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Town of Ayer Conservation Commission

TOWN OF AYER

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

Minutes for 11/7/2019

11:45am

Mrs. C. C. C. C.

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

7:05 PM – Open Meeting

- **Confirmation of Agenda**

- At the request of some of the residents present, and with the agreement of two prior scheduled Hearings, the McGuane Hearing was moved to the head of the agenda.
- BT moved to confirm the agenda as amended; JS 2nd.
 - Motion approved unanimously.

- **Approval of Meeting Minutes**

- BT moved to accept the minutes for 10/24/2019 as amended; JS 2nd.
 - Motion approved unanimously.

- **Announcements**

- FEMA flood risk mapping has been updated and will be available for viewing in Leominster after Nov. 21.

- **Accounts Payable**

- Solitude Lake Management: \$1500, for 2nd Sonar booster in Sandy Pond, 9/6.
 - BT moved to approve payment of \$1500; JS 2nd.
 - Motion approved unanimously.
 - CA said there will be one more invoice, and that the final report should be ready before ConCom's next meeting and submission of that invoice.

- **Public Hearing (cont'd.): NOI – Wright Road, Lot 5A, Anthony McGuane, MassDEP # 100-TBD**

- Assessor's Map 15, Parcel 68
- Neil Gorman, of David E. Ross Associates, was present on behalf of the applicant, along with Joseph McGuane, current property owner and brother to applicant Anthony McGuane.
- The NOI proposes construction of a single-family house with driveway, utility connections, 2 retaining walls, and a recharge trench (2 ft. deep, crushed stone, wrapped in filter fabric).
 - Almost all of the 13,681 sq. ft. lot is within the buffer zone to an intermittent stream and bordering vegetated wetlands.
 - The intermittent stream flows a short distance further downhill and discharges Sandy Pond.
- ConCom conducted a site inspection with Mr. Gorman on 10/26.
- Mr. Gorman submitted an updated plan, revised as of earlier on 11/7:
 - the location of existing trees has been mapped more accurately;
 - the construction sequence has been added;



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- the revised plan now proposes 8 red maple trees for mitigation, not just shrubs and bushes as before;
 - the trees would be a minimum 2" caliper;
- a correction was made to note that some of the large trees proposed to be taken down are inside the 25 ft. buffer zone, and that for these, the stumps would be left in place;
- additional detail regarding the retrench charge and how it is to be maintained by the homeowner was included (inspected and cleaned twice a year).
- GB asked what the proposed total area of clearing for the 13,681 sq. ft. lot was.
 - Mr. Gorman did not have the exact figure but thought it was between 9 and 10,000 sq. ft.
 - GB noted that if clearing exceeds 10,000 sq. ft., the project will need site plan review by the Planning Board.
- GB asked that soil mapping information for conditions underneath the trench area be provided.
 - CA said that a 2 ft. deep trench in fill would effectively be "perched," and that it would be important to know the soil conditions underneath, especially since the trench is located hard up against the retaining wall.
 - GB added that the retaining wall itself could wind up being the path of least resistance for runoff flow.
- MP questioned the lack of distance between the retaining wall and trench and asked that there be some separation between the two, even a foot.
 - Mr. Gorman said he would make an adjustment.
- JS expressed concern that sediment-bearing runoff would nevertheless get through and make it into the pond.
- BT was not concerned with the trench per se but rather with the overall project, being so close to a resource area (the intermittent stream) that itself feeds into a much larger resource area, Sandy Pond – a "Great Pond" within the Petapawag ACEC (Area of Critical Environmental Concern).
 - The sloped land on this lot is forested with some very large, mature trees and their complex root systems, and additionally provides wildlife habitat.
- Mr. Gorman stated here and several other times that the property owner has the right to use his property, and that while a lot of work is proposed within the buffer zone, it is not that different from, say, Title V projects.
 - With erosion barriers, the wetlands will not be impacted during construction, and the only new runoff would be from the driveway.
 - Similar projects have been approved by MassDEP.
- BT asked if there had been any consideration of alternative building.
 - Mr. Gorman said that, per his advice, the size of the proposed house is smaller than what the applicant had wanted, and some land was being added at the back of the lot, from Joseph McGuane's property, to enable moving the house a little further back while meeting zoning setbacks.
- At CA's request, Mr. Gorman said he would provide the actual field data forms from the wetland delineation done by Steve Sears, also of David E. Ross Associates.
- Joseph McGuane said this is an approved legal lot according to the Zoning Bylaw.
 - If there is so much concern, why wasn't the Commission interested in purchasing the lot when he offered it a year ago.
 - CA said much effort had gone into drawing up a list of priority open space parcels for possible town acquisition. This being such a small and isolated lot, it did not fall on that list.
- Mr. Gorman asked that ConCom let him know all the information it wants him to provide.



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- BT repeated that a 25 ft. buffer to the stream is not enough in her view.
- JG said her concerns were the extent of work in the buffer zone, the 2 slopes of the land leading to the stream, and the amount of fill – 3-1/2 to 4 ft. – that would be brought in to build up part of the lot.
 - For these reasons, she felt she could not put her name on a permit for this work and would therefore be voting no.
- GB asked if there was a possibility to keep some of the area by the street in a more natural state.
- Mr. Gorman will look into this and, in addition, said he would not be opposed to a Special Condition banning the use of fertilizers on this lot.
- GB then asked for public input, with at least a dozen residents were present.
 - Carolyn McCreary, of Wachusett Avenue East, presented a petition with over 40 signatures requesting that ConCom not permit this project.
 - She noted its presence in the ACEC, its proximity to Sandy Pond, the deforestation, especially of the mature trees abutting the intermittent stream that filter sediments, and the accelerated runoff that would be generated.
 - Annie Reed, of Wachusett Avenue East, who found out about the project when she jogged past during ConCom's site walk, was concerned about the complete clear-cutting of the lot (except for just adjacent to the stream), as well as the amount of fill and regrading proposed.
 - She asked if it could be designed differently to make it more suitable to the environment and terrain rather than 'maxxing' out the lot and requiring so many mitigating interventions.
 - She asked about environmental risks after the construction was completed.
 - Mr. McGuane said that if people were concerned if something fails and affects the stream, the stream is also on his property just below this lot and he would likely be the first to notice.
 - Mr. Gorman asked what additional information the Commission would like since it appeared unlikely that a vote would be taken tonight.
 - Harry Zane, of Wright Road, lives alongside the intermittent stream above this lot and said that the stream right now is pretty dry because of a beaver dam further upstream that is impounding a lot of water.
 - Colleen Krieser, of Standish Avenue, agreed with previously raised issues and said she was especially concerned with the clear-cutting of the mature trees and their active root systems so close to wetlands.
 - She asked if the Commission hires a peer review for these types of projects.
 - GB said ConCom does for larger projects but typically does not for small projects like this.
 - Scott Murray, of Sandy Way, said his focus was on protecting the shallow well that provides his drinking water on his lot below this one.
 - Mr. Gorman said the well is beyond 100 ft. from the project and he was confident there would be no impact.
 - Mr. Murray also asked about the possibility of failure of the recharge trench, especially if the trench ices over.
 - He said that a system, no matter how well designed, is only as good as who maintains it.
 - Susan Tordella-Williams, of Hedgeway, worried about future maintenance as well.



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- She also said this project loses a lot of mature trees only for the sake of gaining one more house.
- GB summarized the changes or information that ConCom wants before proceeding further:
 - the square footage of clearing proposed;
 - additional plantings within the 25 ft. buffer zone;
 - data sheets;
 - soils information;
 - preserving a natural area along the front of the lot on Wright Road;
 - any additional trees to plant;
 - changes to the recharge trench as discussed.
- BT added she'd like some consideration of pervious versus impervious driveway.
- BT moved to continue the Public Hearing to 11/21/2019; JS 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – Off Shaker Road – “Pond View,” Open Space Residential Development, Aho Development Corp., MassDEP # 100-0437**
 - Assessor's Map 36, Parcel 18, and Map 43, Parcel 3
 - John Boardman, of Places Associates, was present on behalf of the applicant.
 - ConCom performed a site walk on 10/26 with Mr. Boardman.
 - Mr. Boardman said he was just providing an update tonight and would end with a request for a continuance.
 - Discussion continues with both the Planning Board and the DPW, which will lead to revisions to the final plans, including adjustments to the placement of houses, adjustments to the entrance into the subdivision, and finalization of the road layout, as it is required to provide access to the golf course.
 - Currently, the location of haybales/erosion controls has been shifted to the bottom of the slope near the 100 ft. buffer zone line to Shaker Mill Pond.
 - BT asked if there had been any consideration given to making some of the houses in the back (nearer to the golf course) into duplexes?
 - This could allow removing some of the houses closer to the buffer zone, especially one house lot located very close to the open space area around the glacial erratic/boulder area.
 - Mr. Boardman said duplexes require an extra layer of costly permitting.
 - The disposition of the open space was discussed.
 - Mr. Boardman said the Planning Board was deferring to ConCom.
 - One option would be a standard homeowner's association with standard CR (Conservation Restriction) restrictions.
 - Another would be for the open space to become Town property, managed by ConCom.
 - GB said ConCom doesn't have the staff to manage conservation land, and also said that if the Town were to own the open space, there should be public access, which might in turn require parking.
 - Mr. Boardman said the Planning Board may request that the developer provide a recreation area separate from the open space.
 - Such an area by the boulder might be a possibility, or by the entrance to the development where residents might be able to put boats into the pond.
 - GB suggested ConCom consider meeting with the Planning Board to discuss this and future dispositions of open space.



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- CA said developing a walking trail along the edge of the buffer zone by the pond would be feasible, and would in addition draw people to an established trail while taking pressure off the rest of the buffer zone.
 - Regarding utility connections, Mr. Boardman said they are still working with the DPW on that so haven't yet filed the NOI.
 - There will likely be no disturbance to the road as their intent is to do directional drilling.
 - Abutter Melissa Tracy, of Shaker Road, was concerned about the development's impact on wildlife.
 - JG said most of the buffer zone to the pond was being preserved, except for the entrance to the development.
 - Much of the development, except for the area around an isolated wetland (likely created from an old gravel/sand mining pit), is therefore outside of ConCom's jurisdiction.
 - CA added that the Commission felt fortunate that most of the pond's 100 ft. buffer zone would be left untouched.
 - BT moved to continue the Public Hearing to 11/21/2019; JS 2nd.
 - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 20 Hibiscus Lane, David W. Badger, Lily Pad Trust, MassDEP # 100-TBD**
 - Assessor's Map 7, Parcel 29
 - Neil Gorman, of David E. Ross Associates, was present on behalf of the applicant.
 - The project proposes construction of a single-family house, garage, and paved driveway, with associated grading and utilities.
 - Following previous discussion on 10/10, Mr. Gorman confirmed that the existing detention basin on the property is owned and managed by the Town and cited a previous 'Order of Taking.'
 - ConCom conducted a site walk with Mr. Gorman on 10/26.
 - Mr. Gorman provided an updated plan, revised as of earlier on 11/7.
 - The revised plan adds a construction sequence, a drywell to collect roof runoff, and detail on a gutter system and 6-in. subsurface PVC pipe.
 - No changes were made to the design of the house, 300+-ft. long impervious driveway, or limit of work (LOW).
 - The project does exceed clearing 10,000 sq. ft. and therefore will trigger site plan review with the Planning Board.
 - Mr. Gorman said a condition could be added prohibiting the use of salt on the driveway, if desired.
 - CA asked for additional plantings to mitigate for the tree clearing, which Mr. Gorman agreed to.
 - The plantings already proposed for the site are just arborvitae for privacy and headlight shielding.
 - Kelly Harte, of 18 Hibiscus Lane, said her greatest concern was the loss of trees and wondered if a 50 ft. buffer zone to Long Pond could be preserved.
 - She also asked if a shared driveway with the Badger's other house had been considered.
 - Mr. Gorman said that portion of the driveway is outside of the buffer zone and therefore not jurisdictional to ConCom.
 - Regarding the impervious surface of the driveway, Mr. Gorman also said that when the detention basin for stormwater management was designed for the original subdivision, it had included calculations for a driveway and house on this lot – which was subsequently not built at that time.



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- The existing basin is therefore already designed to collect stormwater from this proposed driveway.
 - Further, relocation of the house further back is not easily feasible because of the terrain, including a natural 'saddle', as well as the amount of ledge in other locations.
 - They want to avoid blasting if possible.
 - After further discussion, Mr. Gorman agreed to look at whether a bigger buffer zone area can be preserved in the area south/southeast of the house.
 - He will also look again at the possibility of moving the house location slightly further back, to the north.
 - He will also provide an inventory of trees in that area, those larger than 8-10 in.
 - CA asked for the data forms from the delineation, but also noted that soil information has already been provided.
 - MP asked about the possibility of modification to the turn-around at the end of the driveway.
 - Mr. Gorman said that this was not feasible given the turn-around needs for emergency vehicles such as fire trucks or ambulances.
 - BT moved to continue the Public Hearing to 11/21/2019; JS 2nd.
 - Motion approved unanimously.
- **Request for Determination of Applicability: 165 Hemlock Drive, Xianshen Ji**
 - Assessor's Map 36, Lot 120
 - Xianshen Ji was present.
 - The RDA reviews a proposal to do three things:
 - Relocate a 10 x 12 ft. shed that was built too close to the street.
 - CA said the proposed new location, in the buffer zone, is in a perfect location, and the shed would be sitting on cinder blocks.
 - Installation of an irrigation system (installed by ditch witch, thus very little ground disturbance);
 - Removal of 3 hazard trees in the backyard, one dead and the other two taller than the house and also leaning toward the house.
 - CA said those trees also are right on the edge of the LOW and probably have compromised root systems.
 - Compensating for their removal with planting some new trees was agreed to.
 - BT moved to issue a Negative Determination of Applicability; JS 2nd.
 - Motion approved unanimously.
 - The DOA was signed, copied, and the original given to Xianshen Ji.
- **Request for Partial Certificate of Compliance (PCOC) (cont'd.) – Lot 12A (originally Lot 12), Trevor Trail, C. J. Moore, Riley Jayne Farm LLC, MassDEP # 100-0415**
- **Request for PCOC (cont'd.) – Lot 13A (originally Lot 13), Trevor Trail, C. J. Moore, Riley Jayne Farm LLC, MassDEP # 100-0415**
 - Having been voted on during the 10/24 meeting, the completed PCOCs were signed by the Commission.
- **Public Hearing: NOI – Pine Meadow Conservation Area Pond Leveling Device, Town of Ayer, MassDEP # 100-TBD**
 - Assessor's Map 14, Parcel 3



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- The NOI is after-the-fact, the beaver deceiver having already been installed.
- CA has a couple of questions still to clear with MassDEP.
- BT moved to continue the Public Hearing to 11/21; JS 2nd.
 - Motion approved unanimously.
- **Discussion: Reorganization of Conservation Commission**
 - Chair – Jon Schmalenberger
 - Vice-Chair – Mark Phillips
 - Clerk – Jess Gugino
 - Member – George Bacon
- BT moved to accept the new slate of leadership, effective at the end of this meeting; JS 2nd.
 - Motion approved unanimously.
- **Discussions of Pingry Hill subdivision winterization plan and Bylaw/regulations next steps were postponed to ConCom's next meeting, given the lateness of the hour.**
- **Conservation Commission Office Updates**
 - There being nothing urgent, updates were postponed to ConCom's next meeting.
- **10:08 PM – Adjourn Meeting**
 - BT moved to adjourn; JS 2nd.
 - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: 11-21-2019

Signature Indicating Approval: 