



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for **10/25/2018**

Location: Ayer Town Hall, 1st Floor

Present: George Bacon (GB, Chair), Bonnie Tillotson (BT, Vice-Chair), Jessica Gugino (JG, Member/Clerk), Jon Schmalenberger (JS, Member), Mark Phillips (MP, Member), Jo-Anne Crystoff, (CA, Conservation Administrator)

APAC taped: Yes

12:15pm



7:05 PM – Open Meeting

- **Confirmation of Agenda**
 - BT moved to confirm the agenda as posted; JS 2nd.
 - Motion approved unanimously.
- **Approval of Meeting Minutes**
 - BT moved to accept the minutes for 10/11/2018 as written; JS 2nd.
 - Motion approved unanimously.
- **Announcements**
 - The Nashua River Watershed Association (NRWA) will be hosting its Annual Meeting on Thursday, Nov. 1.
 - The event will take place at the Bull Run Restaurant, Shirley.
 - The business meeting will take place at 7:30 p.m., with a keynote speaker talking about the Eastern Coyote at 8:30 p.m.
- **Accounts Payable**
 - The Sun: \$93.21, for the legal ad for the Cannongate RDA.
 - This sum has now been reimbursed to the Town's revolving fund by Cannongate.
 - BT moved to approve payment of \$93.21; JS 2nd.
 - Motion approved unanimously.
- **Public Meeting: Request for Certificate of Compliance (COC) – 29 Jonathan Drive, GEPA Enterprises (Robert Pace), MassDEP # 100-0395**
 - Homeowner Joan Gower was present.
 - CA performed a site visit, noting the retaining wall, recharge trench, rain garden, and other work required by ConCom the previous year, following an Enforcement Order on the developer, were looking good.
 - The homeowner was invited in because of the premature removal of some of the erosion controls as well as some work observed beyond the Limit of Work.
 - This work involved lining a natural drain channel with large stones along the top edge.
 - The channel flows from underneath the Rail Trail to the adjacent wetlands.
 - This work did not redirect the course of the water flow.
 - Ms. Gower said she did this for aesthetics, not realizing it was work in the buffer zone.
 - While what she did was not deemed problematic, she was advised to not continue further activity in the buffer zone or wetlands without first consulting with ConCom.
 - BT moved to approve issuance of a COC; JS 2nd.
 - Motion approved unanimously and the COC was signed.



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- **Public Meeting: Request for COC – Five 4th Street, Jennifer D. Walker and Mark Adams, MassDEP # 100-0384**
 - The work permitted under the Order of Conditions (OOC) never commenced and now the lot is being sold to a neighbor.
 - BT moved to approve issuance of a COC, based on work not done (“Invalid OOC”); JS 2nd.
 - Motion approved unanimously and the COC was signed.
- **Public Hearing (cont’d.): NOI – 252 Woodland Way (Lot 138B), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0432**
 - Assessor’s Map 36, Parcel 180
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - The draft OOC has been reviewed and was now ready to sign.
 - BT moved to sign the OOC and close the Public Hearing for MassDEP # 100-0432; JS 2nd.
 - Motion approved unanimously and the OOC was signed
- **Public Hearing (cont’d.): Request for Amendment to Order of Conditions (OOC) – 169 Woodland Way (Lot 71A), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0413**
 - Assessor’s Map 36, Parcel 113
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - The Amended OOC has been reviewed and was now ready to sign.
 - BT moved to sign the Amended OOC and close Public Hearing for MassDEP # 100-0413; JS 2nd.
 - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont’d.): Request for Amendment to OOC – 143 Hemlock Drive (Lot 146A), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0410**
 - Assessor’s Map 36, Parcel 222
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - The Amended OOC has been reviewed and was now ready to sign.
 - BT moved to sign the Amended OOC and close Public Hearing for MassDEP # 100-0410; JS 2nd.
 - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont’d.): Request for Amendment to OOC – 165 Hemlock Drive (Lot 78B), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0411**
 - Assessor’s Map 36, Parcel 120
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - The Amended OOC has been reviewed and was now ready to sign.
 - BT moved to sign the Amended OOC and close Public Hearing for MassDEP # 100-0411; JS 2nd.
 - Motion approved unanimously and the OOC was signed.
- **Public Hearing (cont’d.): Request for Amendment to OOC – 77 Woodland Way (Lot 68), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0408**
 - Assessor’s Map 36, Parcel 110
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - The Amended OOC has been reviewed and was now ready to sign.
 - BT moved to sign the Amended OOC and close Public Hearing for MassDEP # 100-0408; JS 2nd.
 - Motion approved unanimously and the OOC was signed.



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- **Public Hearing: Request for Amendment to OOC – 259 Woodland Way (Lot 142A), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0418**
 - Assessor's Map 36, Parcel 184
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - Proof of the abutter notice mailing as well as the legal ad fee were given to CA.
 - ConCom performed a site walk on 8/18, with further discussion having taken place at ConCom's 8/23 meeting.
 - A revised plan showing the most impactful house design, the "Andover," was submitted.
 - As demarcation to a protected resource area, the original OOC required a row of boulders and a naturalized slope.
 - The Amended plan replaces a portion of the boulder line with a retaining wall, and depicts a larger house footprint.
 - A Special Condition will require 3 signs to complete demarcation of the protected resource area.
 - BT moved to approve the Request to Amend and to draft an amended OOC for MassDEP # 100-0418; JS 2nd.
 - Motion approved unanimously.
 - BT moved to continue the Public Hearing to 11/8/2018; JS 2nd.
 - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 237 Woodland Way (Lot 76A), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0417**
 - Assessor's Map 36, Parcel 118
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - Proof of the abutter notice mailing as well as the legal ad fee were given to CA.
 - ConCom performed a site walk on 8/18, with further discussion having taken place at ConCom's 8/23 meeting.
 - A revised plan showing the most impactful house design, the "Andover," was submitted.
 - The original OOC required a retaining wall and grass slope.
 - The Amended plan shows an increase in the size of the house and a decrease in lawn size for that located within the buffer zone.
 - A Special Condition will require 2 signs to complete demarcation of the protected resource area.
 - BT moved to approve the Request to Amend and to draft an amended OOC for MassDEP # 100-0417; JS 2nd.
 - Motion approved unanimously.
 - BT moved to continue the Public Hearing to 11/8/2018; JS 2nd.
 - Motion approved unanimously.
- **Public Hearing: Request for Amendment to OOC – 219 Woodland Way (Lot 75A), Richard Roper, Ridge View Realty Trust, MassDEP # 100-0416**
 - Assessor's Map 36, Parcel 117
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - Proof of the abutter notice mailing as well as the legal ad fee were given to CA.
 - ConCom performed a site walk on 8/18, with further discussion having taken place at ConCom's 8/23 meeting.
 - A revised plan showing the most impactful house design, the "Hawthorne," was submitted.



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- As demarcation to a protected resource area, the original OOC required a row of boulders.
- During the site walk, ConCom asked for the addition of planted trees in between the boulders to enhance the demarcation.
- A Special Condition will require 2 signs to complete demarcation of the protected resource area.
- BT moved to approve the Request to Amend and to draft an amended OOC for MassDEP # 100-0416; JS 2nd.
 - Motion approved unanimously.
- BT moved to continue the Public Hearing to 11/8/2018; JS 2nd.
 - Motion approved unanimously.
- **Discussion: Scheduled Site Walk, 11/27**
 - Due to the forecast of a Nor'easter on Saturday, the only site walk that will be performed will be at 0 Rosewood, at 8 a.m., for MassDEP # 100-0434 (see 10/11/18 meeting notes).
 - A site walk review of other active sites was rescheduled for 8 a.m. on 11/10.
- **Conservation Commission Office Updates**
 - Page-Hilltop School Oil Spill Cleanup (MassDEP # 100-0425)
 - CA plans to check the site tomorrow afternoon, prior to the arrival of the Nor'easter, to check the status of the site.
 - The temporary mat roadway has now been laid from one end to the other.
 - With the upcoming heavy rain forecast, CA has been told that someone (either Omni or Trident) will be monitoring the pumps over the weekend.
 - Some conflicts have arisen between the clean-up crew and Seal Harbor (Mark Gallagher Sr. and Jr.), the developers currently working at the Nashua Street Extension subdivision.
 - Seal Harbor is in the process of purchasing some development lots at the end of Pleasant Street (Riley Jayne Farm subdivision) from C. J. Moore.
 - CA was copied on a 10/22 email from Gregory Morand, the Omni Environmental LSP for the oil spill cleanup, to Mark Gallagher Sr. and Jr.
 - Mr. Morand noted that earlier in the day, the Seal Point foreman asked for permission to drive a steel-tracked excavator on the mats down the utility easement from Nashua Street over to Trevor Trail (Riley Jayne Farm), where they have already been given permission to clear the lots, even though they are still in process of being purchased.
 - Tim McGown, of Trident Environmental, denied permission, saying such a request had to be presented to senior staff of Omni and Trident.
 - Not long after that, while members of Omni and Trident had walked further up the site to the SWCS outfall, workers for Seal Harbor took down the Limit of Work snow fencing, erosion and sedimentation controls, and then drove the steel-tracked excavator from Nashua Street to Trevor Trail on the mats.
 - Mr. Morand said this damaged both the mats, which are rented and not designed for steel-tracked machinery, as well as road pavement.
 - Mr. Gallagher Sr. responded in an email dated 10/23, and copied to CA, saying they needed access from Nashua Street Extension to Trevor Trail, and will need this over the next few weeks.



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- An on-site meeting was to be held between both parties (Omni/Trident and Seal Harbor) on 10/24, to which CA was also invited but declined to attend.
 - At the advice of both GB and outside consultant Paul McManus (EcoTec), these issues need to be resolved between the two parties and ConCom should stay out of it.
- CA copied Denise Childs, of MassDEP, on both the emails cited above.
 - DEP holds a Superceding OOC for the Nashua Street Extension, as well as has a strong interest in having the oil spill cleaned up.
- JG expressed concern that Seal Harbor was tampering with erosion controls/fencing for the oil spill, which is under an Ayer ConCom OOC, and that this might happen repeatedly over the next few weeks, per Mr. Gallagher's email.
- After reviewing the "Weekly Report – October 15-21, 2018," CA will let Stephan Landry, of Omni, know that these reports should note incidents like the one described above.
- CA was also given clearance to speak to:
 - C. J. Moore, to remind him that work being done by Seal Harbor on the Pleasant Street lots, prior to the completion of their sale, will be the responsibility of Mr. Moore who currently holds the OOCs for the lots in question.
 - Mark Gallagher Jr., to remind him that LOW fencing and erosion controls cannot just be taken down.
 - Even if they are promptly put back up, ConCom has no assurance that the controls would be correctly re-installed.
- Nashoba Associated Boards of Health (NABH)
 - CA circulated a preliminary letter, dated 10/25, from James Garreffi, Director of NABH, about their plans to pave the existing gravel parking lot at their office at 30 Central Avenue.
 - This is to address stormwater, ice and safety concerns in the employee/public lot.
 - They will be coming before ConCom at its 11/8 meeting, asking for advice, including which application path (NOI or RDA) should be followed.
 - Among the considerations ConCom members discussed would be whether NABH will need an engineered solution to handling the stormwater runoff, especially as the parking area displays a 2.85% slope.
 - GB asked CA to get DPW's take on the matter.
- **Committee Updates**
 - Community Preservation Committee
 - JG is working with an applicant to CPC for funding for a community garden, to be located on Barnum Road, leased to the group by the Town.
 - The land in question will need to be cleared, and the volunteer group knows it will have to come before ConCom for permitted review.
 - Conservation Fund
 - BT asked for a status update.
 - CA said the mappers from Montachusett Regional Planning Commission (MRPC) will be updating the Town in early November on their mapping project.
 - This map will be used to identify priority parcels that the Town would be interested in acquiring via the Conservation Fund.



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- GB said ConCom will then want to hold a public information meeting on this once the mapping project is complete.

- **Member Updates**

- MP noted that he had an awesome time at the MACC Fall Conference (along with GB and JG) the previous Saturday (10/20).
 - He passed on information he learned of a free app, “inaturalist,” which allows users to post photos of plants or animals and be connected to a group of naturalists who will help identify them.
- JS spoke of a 75 yr. old American Chestnut hybrid (+ Chinese Chestnut) at Fenn School, leading to a discussion of how trees afflicted by disease are often cut down en masse (as Am. Chestnuts once were), not taking into account how some trees might have greater resistance and survive.
- BT expressed interest in seeing water testing results from the ponds, including some recently taken on Pine Meadow Pond by a citizen-scientist, pre- and post- weed treatments, as well as those regularly taken by the DPW.
- JG reminded CA that after Nov. 1, the Fire Department should be reminded to remove the boards from Balch Dam for the winter, to lower the pond levels and perhaps inhibit weed growth.
 - In addition, Beaver Solutions should be contacted about fall maintenance on the Town’s beaver deceivers.
 - Finally, JG noted how at the previous meeting, Mr. Boardman (for the ANRAD) had argued that if ConCom required the hiring of an outside consultant, he would just hire his own as a counter.
 - At the MACC Conference, JG spoke to some people there about this kind of situation and was reminded that when ConCom’s require a peer review/outside consultant, it is not the outside consultant who tells the Commission what to do.
 - The role of the consultant is only to provide a commission with unbiased expert information so that commissioners have a good basis for making decisions on various applications.
 - As such, it would not be one consultant versus another, as Mr. Boardman appeared to suggest.
- GB said that with applications winding down for the season, ConCom will be returning to its attempt to reserve the second meeting of the month for Commission/Town business (i.e. working on the bylaw, Conservation Fund, updating the OOC Special Conditions boilerplate, potential educational events, etc.).

- **9:15 PM – Adjourn Meeting**

- JG moved to adjourn; BT 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: _____

11/8/2018

Signature Indicating Approval: _____

Jessica G. Gugino