

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249

Minutes for **2/13/2017** – Approved 3/9/2017

Location: Ayer Town Hall, 2nd Floor, Great Hall

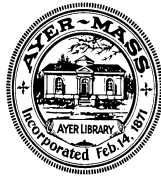
Present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Takashi Tada (TT, Member), Bonnie Tillotson (BT, Member), Jessica Gugino (JG, Member/Clerk), Brian Colleran (CA, Conservation Administrator)

APAC taped: No

7:05 PM – Open Meeting

SPECIAL MEETING FOR PUBLIC COMMENT ON DRAFT LOCAL WETLAND BYLAW REVISION

- Over a dozen Town residents were present to ask questions and comment on the draft version of the Bylaw.
 - The draft Bylaw is available for viewing on the Town's website under Conservation Commission.
- BD outlined the State's Wetland Protection Act (WPA), and explained that a local Bylaw would make subtle changes and add clarification.
- Mission Statement
 - As the discussion progressed, one suggestion that was repeated by those present was the need for a mission statement.
 - Residents also asked for a bullet-pointed sheet detailing what aspects of the draft Bylaw differ or expand from the WPA.
 - Among BD's points of note:
 - A Conservation Commission is an appointed body whose responsibility is to enforce the State's Wetland Protection Act for the protection of resource areas.
 - Resource areas defined in the WPA are: freshwater wetlands, wet meadows, bogs, swamps, vernal pools, springs, banks, lakes, ponds of any size, beaches, lands under water bodies, as well as the buffer zones adjoining these resources.
 - The WPA defines the buffer zones to these resource areas as extending to a distance of 100 ft.
 - In addition, State law recognizes rivers, streams, brooks and creeks as resource areas but defines the buffer zone to these as extending to a distance of 200 ft.
 - The goal of the Conservation Commission is to ensure protection of all of these resource areas.
 - This does not mean that no work can take place within buffer zones.
 - Rather, ConCom works with applicants to find a way for viable projects to be done in a way that protects the resource area at the same time.
 - Protection of resource areas includes making sure loose soils/material from buffer zones and upland areas do not make their way into resource areas during projects.
 - BD explained that the WPA already grants ConCom jurisdictional authority to review projects within buffer zones, and that the draft Bylaw was not substantially different in this regard.
- Buffer Zone
 - A number of residents present expressed concern about the extent of the buffer zone identified in "Section II. Jurisdiction."

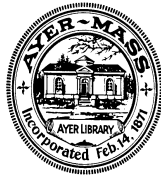


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- The draft of the Bylaw appearing on-line prior to this meeting indicated a buffer zone to wetlands of 125 ft.
 - This is an error and was corrected by ConCom at its 1/26/2017 meeting, however the draft appearing on ConCom's website did not reflect this change.
 - The language in the draft will be corrected to state that the jurisdictional buffer zone to wetlands is to be understood as 100 ft.
 - This 100-ft. buffer zone, along with the 200 ft. buffer zone to rivers and streams, mirrors what is already in the State's WPA and does not expand the jurisdictional range from that.
- What work requires ConCom review
 - The language in the draft Bylaw, "Section II. Jurisdiction," begins with the phrase "Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, degrade, discharge into, or otherwise alter the following resource areas...."
 - The issue of what sorts of projects in jurisdictional areas require ConCom review was therefore a source of concern to residents.
 - What, for example, constituted 'alteration' at a threshold requiring ConCom review?
 - What is "within reason?"
 - Do activities of normal maintenance require coming before ConCom?
 - Specific instances of concern to residents, based on the definition of "alter", under "Section IX. Definitions," included cutting or trimming of trees and shrubs, as well placing of objects in water (i.e. stones for stepping across).
 - Residents are to be encouraged to contact ConCom and its CA for projects that involve disturbance of earth/soils.
 - A distinction was drawn between digging up and replacing or planting a shrub here and there, in a single day, versus a larger project of disturbing a substantial portion of a yard, with large piles of soil left standing.
 - Open soils and large piles can find their way into unprotected resource areas when subjected to heavy downpours and this is what ConCom works with applicants to prevent.
 - One resident asked about removal of invasives like bamboo.
 - ConCom in general supports the eradication of invasives but the question remains that of scale: how much clearing and how much of a disturbance to soils is involved.
 - Another asked about pulling trash, including branches, out of the pond.
 - In all cases in jurisdictional areas, substantial work should be run by the Commission.
 - BD stressed the distinction between pruning a wheelbarrow or two of material each weekend versus clear-cutting land down to a resource area, the latter being extensive enough that residents should definitely consult with the Commission first.
 - Improvements to a house (e.g. replacing windows or siding) do not constitute work that would disturb or alter soils, resource areas, or drainage patterns – unless, as an extreme example, someone then discarded the old siding or windows into the resource!
 - Improvements to a house that don't involve earth-work are not jurisdictional.
 - BD also, however, drew a distinction between, say, putting in a deck that used driven footings (a lesser degree of review) versus putting in a deck with a full foundation dug into the soil (a more detailed review).
 - Again, BD stressed that what the Commission is trying to accomplish is to enable such projects while at the same time preventing damage to nearby resource areas.



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- Questions were also asked about tree removal.
 - BD detailed how the types of questions ConCom would look at included the proximity of the tree/s to a resource area, how large, is there a risk of damage to nearby houses, how would the tree/s be removed from the area (e.g. heavy equipment?), and whether the stump should or should not remain in place.
- Questions of what kinds of work should be reviewed by ConCom were important to residents.
 - Issues of common sense are subjective to a degree, but BD stressed that with a fulltime Conservation Administrator, this helps with making ConCom review and guidance easier for residents to seek.
- **Enforcement**
 - “Section XI. Enforcement” was reviewed.
 - Of concern to several residents was the section that currently reads:
 - “The Conservation Commission, its agents, and employees shall have authority to enter upon privately owned land for the purpose of performing their duties under this bylaw and make or cause to be made such examinations, surveys, or sampling as the Commission deems necessary, subject to the constitution and laws of the United States and the Commonwealth.”
 - Although the wording suggests limits to this authority based on federal and state laws, residents were concerned that a different membership in a future ConCom might interpret this clause in a broader way that infringes on residents rights to privacy.
 - ConCom members could understand the concern and will look into changes to the wording.
- **9:05 PM – Adjourn Meeting**
 - GB moved to adjourn; JG 2nd.
 - Motion approved unanimously.