



## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 2/28/2019

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

RECEIVED

MAR 15 2019

TOWN OF AYER

*JoAnne Crystoff*

### **7:01 PM – Open Meeting**

- **Confirmation of Agenda**
  - BT moved to confirm the agenda as posted; JS 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Approval of Meeting Minutes**
  - BT moved to accept the minutes for 2/14/2019 as written; JS 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion: 12 Calvin Street, Jean and Rich Middleton**
  - Assessor's Map 21, Parcel 102
  - The Middletons were present to discuss their interest in creating kayak access to Flannagan Pond from their backyard.
    - CA did a site visit on 2/26.
    - The top of the bank, which drops down sharply, is 2 to 2-1/2 ft. above the water.
  - Several options were discussed.
    - Putting fill into the pond was not an option.
    - Cutting into the bank in any form will require permitting through ConCom.
    - Building a wooden platform dock connected to the shore and resting on temporary cinder blocks in the water was one possibility.
    - The possible use of lighter-weight aluminum docking, that can be wheeled in and out of the pond, was discussed.
  - The Middletons will contact some local hardware stores that carry dock material (such as McKays, in Westford).
    - Once they have decided on a course of action, they will contact CA who will determine what permitting process will be required.
- **Discussion: Lots 7 & 8, Littleton Road (Rte. 2A), Places Associates, John Boardman, MassDEP #s 100-0406 and 100-0407**
  - Assessor's Map 36, portion of Parcel 18
  - Initially this project was permitted with the inclusion of a rain garden between these lots 7 and 8, with a pipe carrying stormwater from under Rte. 2A and draining into the garden.
    - MassDOT initially permitted the pipe and rain garden method for handling stormwater runoff.
    - Since then, it has been found that the existing catchbasin on 2A, and the pipe that runs from it under 2A to the rain garden, are not functioning sufficiently to handle stormwater.
    - MassDOT now does not want the pipe there, nor the rain garden; they want the stormwater captured and treated on the highway itself.
      - Rte. 2A is a State highway and MassDOT does not want to be responsible for stormwater maintenance work, such as it is, on private property.



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- They have threatened to withdraw permission for the temporary Occupancy Permit issued for Lot 8 (Lot 7 is already occupied).
  - This is also holding up the completion of the sale of Lot 8.
- Mr. Boardman said he has designed a solution which will require ConCom approval and that he is hoping MassDOT would accept.
  - This would entail construction of a water quality swale on the opposite side of 2A, running east at an existing 1% downhill slope to the next catchbasin.
  - A series of check dams would slow water velocity and provide time for filtration.
  - An existing 12 in. drain pipe already runs from this functioning catchbasin under the highway where it then drains into the wetlands/pond.
  - The swale, check dams, and catchbasin should provide sufficient time for infiltration and cleaning of the stormwater prior to its discharge.
  - MassDOT would be responsible for the maintenance of the swale as well as the remaining good catchbasin.
  - The nonfunctioning catchbasin on 2A would be removed, and Mr. Boardman indicated that the developer would also remove the rain garden that has already been constructed – then to replace it with lawn.
- Mr. Boardman said he hoped this change could be approved by ConCom as a field change, with revisions covered in the as-built detail that will be submitted with the Request for COC after all work is done.
- Given a significant amount of work is proposed, ConCom requested that this be handled instead as an Amendment to the OOCs, requiring Public Hearings and abutter notification.
  - In the meantime, ConCom asked that Mr. Boardman's proposed plan be reviewed by DPW Superintendent Mark Wetzel.
  - GB also asked that written documentation of MassDOT's withdrawal of approval for the plan they previously permitted be provided to ConCom for its files.
  - GB also asked for plan details to be provided as to the removal of the rain garden.
- **Discussion: Conservation Site Analysis for Open Space Residential Development (OSRD) off Shaker Road, behind (south of) Shaker Mill Pond, Aho Development Corp.**
  - Assessor's Map 36, Parcel 18 and Map 43, Parcels 3 & 4
  - This project was previously discussed at ConCom's 2/14 meeting, at which Ron Strohsahl, of Oxbow Associates, Inc., presented their Conservation Analysis for the site.
    - Mr. Boardman remained present for the beginning of this discussion as Places Associates is the engineering company working on behalf of Aho Development Corp.
  - As background, Mr. Boardman presented a revised preliminary plan design to the Planning Board at their 2/25 meeting.
    - That revision was for a 23 unit single-family subdivision (where technically 33 could fit), using a 500 ft. long cul de sac using a 'tentacle' layout of driveways, some shared.
      - Prior to that, a previous plan used a 1000 ft. cul de sac, something for which the Planning Board (PB) would have to approve via a variance.
        - Some members of the PB had opposed granting such a variance.
    - In the 500 ft. revision plan, a number of the proposed house constructions were located within the buffer zone, in the area between 50-100 ft. from Shaker Mill Pond.
    - The Planning Board was also aware at its 2/14 meeting that ConCom would be suggesting that the entire 100 ft. buffer zone to the pond be preserved as open space, and



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that ConCom would be willing to allow greater encroachment into the buffer zone to a southern patch of wetland as a trade-off to preserve the area around the pond.

- Mr. Boardman noted that this southern patch likely arose decades ago from an abandoned pit, perhaps for gravel.
- During the 2/14 discussion, the Planning Board appeared to be rethinking its previous opposition to granting a variance to allow for a longer road (1000 ft.).
- In addition, by a prior existing easement, the parcel must maintain back driveway access to the adjacent golf course/Shaker Hills Country Club.
- Since the 2/14 Planning Board meeting, Mr. Boardman developed a new preliminary design, now based on a 750 ft. roadway and associated layout.
  - He passed around copies for ConCom members, noting that this new plan won't be shared with the Planning Board until their next meeting on 3/12.
  - This revision is for 24 units and preserves the 100 ft. buffer zone to the pond – except for the narrow entrance to the parcel from Shaker Road, which is unavoidable.
    - If approved, some very minor grading and tree clearing might be needed at the edge of the buffer zone, and that would be handled through an NOI.
  - ConCom members reacted favorably to the direction in which these revisions were headed, especially with minimizing work within the 100 ft. buffer zone to the pond.
- Some suggestions ConCom will incorporate into its recommendation to the Planning Board, vis-à-vis the Conservation Analysis, for preserved open space:
  - shifting the proposed rain garden to encompass a noteworthy rocky outcrop/boulder which ConCom is recommending be part of the designated open space;
  - linking connectivity, either via a narrow path or a slightly larger open space set-aside, between the boulder outcrop and the 100 ft. buffer zone open space;
  - perhaps the inclusion of some duplexes could allow room for this accommodation without losing units for sale.
- **Request for Certificate of Compliance (COC) (cont'd.) – Lot 3, Orion Park Drive, Foresite Engineering, Scott Hayes, MassDEP @ 100-0292**
  - Assessor's Map 7, Parcels 5 & 7
  - CA has still not heard back from the engineer or company so matters have yet to be sorted out.
- **Request for COC: 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0073**
- **Request for COC: 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0092**
- **Request for COC: 25 Robbins Road, Law Office of Thomas A. Gibbons, P.C., MassDEP # 100-0126**
  - Assessor's Map 37, Parcel 69
  - These Orders date back to the 1980s and 1990s.
    - ConCom's records from back then are sketchy and CA found that plans and descriptions for this subdivision are largely missing.
    - It is presumed some of the Orders related to 25 Robbins Road have to do with subdivision roadway or infrastructure.
  - At the moment, due to snow cover, CA cannot ascertain ground conditions around the house – for example, if wetlands are nearby or if, say, a sump pump was installed to drain from the basement.



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- The house is currently up for sale and the Attorney for the sellers has made numerous calls to CA.
- CA also said the Attorney is unwilling to do a “hold-back,” setting aside a small amount of contingency money that could be used to clean up any issues that might be found in the process of the COC inspection – once ground conditions are clear of snow.
  - If not needed, this money goes to the seller once a COC has been issued.
- CA said such hold-backs are common real estate mechanisms for dealing with this kind of problem when a sale is going through.
- GB said the Commission must maintain its principles, including not issuing COCs until an adequate inspection can be done by CA.
  - Consideration of the COC request will therefore have to wait until ground conditions allow this inspection.
- **Discussion: Ayer Wetlands Protection Bylaw Revision**
  - The bylaw revision was briefly discussed.
  - JG will work on a draft that the Commission can then edit and revise.
  - In terms of holding Public Hearings down the road, JG suggested ConCom see if it can include a notice of hearings in the DPW’s next water/sewer bill mailing, likely in May.
- **Conservation Commission Office Updates**
  - Paige-Hill School Oil Spill Clean-up (MassDEP # 100-0425)
    - With roughly 700 tons of new replacement soil in the site, held together largely by frost, CA has concerns about monitoring.
      - There is already evidence of soil migration in the northernmost area of the site.
    - CA therefore asked for a specific Monitoring Plan and circulated the draft prepared by Omni Environmental Group.
      - The Plan proposes monitoring inspections once a week from now until ConCom has determined that soil and plantings have stabilized enough to stop – presumably late spring or early summer.
      - The Plan includes a detailed checklist of observations to note in its “Post Remedial Site Inspection Form.”
      - CA is satisfied with the details of this plan and asked ConCom members to review the form and note any concerns to her by the middle of next week.
    - Meanwhile, 90% of the site has been cleaned and remediated.
      - The clean-up cells remaining are located at the wetland crossing site (Nashua Street Extension subdivision).
      - There needs to be less ice in the soil before this area can be worked on.
  - “Ayer Green Residences”
    - The Board of Selectmen will be holding a special meeting at 6 p.m. on 3/27 to discuss this proposed Ch. 40B Housing proposal.
    - The location of this project is at the site of the former Ayer Solar II, approved in 2017 by ConCom under MassDEP # 100-0403.
  - ConCom Database
    - CA continues to meet with Information Technology Director Cindy Knox to research details and costs to create a database similar to the Town of Lincoln’s.
  - Open Space & Recreation Plan (OSRP)



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- A final draft of the OSRP, which Al Futterman (Nashua River Watershed Association) worked on with much assistance from CA, was submitted to the State earlier today.
- Pingry Hill
  - Erosion control specialist Dr. Desheng Wang reports that turbidity levels in the area under active construction have been reduced a great deal.
    - In addition, vehicles are now using construction entrances, reducing the amount of dirt and sedimentation tracked onto the roadway.
  - Also, a new NOI has been submitted for 10 Fox Run Drive (corner of Fox Run and Snake Hill Road), which will be discussed at ConCom's next meeting.
    - JG noted that this lot, per original subdivision agreement with the Planning Board, was offered to the Town many years ago at a Town Meeting.
    - Town Meeting voted not to accept the parcel at that time.
      - Since then, the parcel immediately adjacent, on Snake Hill Road, was given to the Town by the developer (Crabtree / Ridge View) a number of years ago as part of its settlement with the EPA over violations.
      - The next parcel beyond that is now the Ayer Community Dog Park, also on Snake Hill Road.
- **Executive Session (approximately 9:00 PM)**
  - Executive Session pursuant to MGL, Chapter 30A, Section 21A, Exemption #6 (to consider the purchase, exchange, lease or value of real property)
    - JG moved to go into Executive Session to consider the purchase, exchange, lease or value of real property, and to reconvene in Open Session for the purpose of adjourning from the regular meeting; BT 2<sup>nd</sup>.
    - Chair GB stated that to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy.
      - A Roll Call vote was taken: JG Aye; BT Aye; JS Aye; MP Aye; GB Aye.
        - Motion approved unanimously.
- **[EXECUTIVE SESSION, not recorded for these minutes]**
- **9:30 PM – Adjourn Meeting from Executive Session**
  - JG moved to close the Executive Session and return to Open Session for the purpose of adjourning from the regular meeting; BT 2<sup>nd</sup>
    - A Roll Call vote was taken: JG Aye; BT Aye; JS Aye; MP Aye; GB Aye.
      - Motion approved unanimously.
- **9:30 PM – Adjourn Meeting**
  - BT moved to adjourn; JS 2<sup>nd</sup>.
    - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: 3/14/2019

Signature Indicating Approval: Jessica G. Gugino