



RECEIVED
APR 01 2019
TOWN OF AYER
TOWN CLERK
2:20pm lf

Town of Ayer Conservation Commission

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

Minutes for 3/14/2019

Location: Ayer Town Hall, 1st Floor

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

Not Present: Bonnie Tillotson (BT, Vice-Chair)

APAC taped: Yes

7:03 PM – Open Meeting

- **Confirmation of Agenda**

- JS moved to confirm the agenda as amended; MP 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

- JS moved to accept the minutes for 2/28/2019 as written; MP 2nd.
 - Motion approved unanimously.

- **Announcements**

- Sections of the Nashua, Squannacook, and Nissitissit Rivers, 52.8 miles, have now been officially designated as part of the National Wild and Scenic Rivers System, pursuant to a law signed by the President of the United States on 3/12/2019.
 - This was the culmination of a decade-long effort on the part of the Nashua River Watershed Association (NRWA), the Nashua River Wild and Scenic River Study Committee, and eleven Massachusetts & New Hampshire communities, including the Town of Ayer.
- The NRWA is launching its 27th season of water monitoring this year, starting Saturday 4/20, and continuing on each third Saturday of the month through October.
 - NRWA is holding an Orientation and Training session on Wednesday, April 3, for those interested in volunteering or learning more.
 - The training will be held at NRWA's River Resource Center, 595 Main Street, Groton, from 6:30 – 8 p.m.
- The Ayer Library is hosting a free presentation, "Living with Bears," on Wednesday, April 10, from 6:30 – 8 p.m., to be held in the 2nd floor Great Room at Ayer Town Hall.
 - Chalis Bird, Northeast District Wildlife Biologist from MassWildlife, is the presenter.

- **Accounts Payable**

- Jessica Gugino: \$125.00, reimbursement for attendance at MACC conference on 3/2/2019.
 - JS moved to approve payment of \$125.00; MP 2nd.
 - Motion approved unanimously.

- **Public Hearing: Request for Amendments to Orders of Conditions (OOC) – Lots 7 & 8, Littleton Road (Rte. 2A), Aho Development Corp., MassDEP #s 100-0406 and 100-0407**

- Assessor's Map 36, portion of Parcel 18
- John Boardman, of Places Associates, was present on behalf of the applicant.



Town of Ayer Conservation Commission

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

Minutes for 3/14/2019

- After discussion at ConCom's 2/28/2019 meeting, Mr. Boardman prepared an Amendment application.
 - He also revised the plan, a copy of which was distributed to ConCom, after comments from DPW Superintendent Mark Wetzel following his review.
- Per Mr. Wetzel, the proposed swale on the north side of Rte. 2A was extended further west, closer to an existing driveway, to better address icing problems that the DPW has noted in that area.
 - This problem has possibly been affected by the nonfunctioning catchbasin in that area, which MassDOT is responsible for maintaining, in theory.
- Mr. Boardman's plan calls for removal of that catchbasin.
 - Stormwater is instead to be captured by a proposed new swale which will drain to the next catchbasin further east.
 - There are already suggestions of existing swale-like conditions on the north side of 2A, but the area is filled with debris and shrubs.
 - If the application is approved (by ConCom and MassDOT), this area will be cleaned, shaped, graded, and then hydroseeded to create an engineered swale.
 - Check dams will be placed every 50 ft. to slow the velocity of stormwater drainage and provide more infiltration time.
 - The eastern catchbasin will be cleaned and repaired during the project.
 - Details were also provided on the revised plan regarding the removal of the raingarden that was constructed between lots 7 and 8.
 - MassDOT had initially approved the raingarden, but with the nonfunctioning catchbasin, MassDOT rescinded its permit and threatened to prevent occupancy of the Lot 8 house if the stormwater issue was not addressed satisfactorily in a different manner.
 - That is the motivating force behind the Amendment request.
- Mr. Boardman said the now-existing raingarden and drainline (from the western catchbasin) will be removed, with the area to be leveled, loamed and seeded.
 - In addition, 30 small evergreens (3-1/2-ft. tall Arborvitae) had been planted around the raingarden.
 - Mr. Boardman said they would like to replant some of these along the Limit of Work (LOW) line at the back of Lot 8, to delineate the permitted extent of the backyard.
 - The remainder would be replanted along the lot line between 7 and 8 to separate the yards.
 - The original plan for Lot 8 called for a fence in the back.
 - Lot 7 already has a fence, but the developer does not want one on Lot 8.
 - As long as the evergreens were planted close enough together to look substantial, roughly every 4 ft., this was agreed to.
 - The remainder will then be distributed along the lot line between 7 and 8.
 - ConCom will also require a couple of signs on posts ('wetland resource – no dumping, disturbance') at the back of Lot 8 stating that work beyond those points is not permitted.
 - Mr. Boardman will provide CA with specs for 'Feno Survey Monuments' as an alternative to ConCom's preferred method of signs mounted on posts.



Town of Ayer Conservation Commission

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

Minutes for 3/14/2019

- Mr. Boardman said the Feno markers rise only a few inches from the ground, but once placed, cannot easily be removed.
 - The Special Conditions which ConCom will ask to be in the Amended Orders are:
 - that erosion controls/haybales will be placed around the eastern catchbasin during construction of the swale;
 - that the drainpipe running from the eastern catchbasin to the edge of Shaker Mill Pond will be cleaned and cleared *by hand*;
 - that two wetland resource signs delineating LOW and extent of backyard will be required at the back of Lot 8, where the row of evergreens will be replanted, with the form of the sign to be determined, following review of the Feno marker specs.
 - JS moved to approve the Amendments to the OOCs for Lots 7 and 8 (MassDEP #s 100-0406 & 0407) and prepare the draft OOCs; MP 2nd.
 - Motion approved unanimously.
 - JS moved to continue the Public Hearing to 3/38/2019 for final approval and signing of the Amended OOCs; MP 2nd.
 - Motion approved unanimously.
- **Public Hearing: Notice of Intent (NOI) – 10 Fox Run Drive (Lot 114), Ridge View Realty Trust, MassDEP # 100-0435**
 - Assessor's Map 36, Parcel 153
 - Steve Mullaney, of S. J. Mullaney Engineering, Inc., was present on behalf of the applicant.
 - This is a vacant house lot at the corner of Snake Hill Road and Fox Run Drive.
 - It is adjacent to what is now Town conservation land (next on Snake Hill Road), and beyond which is located the Town's Dog Park.
 - Epic Enterprises owns the property across from this lot on Snake Hill Road.
 - This lot includes a large area of BVW (Bordering Vegetated Wetlands), and also contains an existing stormwater basin (#9028) and drainage easement.
 - Almost the entirety of the lot is within buffer zone.
 - Mr. Mullaney described the plans submitted with the NOI.
 - The developer wants the flexibility to offer a range of house designs to a prospective buyer.
 - The plan submitted therefore shows the "most impactful" of design options, the 'Andover' house.
 - The proposed house is placed as far from the wetlands as possible.
 - There will be virtually no backyard.
 - A line of boulders will be placed along the back edge of the house.
 - The plan assumes the placement of three wetland resource/no disturbance signs on posts.
 - Utility stubs were created and left in place for this lot many years ago.
 - Some fill will need to be placed at the front of the lot to build up and level off this area.
 - When MassDEP assigned the file number, they recommended that the wetland line on this parcel be revisited.
 - ConCom will evaluate this when it schedules a site walk.
 - In noting the history of the lot, Mr. Mullaney said that the wetlands had originally been delineated back in the late 1990s in a "botched" delineation by another company.
 - He also noted that ConCom back then had not bothered to walk the site, claiming previous familiarity.
 - The botched delineation was discovered around 2005 and redone.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for **3/14/2019**

- Also, as part of a Settlement Agreement between Ridge View Realty Trust and the Town/ZBA in 2003, two undeveloped lots were to be offered to the Town – this one, Lot 114, and Lot 109.
 - In exchange the ZBA granted ‘use variances’ for the construction of a number of single family residences in this area, necessary because the area is zoned “Light Industrial.”
 - Both lots were offered to the Town twice, and Town Meeting voted each time not to accept the parcels.
 - Mr. Mullaney said that this past year, the Town Manager and Town Counsel issued a statement officially releasing these lots for Ridge View to develop them if they wish.
- Due to continuing snow cover, a site walk could not be scheduled at this time.
- JS moved to continue the Public Hearing to 3/28, for scheduling the site walk; MP 2nd.
 - Motion approved unanimously.
 - GB said that Mr. Mullaney should have a wetland person present at the site walk, with an auger, once scheduled.
- **Enforcement Order (EO) – 0 Central Avenue, John Hillier, Central Avenue Compassionate Care, Inc.**
 - Assessors Map 26, Parcel 353 and Map 27, Parcel 98
 - Previously discussed at ConCom’s 2/14/2019 meeting.
 - Mr. Hillier was present to provide an update.
 - He has met twice now with several engineers at Goldsmith, Prest & Ringwall (GPR), and GPR has now been engaged to prepare a plan in response to the EO.
 - CA recommended that GPR consult with DPW Superintendent Wetzel before they go too far in their planning process, regarding street drainage issues as previously mentioned by Mr. Hillier.
 - GB asked that CA be kept updated as the process continues.
 - Mr. Hillier said he expected to have an action plan from GPR, following a topographical survey, probably within the next 12-14 days.
 - CA will check with Mr. Hillier prior to setting the agenda for ConCom’s next meeting.
- **Discussion: Recommendation to Planning Board re 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 and 2/28/2019 meetings.
 - CA produced a revised graphic plan drawing showing ConCom’s recommendation for the open space portion of the development, including an ‘appendix-like’ extension running south from the Shaker Mill Pond buffer zone to connect to and capture a boulder outcrop.
 - In addition, a revised narrative of ConCom’s recommendation was prepared by CA and JG.
 - Both were passed onto the Planning Board in advance of meeting with the developer at their 3/12 meeting.
 - CA briefly stopped in at that meeting and said it looked like the development will be able to stay out of the 100 ft. buffer zone (except for the narrow entrance area off Shaker Road).
 - The Planning Board still has questions regarding proposed shared driveways and the gravel road to the golf course, so no decisions on the preliminary plan were made and their process has not yet moved on to the definitive plan stage yet.
 - They were appreciative of ConCom’s recommendations.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for **3/14/2019**

- CA also gave Mr. Boardman a copy of ConCom's revised graphic and asked that Places Associates calculate the acreage of ConCom's green-shaded open space recommended area.
- **Discussion: Kohler Place Conservation Restriction (CR)**
 - MassDep #s: Lot 1 – 100-0392; Lot 3 – 100-0390; Lot 4 – 100-0391; Subdivision – 100-0340)
 - CA forwarded some questions and comments from ConCom regarding inconsistencies in the draft CR as well as previous NHESP comments from 2017 to Misty Ann Marold, at NHESP (Natural Heritage & Endangered Species Program).
 - NHESP's response should be ready by ConCom's next meeting.
- **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
 - Snow cover still prevents adequate inspection of the property, but CA is hopeful that anticipated thawing will provide an opportunity next week.
- **Discussion: Ayer Wetlands Protection Bylaw**
 - JG hopes to have something ready for review at ConCom's next meeting.
- **Discussion: Pond Weed Treatment Funding – Warrant Article**
 - CA prepared a draft Warrant Article for submission to Spring Town Meeting.
 - Per advice of Town Accountant Lisa Gabree, the draft asked for \$20,000 in new funding.
 - ConCom members disagreed with this and changed the funding request back to \$30,000, as discussed on 2/14.
 - This was in consideration of expected costs for treatment in the summer of 2020, allowance for the flexibility of considering mechanical harvesting in some areas, and the need to have adequate funding in place prior to being able to sign a contract.
 - Since contracts are signed prior to Spring Town Meeting, having adequate funding ready is key.
 - Per the request of Town Manager Robert Pontbriand for a formal vote, GB asked for a motion to submit a Warrant Article funding request in the amount of \$30,000 for pond weed treatment purposes.
 - JS so moved; MP 2nd.
 - Motion approved unanimously.
- **Conservation Commission Office Updates**



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 3/14/2019

- Paige-Hill School Oil Spill Clean-up (MassDEP # 100-0425)
 - Except for the two cells by the wetland crossing that remain to be cleaned and remediated – when conditions are dryer – Omni Environmental has moved from pre-remediation inspections to post-remediation inspections.
 - CA remains concerned about evidence of some areas of remediated soil washing out, with photos of accumulated fine mineral soil at the bottom of the brook as one example.
 - She contacted Paul McManus, of EcoTech, the outside consultant, for his views on this.
 - CA has also noted a gigantic pile of soil, uncovered, near the wetland crossing.
 - As the Nashua Street Extension development itself is under a Superseding Order of Conditions, CA will send a photo of this to Denise Child, at MassDEP, as they are the supervising authority.
- Ice House Partners Amended and Extended OOC (MassDEP #100-0321)
 - CA asked ConCom to re-sign a single-sided Amendment to the OOC as well as a single-sided Extension of the OOC, as previously approved and signed at ConCom's 2/14/2019 meeting.
 - The Registry of Deeds will not accept double-sided documents.
 - Both documents were re-signed accordingly.
- "Ayer Green Residences"
 - A reminder that the Board of Selectmen will be holding a special meeting at 6 p.m. on 3/27 to discuss a proposed "friendly" 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 – and within the Petapawag ACEC (Area of Critical Environmental Concern).
 - In response to a question from resident Beth Suedmeyer, CA spoke with MassDEP Circuit Rider Judy Schmitz.
 - Ms. Schmitz said ConCom is technically allowed to issue permits for roadways in ACECs unless a particular ACEC specifically prohibits this.
- ConCom Database and use of 'Mobile 311' App
 - CA continues discussion of creating a database.
 - She is also investigating whether there is an adequate app for use in providing a consistent format for documentation of field inspections and data collection.
 - The DPW uses Mobile 311, but it is unclear if this can be adapted/customized to suit ConCom's needs.
- Open Space & Recreation Plan (OSRP) 2019-2026
 - CA received a letter issuing official approval by the State of the 7-year plan.
 - A bound copy of the final OSRP is in CA's office and additional copies have been given to the Board of Selectmen's office, the Town Clerk, the Town Planner, and Al Futterman (NRWA).
 - It will also be posted on the Town's website in pdf format.
- ConCom's wetland resource/no disturbance signs (for use in demarcating protected areas)
 - CA received a sales quote from MassCor for the production of 100 of the 6"-round aluminum signs, for \$1012.00, including delivery.
 - The design of the signs was done by graphic artist Kim Becker.
 - ConCom will be requiring reimbursement for use of the signs by developers, etc.



Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 3/14/2019

- The reimbursement price will also have to incorporate fees for Kim Becker's design.
 - JS moved to order 100 signs from MassCor for \$1012; MP 2nd.
 - Motion approved unanimously.
- Affirmation request from Calvin Moore
 - CA received a request from Mr. Moore, via Attorney Thomas A. Gibbons, for ConCom to issue a written affirmation that Lot 8, in the Nashua Street Extension Subdivision, was NOT part of the OOC issued for the Oil Spill Cleanup (MassDEP # 100-0425).
 - The Attorney for the buyer of Lot 8 apparently has concerns, given the proximity to nearby lots affected by the oil spill cleanup.
 - Lot 8 was not affected but is adjacent to the area.
 - GB asked why ConCom is being asked to affirm something is not part of an OOC if, in fact, it is NOT part of that OOC?
 - GB will do some rewording of the draft affirmation sent by Mr. Gibbons for his signature, as he considers whether he/ConCom will sign off on this in the first place.
 - Meanwhile, CA will talk with Mr. Moore for more details on this unusual request.
- Stormwater Committee
 - DPW Superintendent Wetzel is restarting a stormwater committee and has asked for staff and/or board member participation from a number of boards, including ConCom.
 - Meetings will be held during the day, or if board members are present who work during the day, then in the evening.
 - It was recalled that last time this committee was discussed, BT was going to be ConCom's representative.
 - Further action will be deferred until BT is present.
- Rosewood Avenue culvert beaver activity
 - CA received an email on 3/13 from Pat Fennessey, of Kearsarge Energy, regarding beaver activity at the culvert that was installed in 2016.
 - The email contained the sentence, "Although we agreed to install the culvert, and did the beaver fence as a courtesy, we have to defer to the Town at this point on maintenance."
 - The beaver activity is on land not leased by Kearsarge.
 - Mike Callahan, of Beaver Solutions, had informed Kearsarge of the new beaver activity, and offered some options (beaver deceiver, trapping) to resolve.
 - GB told CA to pass this on to the DPW as it is not ConCom's problem.
 - ConCom issued an OOC for the extension of Rosewood Avenue and installation of a new culvert – a project proposed to provide access to Ayer Solar I.
 - The Town benefitted by this work as it facilitated the drainage of impounded water that was preventing the DPW from accessing several sewer line manholes.
- **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)
 - Chair GB stated that to discuss these matters in Open Session would be detrimental to the Town's negotiating strategy.



Town of Ayer Conservation Commission

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

Minutes for 3/14/2019

- 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; JS 2nd.
 - A Roll Call vote was taken: JG Aye; JS Aye; MP Aye; GB Aye.
 - Motion approved unanimously.
- **[EXECUTIVE SESSION, recorded in a separate set of 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; JS 2nd
 - A Roll Call vote was taken: JG Aye; JS Aye; MP Aye; GB Aye.
 - Motion approved unanimously.
- **9:30 PM – Adjourn Meeting**
 - JS moved to adjourn; MP 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: _____

3/28/2019

Signature Indicating Approval: _____

Jessica G. Gugino