



## **Town of Ayer Conservation Commission**

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

Minutes for **11/30/2017**

Location: Ayer Town Hall, 1st Floor

Present: Bill Daniels (BD, Chair), George Bacon (GB, Vice-Chair), Jessica Gugino (JG, Member/Clerk), Jo-Anne Crystoff, (CA, Conservation Administrator)

Not Present: Bonnie Tillotson (BT, Member), (Vacancy Member)

APAC taped: Yes

### **7:00 PM – Open Meeting**

- **Confirmation of Agenda**

- GB moved to confirm the agenda as posted; JG 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Approval of Meeting Minutes**

- GB moved to accept the minutes for 11/9/2017 as written; JG 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Accounts Payable**

- CA had a question from Accounting as to what account the Solitude bill, approved for payment at 11/9 meeting, should be paid from.
  - It was agreed this invoice should be paid from the funding for pond weed management.

- **Discussion: Robert Houde, Eagle Scout Project**

- Mr. Houde expressed his desire to continue with this project until its completion.
  - He has not yet met with Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR), because it is his understanding that Mr. Goldsmith wants to meet jointly with him and Building Inspector Charlie Schultz.
- The Commission does not yet have a viable Request for Determination of Applicability (RDA), with a detailed engineered plan, before it.
- In addition, the concrete sonotube piers were installed at some point over the summer without ConCom knowledge or approval, nor with protections to the stream banks.
  - Consequently, the piers, which stick above ground several inches, were not inspected during their installation, neither by the Commission nor by the Building Inspector.
  - The Building Inspector has indicated that the piers must be 4 ft. deep, below the frost line, for him to approve them.
    - When asked, Mr. Houde said that he thought at least a couple of them were that deep, but there are no photos or notes to corroborate this.
  - To prove their depth, Mr. Houde will have to dig down next to each pier so that Mr. Schultz can inspect them.
- BD spoke of the Commission's concern that the concrete piers present a public safety/tripping hazard, especially over the winter when covered with snow.
  - The piers therefore either need to come out or be protected.
  - Mr. Houde said he wanted to find a way to cover them rather than take them out and leave big holes in the ground that might also affect the stream banks.
  - It was agreed that Mr. Houde would construct tripod markers over each pier, using 5 ft. long logs, painted orange at the top for visibility.



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- It was further agreed to by Mr. Houde that he would inspect these tripod markers weekly throughout the winter, including the sending of a confirmation photo to CA of each inspection.
  - BD said the tripods, with photo documentation, need to be done this coming weekend.
- It was unclear when Mr. Houde would be able to coordinate with Mr. Schultz for inspection of the depth of the piers.
  - Mr. Houde will have to coordinate with Mr. Schultz, working between his school schedule and Mr. Schultz's 7-3 workday.
  - Due to the approaching winter season and ground-freezing, it may not be possible to do this within the next week or two.
- The complicated logistics of the work that needs to be done to complete this project were also discussed.
  - While excavating next to each pier will be necessary to satisfy building requirements for Mr. Schultz, this work also entails conservation interests in terms of protecting the stream and banks.
    - This is the rationale behind the RDA and NOI processes – to ensure proper protection of resource areas during construction projects of various sorts through the application-review-and-approval process.
    - GB suggested a couple of logs laid between the piers and the stream could act as soil containment.
    - This would have to be inspected and approved by CA/ConCom regardless before excavation could take place.
- To provide Mr. Houde with clear deadlines, ConCom will plan to see Mr. Houde at its 1/25/2018 and 3/8/2018 meetings.
  - For 1/25, Mr. Houde should be able to provide an update on plans being formulated and coordinated with both Mr. Goldsmith and Mr. Schultz.
    - A proper engineered structural plan, prepared by a registered design professional such as Mr. Goldsmith, must be underway by 1/25.
  - At ConCom's 3/8/2018 meeting, the Commission will be expecting to review a viable RDA (or NOI if deemed more appropriate) application from Mr. Houde.
    - The engineered plan must be ready at this time for the application to be considered viable.
  - If the proper application procedure and approval process is fulfilled, Mr. Houde should then be in good shape to continue his project next April and bring it to completion.
- BD closed by expressing his confidence in Mr. Houde and stressing the importance of Mr. Houde fulfilling his commitment to inspect the piers/tripod markers weekly, and to report these inspections to CA weekly, through the winter.
  - If, after consideration, Mr. Houde did not think he could do this, he should let the Commission know and arrange for the removal of the piers.
  - Mr. Houde said he would be responsible for this inspection.
- **Discussion: Ayer Land Inventory**
  - Courtney Starling, Planner, Community Opportunities Group, was present.
  - Ms. Starling is working with the Town's Master Plan Committee, and has asked for review of the accuracy of the Land Inventory listings that fall under ConCom's purview.



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- These land listings include conservation holdings such as the Pine Meadow Conservation Land, as well as various Conservation Restrictions.
  - This information is also applicable to the draft for the Open Space & Recreation Plan update, currently in process.
  - Maps and listings were reviewed and edited, with suggestions made for follow-up.
- **Public Hearing (cont'd.): Request for Amendment to Order of Conditions (OOC) – 150 Woodland Way (formerly 193, Lot 135B, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0279**
  - Assessors Map 36, parcel 178
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the Amended OOC and to close the Public Hearing for 100-0279; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): Request for Amendment to Order of Conditions (OOC) – 166 Woodland Way (formerly 159, Lot 136B, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0274**
  - Assessors Map 36, parcels 178 & 179
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the Amended OOC and to close the Public Hearing for 100-0274; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): Request for Amendment to Order of Conditions (OOC) – 186 Woodland Way (formerly 123, Lot 137B, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0280**
  - Assessors Map 36, parcel 180
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the Amended OOC and to close the Public Hearing for 100-0280; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI – 169 Woodland Way (Lot 71A, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0413**
  - Assessors Map 36, parcels 112 & 113
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the OOC and to close the Public Hearing for 100-0413; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI – 207 Woodland Way (Lot 74A, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0414**
  - Assessors Map 36, parcels 115 & 116
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the OOC and to close the Public Hearing for 100-0414; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI -- 219 Woodland Way (Lot 75A, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0416**



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- Assessors Map 36, parcels 116 & 117
- Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
- Following ConCom's 11/9 meeting where the possibility of unpermitted clearing was raised by BT, CA met on-site with Dr. Desheng Wang, the erosion control specialist for Pingry Hill, and Glen Pyburn, site contractor.
  - It was confirmed that there was some accidental additional clearing that should have been reported to ConCom.
  - This clearing was done in relation to infrastructure work under OOC # 100-0393.
  - Nevertheless, Mr. Mullaney said this clearing was irrelevant to the issuance of an OOC for 100-0416, a separate project.
- Dr. Wang had also raised a question about the stability of a 3:1 slope on this lot and proposed the use of riprap to replace the 3:1 vegetative seeded slope on this lot as drawn on the plan.
  - Mr. Mullaney said he had successfully used a 3:1 vegetated slope many times elsewhere in the development with no problems.
  - In addition, adding riprap or boulders to a slope that may invite sledding by children would create unnecessary risks.
- GB moved to approve and issue the OOC and to close the Public Hearing for 100-0416; JG 2<sup>nd</sup>.
  - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI -- 237 Woodland Way (Lot 76A, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0417**
  - Assessors Map 36, parcels 117 & 118
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - The same comments as to the stability of a vegetated 3:1 slope, as discussed previously, applied here as well.
  - GB moved to approve and issue the OOC and to close the Public Hearing for 100-0417; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI -- 270 Woodland Way (Lot 139B, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0419**
  - Assessors Map 36, parcels 178, 179 & 182
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - GB moved to approve and issue the OOC and to close the Public Hearing for 100-0419; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont'd.): NOI -- 259 Woodland Way (Lot 142A, Pingry Hill), Ridge View Realty Trust, MassDEP # 100-0418**
  - Assessors Map 36, parcels 181 & 182
  - Steve Mullaney, of S. J. Mullaney Engineering, was present on behalf of the applicant.
  - The same comments as to the stability of a vegetated 3:1 slope, as discussed previously, applied here as well.
  - GB moved to approve and issue the OOC and to close the Public Hearing for 100-0418; JG 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC was signed.
- **Discussion: Kohler Place Conservation Restriction (CR) (MassDEP 3 100-0340)**



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- The 11/21/17 letter written by Misty-Anne Marold, of Natural Heritage & Endangered Species Program (NHESP), to Alfred Bergin regarding the submitted text of the CR for Kohler Place was briefly reviewed.
  - NHESP will not approve the draft CR as submitted, and Ms. Marold noted the issues that needed to be resolved.
  - Changes were made to the draft CR since ConCom last reviewed it, and some of these changes do not meet with State approval.
- ConCom will follow this as it proceeds, but this is, at this point, an issue between the applicant, Mr. Bergin, and the State to resolve.
- **Conservation Commission Office Updates and Field Inspections**
  - ConCom reviewed CA's written updates, dated 11/30/2017, with some highlights noted below.
  - Pingry Hill
    - Regarding the accidental additional clearing that took place on some lots (e.g. 785A and 74A), the development will be submitting a planting plan next year to address this.
    - CA asked if an NOI would need to be submitted by the developer.
      - BD and GB said that technically new planting could be addressed through an Amendment to an OOC.
      - However, if some of the clearing took place on lots approved through the RDA process, this would not work.
    - BD suggested a good winter project for CA would be finalizing a boilerplate planting plan, with criteria, for ConCom to use in such instances going forward.
  - Nashua Street Extension
    - The DPW recently obtained an Emergency Permit from the Board of Health to take down a beaver dam causing flooding that made a sewer manhole cover inaccessible.
      - An Emergency Permit for ConCom to sign is being prepared by DPW Superintendent Mark Wetzel.
    - CA noted that the beavers immediately began rebuilding their dam within the next few days.
      - This area would not be suitable for the use of a beaver deceiver.
    - CA also noted on site-visit that a blue hose was being used to bring water over the erosion controls and drain directly into the wetlands rather than through a dewatering structure.
      - CA will be meeting with the project manager on the following day, 12/1.
    - Regarding this backup and the nearby area similarly affected at the end of Rosewood Avenue, BD suggested ConCom members might need a spring kayak excursion downstream in the area to investigate where beavers are damming.
    - CA also showed photos from the Rosewood Avenue Extension stream-crossing of what appears to be a beaver trail.
      - A beaver deceiver has been installed on one side of this culvert.
      - The beavers appear to be dragging material up and over the road to the other side, in the process also flattening the erosion controls.
      - Installation of a proper curb might be a solution in the future.
  - Ayer Solar One
    - CA observed erosion controls missing or being beaten up by dirt bike activity and reported this to Kyle Burchard, of GPR, for repair and replacement ASAP.



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- BD asked CA to request a time table/planting schedule from GPR for the James Brook Riverfront Restoration per OOC # 100-0404.
- 2 Sandy Way
  - CA is preparing the Enforcement Order per the advice received from MassDEP Circuit Rider Judy Schmitz.
    - The EO will mandate removal of the temporary dock and supports, removal of the tarp covering cat tails, and a cessation of any further earthwork in the water/shoreline without having passed through ConCom review via the NOI process.
  - BD said another winter project for CA will be to identify which parcels on Sandy Pond do and do not have dock licenses, and to research a potential way forward for those who do not.
- 97 Holly Ridge Road, Pingry Hill, MassDEP # 100-0375
  - After consultation with Circuit Rider Schmitz and with ConCom's approval, CA will notify homeowner Annette Moore that broken trees that have fallen into the stormwater basin behind her house may be cleared by hand (no heavy equipment allowed).
  - CA has invited Ms. Moore and her builder to ConCom's 12/14 meeting to discuss violations noted during a Certificate of Compliance site walk on 11/4/2017.
    - At that time it became clear from the As-Built and inspection that a number of significant changes had been made during the construction of the house and grounds for which ConCom was not notified.
    - ConCom cannot issue a Certificate of Compliance until these major changes have been discussed and the existing OOC is amended to incorporate these changes.
- Borrego Solar/National Grid
  - CA recently visited this site with John Coles, of National Grid, to inspect the controls and plant growth after the second year.
    - Erosion controls were in good shape and plant growth looked good.
  - Mr. Cole expressed concern about passage of water across the access road near the gate.
    - Erosion controls are downslope of this channel to prevent water from impacting Park Street.
    - Mr. Cole is looking for guidance from DPW about a long-term solution.
- 28 Maple Street
  - CA visited this address at the request of the homeowner.
  - The homeowner has let the bittersweet grow out of control for the last 30 years at the shoreline to Grove Pond.
    - This has resulted in several trees having been toppled by the weight of the vines, their rootballs exposed.
    - Some other trees are similarly imperiled.
  - The homeowner contacted Flagg tree service to clean up the area.
    - Flagg asked her to contact ConCom for approval before they would do this work.
  - ConCom okayed Flagg to cut up fallen trees to the root ball, including any trees within 20 ft. of the fence that are covered with vines as well.
    - No RDA is necessary provided the homeowner lets CA come back to re-inspect.
- Site Walk for Certificate of Compliance request, Robert Pedrazzi, 25 Coolidge Road, MassDEP # 100-0373
  - This site walk was scheduled for Saturday, 12/9, at 9 a.m.



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- **Balch Dam**
  - CA also brought up that Mr. Pedrazzi, as Chief of the Fire Department, had expressed concerns to her about the state of the earthen dam at Balch Pond.
    - The dam has trees growing on it, which may compromise its longterm stability.
  - Responsibility for the earthen dam is a bone of contention between the Town and Mass Highway, neither of which claims ownership.
    - BD said it was in the Town's interest to have this resolved and have a plan of action in advance on the possibility that the earthen dam could, at some point, fail and require a fast response.
  - CA will talk to Town Administrator Robert Pontbriand about this, asking whether Town Counsel and/or the DPW should weigh in on this as well.
- **Solitude Lake Management**
  - ConCom has not received the final report from Solitude yet for the 2017 weed treatments on Sandy, Flannagan, and Pine Meadow ponds.
  - ConCom needs this report soon if it is to consider issuing an RFP for treatments in 2018.
- **Unscheduled Discussion: Interview with Jon Schmalenberger for ConCom Member Vacancy**
  - Mr. Schmalenberger was present in the audience, and has previously attended other ConCom meetings to observe.
    - He submitted a letter of interest to Town Administrator Robert Pontbriand the previous week.
  - ConCom members interviewed Mr. Schmalenberger.
  - BD entertained a motion to submit a positive recommendation to Mr. Pontbriand and the Board of Selectmen for the appointment of Mr. Schmalenberger to fill the Commission's vacancy.
    - GB so moved; JG 2<sup>nd</sup>.
      - Motion approved unanimously.
- **10:25 PM – Adjourn Meeting**
  - JG moved to adjourn; GB 2<sup>nd</sup>.
    - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: 1/11/2018

Signature Indicating Approval: Jessica G. Gugino