

## **Town of Ayer Conservation Commission**

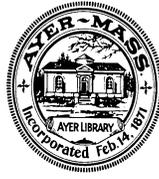
Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249 \* 978-772-8208 (fax)  
Minutes for **4/25/2013** – Approved 5/9/2013

Location: Ayer Town Hall, 1st Floor

Members present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT),  
Jessica Gugino (JG, Clerk), Lee Curtis (LC), Becky DaSilva-Conde (CA, Conservation Administrator)  
APAC taped: Yes

### **7:10 PM – Open Meeting**

- **Confirmation of the Agenda**
  - The RFQ discussion was moved to the end of the agenda.
  - GB moved to confirm the agenda as amended; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Meeting Minutes Approval**
  - GB moved to approve the minutes for 4/4/13 as written; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 1 Barnum Road**
  - Applicant Prit Patel was present.
  - CA received an updated plan from Robert Oliva, of David E. Ross Associates, showing the addition of a wheelchair accessible ramp at the edge of the building.
  - CA has spoken to Mr. Oliva regarding ConCom's standard template for an OOC.
  - A vote to approve issuance of an OOC, with the amended application including the wheelchair ramp, was approved 4-0 at ConCom's 4/11/13 meeting (JG was absent).
  - ConCom members signed the OOC (JG abstaining).
  - GB moved to close the Public Hearing for 1 Barnum Road; TT 2<sup>nd</sup>.
    - Motion approved unanimously.
  - Mr. Patel inquired about the possibility of constructing an additional ramp on the other side of the building sometime in the future.
    - BD said that work in this area would be outside of the current scope of work and its erosion protections.
      - Mr. Patel would therefore have to submit a new NOI.
- **Public Hearing: NOI – Pingry Hill, Crabtree Development, LLC, 116 Hickory Way, Lot 82 (DEP # 100-0360)**
  - Steve Mullaney, of SJ Mullaney Engineering; Rick Roper, of Crabtree Development; and Lori Scanlan, Project Manager for Powell Construction, were present.
  - This lot was discussed informally at ConCom's 2/28/13 meeting.
  - A site walk was conducted by ConCom (BD, GB, LC, CA) on 4/13/13.
    - 8589 sq. ft. of wetland alteration within the BZ is planned.
    - It was observed that construction activity would be separated from the wetlands by stormwater basin 1778.
    - The erosion controls between the basin and the wetlands need to be reinstalled.
    - Wetland flags adjacent to the basin need to be restored.
  - Ms. Scanlan said haybales have been installed since the site walk.
    - CA will confirm haybales and wetland flagging on a site walk with Ms. Scanlan on the following day (4/26).

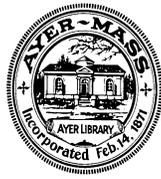


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- BD said the issue of locating the house further to either side of the lot to mitigate disturbance was moot given the entire area has already been dug up.
- The OOC will contain a condition specifying the placement of rocks or another physical barrier, to prevent yard expansion by future homeowners.
  - Mr. Roper said he would be constructing a berm and planting shrubs across it.
- GB moved to continue the Public Hearing for 100-0360 to 5/9; LC 2<sup>nd</sup>.
  - Motion approved unanimously.
- **PUBLIC HEARINGS (CONT'D.): NOIs – PINGRY HILL, CRABTREE DEVELOPMENT, LLC.**
  - Steve Mullaney, of SJ Mullaney Engineering; Rick Roper, of Crabtree Development; and Lori Scanlan, Project Manager for Powell Construction, were present.
  - A site walk was conducted by ConCom (BD, GB, LC, CA) on 4/13/13.
  - Mr. Mullaney handed out the revised plan for installation of a grinder pump and low pressure sewer that will replace the gravity sewer depicted on the original plans for these lots.
    - BD asked for more detail regarding the revised sewer system.
      - Sewage will exit each house and flow to a grinder pump.
        - Each lot will have a check valve at its property line.
        - In case of failure, individual grinder pumps are equipped with alarms.
        - In the case of power outage, each structure has the capacity to hold 80 gallons.
      - From the grinder pump, sewage will flow out to a low pressure sewer force main and downhill on Hemlock Drive to a single Sewer Terminal Flushing Cleanout at the base of the road.
      - From there sewage will be pumped uphill to pump station 6.0.
      - Maintenance of the cleanout will be the responsibility of Mr. Roper until the road is approved by the Town and maintenance taken over by the DPW.
        - A homeowners association may become responsible in between Mr. Roper and Town acceptance.
      - BD will ask DPW Superintendent Mark Wetzel if a spare pump is kept on hand for emergencies.
      - Mr. Roper said that emergency numbers are also given to homeowners.
    - CA acknowledged receipt of a flash drive from Powell Construction containing the SWPPP (Stormwater Pollution Prevention Plan) reports that ConCom requested.
    - CA asked Mr. Roper if he could request Certificates of Compliance (COCs) for completed lots as construction proceeds.
      - New homeowners often call CA to ask if they can remove lines of haybales from their property.
        - They cannot do so until a COC has been issued by ConCom.
  - **Public Hearing (cont'd.): NOI – 8 Hemlock Drive, Lot 59 (DEP #100-0359)**
    - A wetland finger runs across this lot, coming from lot 58 and running downhill to the Littleton Road drainage system.
    - A driveway profile and culvert section drawing requested at the site walk was given to CA by Mr. Mullaney.
    - Sedimentation into the wetland area was observed on the site walk.
      - Mr. Mullaney said the area has since been cleaned out and scraped.
        - Access of sediments reaching the wetlands has been blocked by sand, stone and haybales.

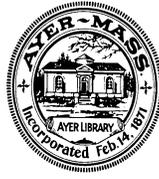


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- The sluiceway has been remodeled as well.
  - BD has observed this work; CA will confirm at 4/26 site walk with Ms. Scanlan.
- The revised sewer plans, as detailed above, were reviewed for this lot.
- Mr. Mullaney summarized some of the issues raised on the site walk:
  - Missing or displaced wetland flags are to be restored.
  - ConCom requested that a retaining wall be built in front of the house to impede access to the wetlands, and that the front yard stop at this wall and not extend beyond.
    - ConCom asked that the retaining wall be built of stone.
  - ConCom specified that Lot 59 be built concurrently with adjacent lots 58 and N (Parcel E) to reduce the impact of grading, etc., on the wetlands.
- To further minimize disturbance, BD asked if it was possible for the water and sewer connections for this lot to come from the same utility easement that feeds into lot N, which abuts lot 59 to the west.
  - Mr. Mullaney said this would be possible physically, but that there would have to be cross-easements to allow for maintenance by either property owner.
    - Mr. Roper didn't know of the Town having accepted cross-easements in the past.
    - In addition, the DPW generally prefers its water/sewer access located in front of each house.
  - This will be checked into further before a decision is made as to whether this should be a special condition in the OOC.
  - BD suggested another option, which was to run water and sewer up the easement between lots 59 and 58, with individual service then branching out to each side.
    - This would lessen the amount of activity near the wetland.
    - Mr. Roper will check with DPW to see if this would be allowed.
    - CA said if DPW approves this, it would need to be reflected on revised plans.
- The culvert for the driveway crossing over the wetland finger was discussed.
  - Mr. Mullaney noted that ConCom requested that wetland replication be completed before work on the culvert takes place.
  - Mr. Roper said that, in order to mitigate the impact on wetlands as much as possible, he now plans to construct a smaller house, with a maximum depth of 28 ft., and move the driveway to the front rather than the side.
    - Front entry will reduce the amount of impervious asphalt needed for the driveway.
    - BD said a smaller house could be moved up to 15 ft. as well.
- A re-drawing of the lot showing these proposed changes, if approved, will be needed for ConCom's file.
- CA asked Mr. Roper if ConCom could get a commitment on when the wetland reflagging for this lot, and others, would be completed.
  - Mr. Roper is waiting to hear from David E. Ross & Associates and will email CA as soon as he hears.
- GB moved to continue the Public Hearing for 100-0359 to 5/9; JG 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 23 Hemlock Drive, Lot 61 (DEP #100-0354)**
  - Mr. Mullaney said ConCom had asked for a revised plan that pushes a smaller house (28 ft. depth) closer to the street, at minimum setback.
    - This will allow for a 25 ft depth to the backyard, after which the lot slopes down to the wetlands.

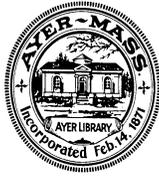


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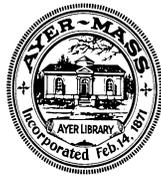
- ConCom asked for a line of boulders to prevent yard expansion into the wetlands.
- Mr. Mullaney said the scope of work inside the buffer zone has been reduced from 6677 sq. ft. to 4466 sq. ft.
  - The closest point of work to the wetlands has increased from 38 ft. to 75 ft.
- GB moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
  - Motion approved unanimously.
- GB moved to continue the Public Hearing for 100-0354 to 5/9; TT 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 26 Hemlock Drive, Lot 58 (DEP #100-0358)**
  - The action items addressed with adjacent Lot 59 have been addressed with this lot as well.
  - The sewer has been relocated as far from the wetlands as feasible, to reduce front yard grading.
  - Work within the buffer zone has been reduced from 8297 sq. ft. to 5881 sq. ft.
    - The closest point of work to the wetlands has increased from 4 ft. to 34 ft.
  - CA will confirm on 4/26 site walk that sediment the made its way into the wetlands on this lot (as on Lot 59) has been cleared and access of runoff water has been blocked.
  - BD said that if the foundation was shifted to match the topography, thereby decreasing the amount of fill needed in the front, to notify ConCom.
    - Any other such changes that result in a reduction of overall impact will be fine but also require notification of ConCom.
  - GB moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for 100-0358 to 5/9; JG 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 37 Hemlock Drive, Lot 62 (DEP #100-0355)**
  - A revised plan will depict a smaller house, 28 ft. depth, with a 36 ft. setback from the street, and a 25 ft. deep backyard.
  - ConCom has asked for a line of boulders to demarcate the limit of the backyard.
  - Work within the buffer zone has been reduced from 10,650 sq. ft. to 7422 sq. ft.
    - The closest point of work to the wetlands has been increased from 8 ft. to 31 ft.
  - GB moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for 100-0355 to 5/9; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 53 Hemlock Drive, Lot 63 (DEP #100-0356)**
  - ConCom requested a line of boulders or a fence along the drainage easement line parallel to the rear of the house.
    - Mr. Roper asked about the use of shrubs instead.
    - BD said no to this, given that shrubs could spread into the easement and impede access.
  - CA asked for a copy of the revised plan for this lot.
  - GB moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for 100-0356 to 5/9; LC 2<sup>nd</sup>.
    - Motion approved unanimously.



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- **Public Hearing (cont'd.): NOI – 67 Hemlock Drive, Lot 64 (DEP #100-0357)**
  - Minimal impact is expected from work on this lot.
  - GB moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  - JG moved to continue the Public Hearing for 100-0357 to 5/9; JG 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Public Hearing (cont'd.): NOI – 74 Hemlock Drive, Lot 55 (DEP #100-0353)**
  - No concerns were raised over this lot.
    - If a smaller house is planned, all of the work will be outside the buffer zone.
  - JG moved to approve the NOI and move forward with issuance of an OOC; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for 100-0353 to 5/9; LC 2<sup>nd</sup>.
    - Motion approved unanimously.
  
- **Discussion: U.S. Army – Removal Action Work Plan for Contaminated Sediment in Plow Shop Pond**
  - BD read portions of the memo from Sovereign Consulting Inc. re ‘Fish Management During Removal Action at Plow Shop Pond’.
    - Details included:
      - Water overflowing a to-be-installed temporary dam would still enter Plow Shop Pond from Grove Pond.
      - Water would be pumped from Plow Shop Pond at a rate of 1-2 ft. per day.
      - The memo presumed that surviving fish would seek deeper recessed pools of water expected to be up to 3 ft. deep.
        - Since the maximum depth of Plow Shop Pond is 8 ft., and the water level is to be lowered approximately 6 ft., BD thought 3 ft. of water remaining in these pools was an unrealistic expectation.
        - JG thought the memo’s reference to ‘fish management’ should more accurately have referred to ‘dead fish management’ since the remediation plan did not appear to seek to avoid a substantial fish kill.
  - Re the Work Plan, LC noted that the federal government, including the EPA and the Army, hold an exemption and are not subject to other jurisdictions, such as ConCom’s.
    - This also applies to superfund sites, which are solely under the jurisdiction of the EPA.
  - GB said he was concerned with the pumping basin and splash pad for ejected water referred to in the Work Plan.
    - The Army’s plan appears to leave it up to its contractor to design and implement, and provides neither details nor apparent oversight.
    - TT said he was concerned with the splash pad as well and thought it did not sound like it offered enough protection.
  - TT said the Army’s description said they would flag the wetlands around Red Cove and Nonocoicus Brook but that their plans did not show that this flagging has been done.
  - TT said the Work Plan referred to the Army’s intention to file an NOI before Ayer ConCom, or at least work “in consultation” or “coordination” with ConCom, but that this obviously has not yet happened.
  - TT said the Work Plan sets protective measures designed to withstand only a 10-year storm event.
    - They will not be prepared to withstand a larger storm event if one occurs during the remediation process.

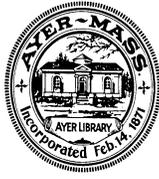


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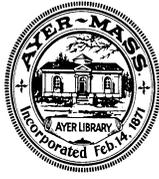
- It was also noted that a lot of water will be pumped from Plow Shop Pond into Nonocoicus Brook, which does fall under ConCom's jurisdiction.
    - BD said it was highly likely that sediment from the pond will therefore make its way into the brook.
  - CA said she was concerned about safety issues with the dam, owned by Calvin Moore, that regulates the outflow from the pond into the brook.
    - Greater stress will be placed on this dam as the water is pumped over it from Plow Shop Pond.
    - This dam has already been cited as a failing dam and Mr. Moore has indicated in the past that he will not be fixing it.
    - BD said the ideal time to replace the dam would be when the water level of the pond has been lowered.
  - Summing up thus far, BD said that the Work Plan as presented would kill most of the fish, jeopardize an existing dam, use an unspecified splash pad, and when complete, would have succeeded in cleaning up only a small area of Plow Shop Pond.
  - BD said he would have liked to see a dewatering station accompany the pumping-out plan.
    - TT said the Work Plan described water being filtered at intake and that silt socks were to be used on the other side.
    - LC said the Work Plan specified the use of extraction basins before water would flow over the dam and onto the splash pads.
    - BD said it was nevertheless likely there would be substantial clogging problems at intake, and that dirty water would inevitably make its way over the dam and into the brook.
      - The contractor performing the work will be shielded by the EPA.
    - BD suggested ConCom keep a photographic record of the condition of the brook, starting before work begins and updated weekly, to document impact on Nonocoicus Brook.
  - TT volunteered to write up the comments from ConCom to the Work Plan and memo.
  - A summary of points to be addressed in the comment letter include:
    1. Contamination and negative impact on Nonocoicus Brook from remediation of Plow Shop Pond.
    2. Concerns over the safety of Calvin Moore's dam and what would happen if it failed completely (i.e. blew out) during the pumping-out process.
    3. The large fish-kill anticipated by the Army, as well as deadly effects on other wildlife.
    4. Concerns over the splash pad design and use.
    5. The lack of a contingency plan in the event of a larger-than-10-year-storm event.
    6. Once the drawdown is complete, concern over whether the Army will be spraying exposed contaminated soils to prevent their drying completely and allowing contaminated dust to become airborne.
  - BD said that some of ConCom's comments would likely not have an impact, but that especially on the issues of the public safety of the dam and the adequacy of the splash pad, ConCom might be able to seek some improvements to the Plan.
- **Member Updates**
    - Referring to ConCom's 4/4 meeting, LC said that high school interns from Essex Agricultural High School, doing volunteer environmental science internships, would not be available until October, 2013.
  - **CA Updates**
    - DPW



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- DPW Superintendent Mark Wetzel is in the process of drafting an NOI for work on the Spectacle Pond wells.
  - Mr. Wetzel asked if the previous wetland delineation, from 2008, was acceptable to use.
  - BD said no, the Town cannot be held to a lesser standard than residents.
- Mr. Wetzel is also working on preparing an application for a General Permit.
- Mr. Wetzel has contacted Mike Callahan, of Beaver Solutions, to inquire about developing a municipal beaver management plan.
- CA forwarded Mr. Wetzel LC's email, as LC is now ConCom's stormwater representative for the Enterprise Fund.
- MBCR
  - MBCR (Massachusetts Bay Commuter Rail) has applied to the Board of Health (BOH) for emergency certification to remove a beaver dam from the culvert off Willow Road.
  - CA has told them she has no problem with this but asked them to come before us with a long-term plan for beaver management.
- Autumn Ridge
  - CA has asked Building Inspector Gabe Vellante to delay the issuance of Occupancy Permits for newly-constructed units at Autumn Ridge, pending the developer's completion of items specified in ConCom's 2012 Enforcement Order.
    - Mr. Vellante has agreed to do this.
  - The Autumn Ridge Homeowners Association will be meeting with the Town Administrator and the Planning Board to see what else can be done to ensure compliance.
- Shepley's Hill Landfill
  - CA is forwarding emails from PACE member Laurie Nehring.
  - ConCom has very little jurisdictional influence on this area but PACE would like ConCom's input and involvement.
- 2013 Flannagan Pond Weed Treatment
  - The contract award letter has been approved by the BOS and sent to Aquatic Control Technology (ACT).
  - CA also received the updated report on Flannagan Pond's 2012 treatment, as requested by ConCom, from Lycott Environmental.
- Parks & Recreation Department
  - Supervisor Jeff Thomas has talked to CA about improvements that Parks & Recreation would like to make at Grove Pond, from Pirone Park.
    - Mr. Thomas considers Grove Pond to be an underused aesthetic asset.
  - Mr. Thomas has considered putting in a dock or floating dock, to better enable canoeing and fishing, especially from the small island just offshore.
  - CA has asked him to consider the Town's liability if greater contact with the water is encouraged.
    - The water in Grove Pond is highly contaminated.
    - TT noted that signs for fishing specify "catch and release" because of the pollutants.
  - CA has communicated her several concerns to Mr. Thomas.
- Violation Notices
  - 31 Central Avenue
    - CA has been contacted by John Hillier and will be scheduling a site walk with him.



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- 82 Sandy Pond Road
  - Having observed a growing pile of chopped wood, CA visited Kevin Hardin's property on Sandy Pond.
    - None of the wood has come from trees downed on this property.
    - Mr. Hardin is stockpiling the wood for future heating.
    - The wood is stacked in between trees and is leaning toward the road, not the pond.
    - Mr. Hardin has very little room on which to store wood on this small property.
  - CA was not concerned with this issue.
  - On discussion, it was decided not to issue any Violation Notice.
- 78 Sandy Pond Road
  - The owner of this property, adjacent to the pond, has taken down a number of trees and, in addition, had the stumps ground.
  - CA will issue a Violation Notice.
- 2 and 4 Victor Drive
  - Mr. Wetzel has called to CA's attention that the homeowners at these two addresses have cut trees down and tipped them into a resource area (the buffer zone to an intermittent stream).
  - CA will check into this further.
- Town Warrant for Spring Town Meeting 2013
  - CA perused the just-released copy of the Warrant and noted that Article 38 is for an enforcement by-law.
  - The third section of this by-law, if approved, would allow ConCom to impose fines of up to \$300 for violations.
- **10:30 PM – Adjourn Meeting**
  - GB moved to adjourn; TT 2<sup>nd</sup>.
    - Motion approved unanimously.