



Town of Ayer Conservation Commission

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

Minutes for 1/12/2017 – Approved 1/26/2017

Location: Ayer Town Hall, 1st Floor

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

Not Present: Bill Daniels (BD, Chair),

APAC taped: Yes

7:06 PM – Open Meeting

- **Confirmation of Agenda**
 - TT moved to confirm the agenda as posted; BT 2nd.
 - Motion approved unanimously.
- **Accounts Payable**
 - Pete McLaughlin: \$1200, for ConCom file inventory work, 100 hours @\$12/hour.
 - Money to be taken from the Wetland fund.
 - TT moved to approve payment of \$1200; BT 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for Certificate of Compliance (COC) – Pheasant Circle, Canney Brothers Construction, MassDEP # 100-0259**
 - Dave Canney was present.
 - The Request closes out the OOC for the project that included Pheasant Circle and 5 house lots.
 - Partial COCs have been issued previously.
 - The “as-built” was prepared by Ducharme & Dillis based on a final inspection on 1/25/2007.
 - CA has inspected and had no issues with closing out this OOC.
 - TT moved to approve and issue a COC for 100-0259; BT 2nd.
 - Motion approved unanimously and the COC signed.
- **Discussion (unscheduled): Dave Canney Jr., 127 West Main Street**
 - In December, BD observed an excavator and large piles in the backyard, abutting wetlands, and asked CA to investigate.
 - Mr. Canney said he had had a bobcat excavator stored there while he was cleaning up some potholes.
 - He had also been awaiting a permit to burn the brush piles, and that was what BD observed while driving by.
 - The piles are now gone.
 - Mr. Canney is not doing any excavation work in the wetlands or buffer zone.
 - It was agreed that there is no need for any further action by ConCom.
- **Public Hearing: Abbreviated Notice of Resource Area Delineation (ANRAD) – Willow Road, Brent Routhier, North Country Developers LLC, MassDEP # 100-0397**
 - Present were applicant Brent Routhier; Mikael Lassila of S. J. Mullaney Engineering Inc.; and Desheng Wang, of Creative Land & Water Engineering.



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- The project site is located off Willow Road and Littleton Road (Rte. 2A).
 - It encompasses five parcels, three of which are owned by North Country Dev. and two that are owned by Paul Routhier.
 - Bennetts Brook runs through the project site.
 - Dr. Wang flagged the wetlands on Nov. 17, 2016.
 - The 100-ft. floodplain has also been established.
- The applicant seeks confirmation of the flagging of delineated areas subject to protection under the Wetlands Protection Act.
 - No construction work is proposed at this time and the applicant will file a future Notice of Intent when work is proposed within resource areas or buffer zone.
- Mr. Lassila said the primary restrictive resource on the site is the 200-ft. riverfront zone to either side of Bennett's Brook.
 - He said the applicant, Mr. Routhier, is hoping to take advantage of the current weather conditions (lack of snow) and time of year to clear a wooded area on the site and grade the area so it will be ready for building in the spring.
 - Mr. Routhier said this area is outside of the 200 ft. riverfront.
 - GB said that while this may be true, clearing prior to ConCom's issuance of an ORAD would be done at Mr. Routhier's own risk.
- CA plans to visit the site next week with an auger to take soil samples while the current thaw continues.
- GB contacted BD by text about his availability for a site walk and ConCom will get back to the applicant and representatives for scheduling once that is known.
- TT moved to continue the Public Hearing to 1/26/2017; BT 2nd.
 - Motion approved unanimously.
- Later in the meeting, a site walk was confirmed for 9 a.m. on Saturday, Jan. 14.
 - Dr. Wang was still present at the meeting and will be present on Saturday morning.
- **Public Hearing: ANRAD – 0 Washington Street, Triple AE Group LLC, MassDEP # 100-XXXX**
 - The property is owned by The Wilder Family Irrevocable Trust.
 - Cal Goldsmith, of Goldsmith, Prest & Ringwall (GPR), was present on behalf of the applicant.
 - The project site abuts the power line easement that also runs by the transfer station.
 - A paper road, "Old Harbor Road", runs through the site.
 - The wetlands were flagged by Dave Crossman, of B & C Associates, between Sept. 15 and Oct. 3, 2016.
 - The flagging was done based on a combination of vegetation and soils.
 - There is enough frontage on Washington Street to allow for two ANR house lots.
 - Washington Street, not the paper road "Old Harbor Road," will be used to determine frontage.
 - Mr. Goldsmith asked for confirmation of the flagging so that driveway design can proceed.
 - Abutter Ken Diskin, of 180 Washington Street, asked questions about the ownership of the paper road pathway.
 - It is presumed that ownership reverts to abutters, half to each side.
 - Mr. Goldsmith said that questions of ownership and easement rights of crossing will have to be resolved, and the applicant will also have to go before the Planning Board.
 - This application before ConCom, however, was just for confirmation of the wetland flagging.



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- Channeling the spirit of BD, JG asked if ConCom would be able to adequately confirm the flagging given that wetland vegetation cannot be accurately determined during the winter.
 - TT thought that soil samples as well as the topographical differences in the area might make a determination possible.
 - GB said that ConCom would schedule a site walk after consulting with BD, and noted that if ConCom cannot adequately assess the wetland flagging, a ruling would be postponed until later in the spring when conditions permitted.
- TT moved to continue the Public Hearing to 1/26/2017; BT 2nd.
 - Motion approved unanimously.
- Later in the meeting, a site walk was confirmed for 10 a.m. on Saturday, Jan. 14.
 - CA will notify Mr. Goldsmith accordingly.
- **Public Hearing: Notice of Intent (NOI) – Balch Dam Dike Improvements Project, East Main Street, MassDEP # 100-0396**
 - Present were DPW Superintendent Mark Wetzel; and Daniel Rukakoski and Katy Wilkins, of Tighe & Bond.
 - Balch Dam has been classified as a Significant (Class II) Hazard Potential dam.
 - The dam and the associated dike are currently listed as being in Poor condition, risking potential damage from a failure to downstream, wetlands, roadways (Rte. 2A especially), and area residences and businesses.
 - The State Department of Transportation has denied ownership of the dam, despite Rte. 2A crossing over it.
 - Despite the uncertainty re ownership of the dam, Mr. Wetzel said it was important to move forward with recommended work to forestall an Enforcement Order against the Town from the State.
 - Community safety issues were also important.
 - A Phase II Inspection/Evaluation Report was done in 2014 and provided the recommendations.
 - The NOI proposes the removal of trees and woody vegetation along and within 20 ft. of the dike to Balch Pond.
 - This will increase the overall stability of the water impoundment.
 - Flagging of the wetlands was done in October 2016.
 - Ms. Wilkins said that when the pine trees blow down on the eastern embankment of the dike, as a large one recently did, this creates a large hole where the roots were, weakening the dike.
 - The blowdowns also impede dam inspections, which are required every six months – something the Office of Dam Safety does not like.
 - To take down the large trees, a temporary 15 ft. wide access will be created to the dike from East Main Street.
 - Ms. Wilkins said this was a preferable access to using private property from the Cains plant.
 - No equipment will be used in the wetlands, just approaching and on top of the dike.
 - Clearing in the wetlands will be done by hand.
 - No grubbing or stumping is planned, nor any ground-disturbance activities.
 - A polyethylene coating will be applied to the top of stumps to deter regrowth.
 - There will be no change to storage capacity or elevations in the area.



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- BT asked why the dike was built in the first place.
 - Mr. Wetzel said it was probably built in the 1970s, perhaps related to the Cains plant.
 - CA asked if it might be easier to just get rid of the dike.
 - TT said no as this would probably lead to flooding on other properties.
 - Mr. Wetzel said the DPW is ready to go to bid and was hoping to do this work during the winter months, when there is less impact to the ground.
 - Ms. Wilkins said the only other permit needed is from the Office of Dam Safety; no permit is required from the Army Corps of Engineers.
 - TT moved to continue the Public Hearing to 1/26/2017; BT 2nd.
 - Motion approved unanimously.
 - Later in the meeting, a site walk was confirmed for Saturday, Jan. 14, following the two previously scheduled site walks.
- **Public Meeting: Request for Certificate of Compliance – 31 Pingry Way, MassDEP # 100-0130**
 - CA heard the previous day from law firm Eliopoulos & Eliopoulos that they would be sending someone to attend tonight's meeting.
 - No one showed up.
 - **Discussion: 26 Hemlock Drive, (Lot 58), MassDEP # 100-0358**
 - Desheng Wang, of Creative Land & Water Engineering, was present on behalf of Crabtree Development.
 - An Enforcement Order was issued to Rick Roper/Ridge View Realty Trust (now Crabtree Development), by CA on 12/10/2015.
 - ConCom performed a site walk on 12/12/2015.
 - A utility easement exists between Lots 58 and 59.
 - The easement is on Lot 58, although the work for the easement is on the OOC for Lot 59.
 - The size and location of the house on Lot 58 was different from the original plan; the driveway location had been shifted closer to the wetlands.
 - In addition, a strip of wetland to the front/left of the house was found to have been partially filled in, with the homeowner apparently driving across this area to access a backyard shed.
 - This area is a utility easement for gas and water lines.
 - ConCom ratified the EO, after some changes, at its 1/14/2016 meeting, with the note that "the area of wetland disturbance in the utility easement will be brought back to what it is supposed to be" (according to the original plans).
 - CA said the current issue is what stance ConCom wants to take on the utility easement.
 - Also at issue is whether any responsibility continues to fall on the developer, Rick Roper, versus potential issues with subsequent homeowners.
 - It was noted that neither of the homeowners for Lot 58 or adjacent 59 had signed the Affidavit which Mr. Roper had been required to secure prior to sale and had failed to do so.
 - As discussion proceeded, it became clear that there was some confusion at the time of the issuance of the EO, with TT suggesting that ConCom issued an EO that it perhaps should not have.

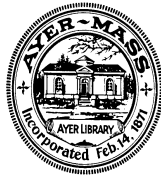


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- Dr. Wang said the utility easement was approved for permanent fill and needs to be maintained.
 - The wetland was to be filled in permanently because the easement is permanent.
 - The easement also needs to be maintained free of woody vegetation, with limited mowing (i.e. perhaps twice a year).
- Dr. Wang said that the homeowner, and hired landscapers, need to be discouraged from driving across the utility easement.
 - Gas lines are placed at a shallower depth than water lines and are not intended to bear heavy vehicle traffic.
- TT asked CA to contact the Circuit Rider, Judy Schmitz, to review the 2015 EO issuance and whether it was legitimate.
 - If it is not, then the procedure for lifting the EO needs to be understood.
 - This would remove any encumbrance to the deed.
- CA said potential actions might include requiring the developer or the homeowner to put up signs restricting vehicle access over the easement and planting a wetland grass mix.
- GB asked CA to follow up with the Circuit Rider and ConCom will consider these issues further at its next meeting.
- **Discussion: Required Mitigation for The Willows, MassDEP # 100-0288**
 - Desheng Wang was present for this discussion on behalf of the developer.
 - The parcel to the west of the triplex housing Units 95-97 was originally specified as a mitigation area.
 - In 2015, the developer submitted an NOI (MassDEP # 100-0387) to relocate another triplex (Units 56-58) to this area.
 - This area is within the riverfront zone to Bennett's Brook.
 - The OOC was appealed and MassDEP denied the relocation.
 - The DEP letter, from Denise Child, said the riverfront area in question was not previously degraded.
 - CA contacted the developer about proceeding with the original mitigation plan.
 - Dr. Wang said the developer now says that since the area is not regarded as previously degraded, it therefore doesn't need to be restored.
 - The developer will proceed with spring planting in the area but does not feel that soil work needs to be done.
 - CA will seek clarification from Ms. Child at MassDEP.
- **Discussion: Kohler Place Update, Wright Road, MassDEP # 100-0340**
 - In December, CA reported that blasting debris (large boulders) had gone beyond the limit of work and into the no-disturb zone behind Lot 4.
 - CA contacted developer A. J. Bergin about this.
 - Since then, Mr. Bergin had not completed the removal of the boulders before the holidays because the ground was frozen.
 - ConCom members noted that the boulders were to be removed with heavy equipment (from uphill, not in the no-disturb zone), and that frozen ground shouldn't have been a factor.
 - CA said that since the new year, Mr. Bergin has had the no-disturb line re-staked – it ran through the middle of the boulder pile.



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- CA also raised a question about the grade of the stone slope at the back of the house, supporting a deck, and whether removal of the boulder pile now might destabilize this support.
- ConCom members asked CA to have Mr. Bergin come to ConCom's next meeting.
- CA also said there was no news as to the current status of the Conservation Restriction and where it is in the process.
- **CA Updates**
 - Fixed Assets
 - ConCom reviewed and signed the Fixed Assets sheet per Town Accountant Lisa Gabree's request.
 - CA cellphone and FY 2018 Budget
 - Town Administrator Robert Pontbriand has asked that ConCom include a cellphone for CA in its budget.
 - Now that the CA position is fulltime, this would allow Town Hall to contact CA while in the field.
 - The phone itself would be free but ConCom would have to pay its share of monthly service charges.
 - After consulting with Cindy Know, of Information Technologies, CA outlined several options for a cellphone:
 - a regular flip phone would have a monthly service fee of around \$25;
 - a flip phone as a mobile hot spot would cost around \$40 a month;
 - an iPhone would have a monthly fee of around \$50;
 - if the iPhone was tethered to the office iPad, the monthly fee would be \$60.
 - This would allow the transmission of geospatial data from in the field.
 - Some ConCom members expressed reservations about going with the costlier options, given that the Commission has already asked for a substantial sum of money from the Town to make the CA position fulltime.
 - CA said he had met with Mr. Pontbriand earlier in the day to go over the FY2018 budget.
 - An email from Mr. Pontbriand later in the day suggested that ConCom's budget include:
 - addition of the cellphone;
 - an individual line item of \$25,000 for 2018 pond weed control (to be noted as a NEW item);
 - an individual line item of \$10,000 for survey work to complete the Mt. Laurel Conservation Restriction (to be noted as a NEW item).
 - While technically the budget was due the following day, 1/13, GB said ConCom would defer acting on this until BD was present.
 - ConCom is holding a special meeting regarding its Bylaw revision on 1/17, and will take this up at that time.
 - CA schedule
 - CA said he has been going back and forth between pursuing closing out old OOCs and researching land ownership.
- **10:05 PM – Adjourn Meeting**
 - TT moved to adjourn; BT 2nd.
 - Motion approved unanimously.