



## **Town of Ayer Conservation Commission**

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

Minutes for 4/27/2017 – Approved 5/11/2017

**Location:** Ayer Town Hall, 1st Floor

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

**Not Present:** Takashi Tada (TT, Member)

**APAC taped:** Yes

### **7:05 PM – Open Meeting**

- **Confirmation of Agenda**

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

- **Approval of Meeting Minutes**

- GB moved to accept the minutes for 4/13/2017 as written; BT 2<sup>nd</sup>.
  - Motion approved unanimously.

- **Discussion: Request for Certificate of Compliance (COC) – 31 Pingry Way, MassDEP # 100-0130**

- The COC request was submitted by Attorney Eliopoulos on behalf of the previous homeowners, Yusuke Kanamori and Nadia Edoh.
- ConCom performed a site walk on 4/15/17 and met with current homeowner Greg Ketcham to review the site.
  - Several homeowners ago, when the house was constructed, the builder was required to do 700 sq. ft. of wetland replication to compensate for construction errors.
  - The replication area was either filled in subsequently or was never done in the first place.
    - This was discovered when the previous homeowners applied for a COC prior to sale last fall.
- At the site walk, ConCom identified an area in the back, to the right of the existing shed that abuts wetlands/Bennett's Brook, that should be allowed to revert to natural wetland conditions.
  - Since the area has been stable for the last few decades, ConCom members did not feel a significant disturbance to soils in the area was advisable.
- ConCom is asking for a line of boulders across this area, which is visually identifiable by the profusion of moss.
  - CA is to contact Attorney Eliopoulos to have this done.
  - Attorney Eliopoulos will be asked to contact the homeowner to coordinate details such as boulder size with Mr. Ketcham.
  - ConCom is to be notified when this is done so that CA may inspect.
- Mr. Ketcham was also advised that when/if he replaces the existing shed, it should be relocated at least 10 ft. further away from the brook at that time.

- **Discussion: Grove Pond Conservation Restriction (CR)**

- Neil Angus, Planner with Devens Enterprise Commission (DEC), was present.
- DEC is creating a CR to protect a 13 acre parcel along the shoreline of Grove Pond, off Barnum Road (#33-16-700).
  - This parcel contains Devens wellfield (currently unused) and is also adjacent to Ayer's water wells on the pond.
- DEC is asking Ayer ConCom to be fallback holder of the CR should DEC or its successor dissolve.
  - This would give Ayer the right of first refusal for the land.

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- Ayer ConCom signed a similar agreement with DEC several years ago regarding a CR at Shepley Hill.
  - DEC currently has emergency access to the parcel via the Army, but is in the process of working with Mark Wetzel, Ayer DPW Superintendent, to create a Memorandum of Agreement to allow foot access from Ayer for annual CR monitoring requirements.
- Mr. Angus also described a second CR that DEC is working on to protect a 14 acre forested corridor along Willow Brook.
  - Half of this CR would fall to Harvard/Worcester County, the other half to Ayer/Middlesex County.
  - Willow Brook is a channelized intermittent stream draining from Robbins Pond into Nonacoicus Brook.
- ConCom saw no reason not to vote to be signatories on both the Grove Pond and Willow Brook CRs at the same meeting.
  - GB moved to accept the offer from DEC to be named as fallback holder of the CR for Grove Pond, with right of first refusal; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to accept the offer from DEC to be named as fallback holder of the CR for Willow Brook, with right of first refusal; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Community Dog Park, 101 Snake Hill Road, Ayer Department of Public Works (DPW), MassDEP # 100-0402**
  - Assessors Map 36, Lots 214 and 218. – aka “Parcel H-1.”
    - Includes a small portion (0.7% - 2600 sq. ft.) of “Parcel H-2.”
  - DPW Superintendent Mark Wetzel was present.
  - Mr. Wetzel made some minor edits to the draft OOC with CA and is satisfied with the final OOC.
    - DPW will be sending MassDEP, along with ConCom, the Stormwater Narrative as requested, along with the Operations and Maintenance Plan.
  - GB moved to issue the OOC for 100-0402; BT 2<sup>nd</sup>.
    - Motion approved unanimously and the OOC signed.
  - GB moved to close the Public Hearing for 100-0402; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Water Main Extension, Ayer DPW, MassDEP # 100-0401**
  - Superintendent Wetzel said DPW has not yet received a response to its comments from NHESP.
  - GB moved to continue the Public Hearing to 5/11/2017; BT 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 7 Trevor Trail, Joseph D. Ambrosia, Jr., MassDEP # 100-0400**
  - Riley Jayne Farm subdivision lot 13, formerly 114 Pleasant Street; Assessor's Map 12 & 13, parcels 9 & 106.
  - Kyle Burchard, of Goldsmith, Prest & Ringwall (GPR), represented the applicant.
  - As per the Public Hearing on 4/13, CA worked with Nick Pauling, of GPR, for the right language in the OOC.
    - The OOC states that a vegetative barrier along the limits of the backyard must be in place prior to issuance of a COC for 100-0400.



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- This condition has been reviewed and accepted by GPR; Mr. D'Ambrosia; Sean Fournier of Onyx Corporation (which made errors in clearing under the subdivision's OOC 100-0389 – see ConCom 3/23/2017); and C. J. Moore (holder of OOC 100-0389).
- GB moved to issue the OOC for 100-0400; BT 2<sup>nd</sup>.
  - Motion approved unanimously and the OOC signed.
- GB moved to close the Public Hearing for 100-0400; BT 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Discussion: Request for Partial COC – 7 Trevor Trail, Riley Jayne Farm, MassDEP # 100-0389**
  - Grading and site preparation work pertaining to 7 Trevor Trail (lot 13) was done under the subdivision's OOC.
    - This partial COC now separates all future work on this lot (under OOC 100-0400 – see above) from the subdivision's OOC 100-0389.
  - GB moved to issue a Partial COC with respect to lot 13 under 100-0389; BT 2<sup>nd</sup>.
    - Motion approved unanimously and the COC signed.
- **Public Hearing: Notice of Intent (NOI)– 26 Oak Ridge Drive, Roger Kanniard / R.D. Kanniard Homes, Inc., MassDEP # TBD**
  - Roger Kanniard was present along with Steve Sears, of David E. Ross Associates.
  - The NOI is for construction of a single-family house on a partially wooded lot along the east side of Oak Ridge Drive.
    - A previous OOC was issued for this construction, MassDEP # 100-0368, but has expired.
  - Mr. Sears said that no work will be done within the first 50 ft. of buffer zone to Flannagan Pond.
    - A portion of the house, driveway and grading will be done within the outer 50 ft. of buffer zone.
  - BT, who was not present when first OOC issued over 3 years ago, asked for a new site walk.
  - BT also asked what the proposed construction sequence would be.
    - Mr. Kanniard said the house would be staked out; erosion controls installed and inspected; trees cut and stumped; foundation dug; excess fill to be removed from site; driveway/construction entrance to be well-stoned to minimize tracking of sediment onto the road; the site entrance to be closed nightly with an erosion barrier.
  - Direct abutter Carol Daley, of 24 Oak Ridge, questioned whether the abutters notification for this application was complete.
    - She noted that the first NOI, in Dec. 2013, had 14 abutters notified while this new NOI only notified 5.
    - Mr. Sears said the application used the certified list from the Town Assessor's office, as required by state law.
    - CA suggested that when the original NOI was submitted, the 26 Oak Ridge lot had not yet been separated from the 24 Oak Ridge parcel, which Ms. Daley subsequently purchased.
      - The separation of parcels would effectively 'shrink' the abutter notification zone for 26 Oak Ridge and this, perhaps, accounted for the difference in notification lists.
    - BD asked Mr. Sears to confirm the list with the Assessor's office; if it is not accurate, then a new mailing will have to be done.



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- Resident Ed Kelley, along with Ms. Daley, complained that the abutter notification form used in this NOI application was not the more recent 2012 version and therefore did not contain as much information.
  - BD noted that the form used still accomplished the goal of abutter notification.
  - Mr. Sears said that if a new mailing needs to be done, after conferring with the Town Assessor, then they will use the newer form.
- CA said that, in conversation with Circuit Rider Judy Schmitz, of MassDEP, it is within ConCom's power to forgive the NOI filing fee, given the very recent expiration of the first OOC.
  - BD said ConCom would think about this before deciding.
- DPW Superintendent Wetzel said the Town has a pumping station located on a utility easement at the corner of this lot.
  - He complained that DPW had not been notified, neither on this NOI nor the previous expired one.
  - Runoff from the hill and driveway on this steep lot could affect both the Town's catch basin as well as creating potential ponding and icing conditions on Oak Ridge Drive in this area.
  - In addition, if blasting were to be done for the foundation, this would also be of concern to the Town because of the risk of damage to the pumping station.
  - As such, the Town has a vested interest in work being done here.
- BD told Mr. Sears and Mr. Kanniard that driveway permit, from DPW, should be secured now.
  - He also asked that the provision for a rumble strip of trap rock, at the construction/driveway entrance, be added to the plan.
  - If the NOI is approved, ConCom will also include a provision requiring the notification and presence of Ayer DPW should any blasting need to be done.
- A site walk was scheduled for 9 a.m. on Saturday, May 6.
- GB moved to continue the Public Hearing to 5/11/17; BT 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Discussion: Request for COC, 4 Eagle's Nest Lane, Canney Brothers Construction LLC, MassDEP # 100-0325**
- **Discussion: Request for COC, 6 Eagle's Nest Lane, Canney Brothers Construction LLC, MassDEP # 100-0324**
  - David Canney was present for both of these discussions.
  - An engineering letter for both lots, certifying work completed as planned, was submitted from Ducharme & Dillis Civil Design Group.
    - As-built plans were also submitted.
  - CA walked both parcels last summer and found no issues other than a segment of partially buried plastic silt fence.
    - Mr. Canney said he will pull this; CA will swing by after notification to confirm.
  - COC forms were not ready for ConCom to sign.
  - BD asked for a motion to issue COCs for 100-0325 and 100-0324, to be signed at ConCom's 5/11 meeting.
    - GB so moved; BT 2<sup>nd</sup>.
      - Motion approved unanimously.
- **Discussion: Request for COC – John Giaimo, 12 Patriot Way, MassDEP # 100-0335**
  - Assessor's Map 22, Parcel 69



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- Mr. Sears, of David E. Ross, said he did not have answers to account for how the site conditions do not reflect the plans recorded in the OOC.
- A site visit was scheduled for Saturday, 5/6.
- **Public Hearing: NOI – Ayer Solar II, 0 Washington Street, Rohit Garg, Ayer Solar II LLC, MassDEP # 100-TBD**
  - Assessor's Map 4/parcel 39, Map 12/parcel 1, and Map 13/parcel 1 & 2.
  - Cal Goldsmith and Kyle Burchard, of GPR, were present on behalf of the applicant.
    - In response to BD's question, Mr. Goldsmith said that 42 people were notified as abutters, based on the Assessor's certified list.
  - An ORAD (Order of Resource Area Delineation) was issued for parcels 1 & 2 on Assessor's Map 13 on 3/9/2017 (MassDEP # 100-0398).
    - This confirmed the wetland flagging only on this portion of the project.
  - This NOI proposes construction of a solar array further in with a lengthy driveway access coming in from Washington Street, south of Madigan Lane and north of Groton-Harvard Road.
    - The total project area covering the three parcels is approximately 34 acres.
  - This project is within the Petapawag ACEC (Area of Critical Environmental Concern).
    - GPR contends that the Ayer Solar II NOI qualifies as a Limited Project.
    - 310 CMR 10.55 requires that filling of wetlands in an ACEC can only be done as part of a Limited Project, and only for up to 5000 sq. ft. with replication.
  - A gravel cart path (aka Quarry Road, aka Old Harbor Road) currently exists meandering along the northern property boundary.
    - The GPR narrative states that this path was discontinued as a way by the Town in 1949.
    - In 1972, GPR notes that the discontinued way was dissolved and split between abutting property owners to create the current northern property boundary.
      - Mr. Goldsmith said that the northern side of the way was incorporated into the Madigan Lane subdivision properties, while the southern side of the divided way is therefore usable by Ayer Solar II.
  - The site topography includes a steep drop-off from Washington Street down to flattened grassed wetlands abutted by wooded uplands along the north-northeastern property boundary.
    - Drainage from Washington Street, the Madigan Lane subdivision, upland areas, and an intermittent stream passing through a collapsed stone culvert (just off the project parcels), flows into two extensive BVW systems (bordering vegetated wetlands) to the south, on one side of the large basin valley underneath the National Grid power easement.
    - These BVW systems in turn convey runoff into a west-flowing perennial stream that ultimately converges with James Brook.
  - The NOI includes the Ayer Solar II Stormwater Management Calculations drainage report as well as an Alternatives Analysis showing six different scenarios found by GPR to be impracticable and costly.
  - Mr. Goldsmith said that, due to the steepness involved in constructing a driveway entrance from Washington Street, this was a highly complicated project.
    - The plan submitted with the NOI calls for 4390 sq. ft. of wetlands to be filled for the driveway passage, all of it in the first section of the driveway down to where a brook crosses under the existing path.
    - Two wetland replications in the same general area (2230 sq. ft, 2190 sq. ft.) are planned.
    - The first two parcels listed for the project, closest to Washington Street, are under a Purchase & Sale agreement with the Wilders.



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- The 3<sup>rd</sup> parcel, where the array will be located, is to be combined with Lot 10 from the Riley Jayne Farm subdivision (extending from Pleasant Street).
  - This will provide the required frontage for the project, but does not give practical access to the solar site since it would require an extensive crossing over a wetland area.
  - Mr. Goldsmith said that while Ayer Solar II will therefore take its frontage off of Lot 10, Ayer's Bylaws do not require that access to a property be through its frontage.
  - It is for this reason (including wetland crossing and cost) that the NOI proposes a lengthy driveway access to the site from Washington Street instead.
- Mr. Goldsmith also said that it is possible, down the line, that two houses might be constructed along the driveway, but there are no immediate plans for this work.
  - On the possibility, however, the NOI includes running water access from Washington Street into the site.
  - If these houses were to be constructed, sewer access would come in from the west, where the DPW has a sewer main running down from the hospital towards the Rosewood Avenue area.
  - DPW has been consulted about this.
  - Mr. Goldsmith also said that the driveway would always remain a driveway; it would never be submitted for acceptance as a public road.
- The sewer easement marks the western edge of the solar array.
  - The area for the solar array is pretty level and would not require much grading.
  - Mr. Goldsmith said that, after meeting with the Planning Board, adjustments were made to the design to move the array further from the property lines on Madigan Lane.
  - A wooded buffer will be left in place there, as well as between the array and the Rail Trail.
- Mr. Goldsmith said that current plans mis-locate a 100-year floodplain in the area.
  - This is not part of ConCom's jurisdiction and GPR will be seeking a floodplain map amendment from FEMA.
- Mr. Burchard spoke to the design for the driveway.
  - Coming off of Washington Street, this will involve steep slopes, a lot of fill, retaining walls, use of geoweb fabric to produce a 1:1 slope, and various stormwater solutions.
  - A good deal of the fill will be confined within a geoweb wall at the entrance to create a stable slope.
  - The first 450 ft. of driveway will be paved to get down the hillside and will be lined with guard rails.
  - After this section, the topography levels out and the driveway will be graveled from then on.
  - An 8% grade from Washington Street to the gravel section is planned.
  - Mr. Burchard said the steep slope made it difficult to clean water runoff coming down the hillside.
    - A total of 6 tree-box filters are incorporated into the design, along with curbing and piped outlets into smaller swale basins.
    - The plan is therefore compliant with DPW stormwater standards.
  - Stormwater drainage for the driveway is designed to meet 100-year storm capacity without being overtopped.



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- Mr. Burchard said that construction of the driveway off Washington Street would have to be staged.
  - The entrance itself would require traffic management on Washington Street since the road would need to be used as an initial staging area.
  - GPR is waiting for comments from Ayer DPW about this.
- ConCom members agreed that the complexity of this project, within an ACEC, warranted a third-party consultant review.
  - Mr. Goldsmith said that this was expected on their part.
  - BT mentioned a possible vernal pool on the project site, and JG asked for an analysis of wildlife habitat impact.
- Ken Diskin, of 180 Washington Street, disputed GPR's conclusion regarding the 1972 division of the abandoned way, noting that some of the abutters then had not signed off on the 1972 drawing.
  - He argued that the center line of this way needed to be accurately determined as it sets the northern boundary of the project.
    - The planned driveway runs along this section, which is also where the wetland filling will need to take place.
    - Mr. Diskin said that if the property line was to be changed here, it could affect the ability of the project to come in under the 5000 sq. ft. limit for filling in an ACEC.
  - BD said that solving a dispute over the property line was not in ConCom's purview, only the impact on determining stormwater calculations and wetland filling limits.
  - Mr. Goldsmith said that, while GPR does not agree with Mr. Diskin, it has asked a law firm to review and provide them with an opinion.
  - BD asked CA to also reach out to MassDEP for advice on how to handle such a situation (disputed property line that may or may not affect stormwater calculations and filling limits).
    - BD said that, at the end, ConCom will need a stamped plan.
- There were other questions from residents regarding depth of wooded buffers, as well as non-jurisdictional issues such as how much electricity the solar array will generate and who will use that electricity.
- CA asked if Mr. Burchard had employed NOAA's Atlas 14 numbers for stormwater calculations.
  - Mr. Burchard said that since this isn't a state standard, they did not bother with hypotheticals.
- CA noted that GPR went the route of labeling the application a "Limited Project" rather than a "Renewable Power" project.
  - No changes in slope or existing topography are allowed under the latter designation.
- Regarding selection of an outside consultant, BD asked CA to contact Mark Wetzel for any companies he would suggest.
  - In the past, ConCom has used Tata & Howard for stormwater calculation review, but the consultant needed for this project has to be proficient in evaluating wetland impact.
- ConCom will not plan a site walk for this NOI until it can do so with the outside consultant.
- GB moved to continue the Public Hearing to 5/11/17; BT 2<sup>nd</sup>.
  - Motion approved unanimously.
- [Later in the meeting, ConCom identified BSC Group (Lee Curtis, former ConCom member) as well as Epsilon as potential consultants.
  - BD asked CA to reach out to BSC, Epsilon, and Mark Wetzel's recommendation before the 5/11 meeting in order to get cost approximations.



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- It would then be a possibility to allow GPR to pick which consultant it would prefer.]
- **Discussion: ConCom Preparation for Spring Town Meeting (5/8/2017)**
  - ConCom annual budget
    - Due to confusion at ConCom's last meeting, Town Accountant Lisa Gabree was asked for, and provided, a new spreadsheet detailing ConCom's budget.
      - The new spreadsheet included the previously missing column headers, clearing up confusion.
      - BD went over this to make sure no residents would have questions.
  - Pond treatment funding article
    - BD expressed great disappointment that this year's request for \$25,000 for pond treatment cannot be included in the Omnibus budget but will be a separate raise article.
      - Unused money will roll over and accumulate for use in subsequent years but this means each year the Commission will have to justify a raise article.
    - CA suggested the mechanism of a Conservation Fund.
    - This topic will be revisited with Town Administrator Pontbriand at some point.
- **Discussion: Goals and Objectives of the Commission and Conservation Administrator**
  - Due to the lateness of the hour, this discussion will be deferred to 5/11.
- **Conservation Administrator Updates**
  - Rosewood Avenue Extension/Access Road to Ayer Solar I
    - CA asked how the Commission would like to handle change in the placement of a pole along this access road.
      - Due to the change in the layout of the solar array after the construction error involving excess clearing for Solar I (in riverfront buffer), the access road was changed slightly.
      - While the relocated pole would not require soil disturbance, it is a change to the plans and would require regular maintenance clearing.
    - BD said the applicants should come in to talk to the Commission about it.
  - Arsenic levels in Grove Pond water chestnuts
    - CA has ascertained that Solitude would charge \$600 to test levels in 6 plants.
    - Laurie Nehring, meanwhile, has a different source who would charge \$100/plant.
    - Discussion of how to proceed, including how many plants should be sampled, was deferred to a future meeting.
  - Eagle Scout project
    - CA will ask Robert Houde to fill in the test hole he dug near the bank of the stream running into Pine Meadow Pond.
      - Mr. Houde is planning to construct a wooden bridge to cross the stream to fulfill his Eagle Scout requirements.
    - The hole needs to be filled in for now, in part as a public safety measure, and in part because it is close by the stream.
  - Old Towne Village
    - CA asked ConCom members to add a stop here during its 5/6 site walks, for advice on how to proceed.



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- An erosion gully has formed behind a dumpster at this site, and includes direct drainage into Day Brook.
- CA will provide ConCom members with a map.
- Field Inspections Report and Log Book Review
  - CA is performing regular field inspections and reported no new issues of concern.
  - BD looked over the log book.
    - He said information should be added detailing when visits were made to particular sites.
  - CA will ask Town Administrator Pontbriand about whether ConCom can publicize photos from site visits to its website.
    - Previously Mr. Wetzel had expressed reservations about publicizing such photos without landowner permission.
- ConCom paying for CA Courses
  - JG mentioned Mr. Pontbriand's recent email not in support of payment.
  - JG also expressed concern over an additional expenditure at a time when ConCom just expanded the CA position from part-time to full-time.
  - GB agreed with this assessment.
  - BT said she did not support courses during work hours.
  - BD asked CA again to prepare a detailed sheet clearly showing when courses met for consideration at ConCom's next meeting.
- 5/11 Agenda
  - BD said this agenda should include the continued hearings and discussions from tonight's meeting.
  - Discussion of the Ayer Solar I pole can be added.
  - At 8:30 the Commission goals discussion should take place.
  - Any other agenda requests that come in after tomorrow (4/28) should be deferred to ConCom's 5/25 meeting.
- **Member Updates**
  - BT asked that the growing soil piles at Richard Coke's property, at the corner of Groton-Harvard Road and Central Avenue, be checked out, given their proximity to Flannagan Pond.
- **10:20 PM – Adjourn Meeting**
  - GB moved to adjourn; BT 2<sup>nd</sup>.
    - Motion approved unanimously.

**Minutes Recorded and Submitted by Jessica G. Gugino, Clerk**

**Date Minutes Approved by Conservation Commission:** \_\_\_\_\_

5/11/2017

**Signature Indicating Approval:** \_\_\_\_\_

*Jessica G. Gugino, Clerk*