms. Steeves reports a problem, ConCom can work with her to fix it; if someone else makes such a report, then a Violation Notice must be issued.
- Ms. Steeves gave ConCom a check for \$57.28 to pay for the public meeting ad in the paper.
- GB moved to issue a Negative Determination of Applicability; TT 2nd.
 - Motion approved unanimously.
 - JG produced a signature sheet for ConCom members to sign.
- JG said she would contact the Board of Health to inform them of ConCom's ruling so that the BOH can go ahead with issuing its permit for the keeping of poultry to Ms. Steeves.

- **Public Meeting: Request for Certificate of Compliance (COC) -- Twin Valley Homes, Inc., 50 Nashua Street (Lot 2, DEP # 100-0327) and 52 Nashua Street (Lot 1, DEP # 100-0328)**
 - Jack Visniewski, Engineer, appeared for developer Mike Sheehan.
 - Mr. Visniewski submitted copies of an updated plan.
 - The swale is not distinct but the area is relatively flat.
 - BD cited CA's observation of an outlet at the bottom of the swale that was not part of the original intent.
 - Mr. Visniewski said water wouldn't really make it to that outlet, and if it did, water would just sit there, making the area function more as a retention area.
 - The first flush of water is directed into the swale, so the intent of the swale's function was being fulfilled.
 - JG asked about CA's on-site observation that the swale was very dry.
 - Mr. Visniewski showed pictures taken in March, also a dry period, in which the swale was a little greener than the rest, indicating that it was holding some water.
 - Mr. Visniewski also said there is a little garden above the swale area that seems to function a little like a rain garden, with stones there to prevent erosion as well.
 - Mr. Visniewski would not recommend doing anything further in this area.
 - GB moved to issue a COC for 50 Nashua Street; TT 2nd.
 - Motion approved unanimously.
 - GB moved to issue a COC for 52 Nashua Street; TT 2nd.
 - Motion approved unanimously.
 - BD said CA will issue the COC's when he returns to the office the following week.

- **8:25 PM – Adjourn Meeting**
 - GB moved to adjourn; TT 2nd.
 - Motion approved unanimously.