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TOWN OF AYER

## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 10/24/2019

11:45am  
Susan Opland

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

### **7:01 PM – Open Meeting**

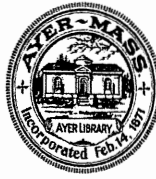
- **Confirmation of Agenda**
  - The order of applications was slightly rearranged.
  - JS moved to confirm the agenda as amended; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Approval of Meeting Minutes**
  - JS moved to accept the minutes for 10/10/2019 as written; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Accounts Payable**
  - A final bill from Solitude Lake Management, for the 2019 weed treatments, was held to another meeting, pending receipt of the final report.
- **Request for Determination of Applicability (RDA) – 20 Calvin Street, Mark Hutchison**
  - Assessor's Map 21, Parcel 94
  - Mr. Hutchison described 3 trees on his property, abutting Flannagan Pond, two completely dead and the third leaning precariously.
    - He would like to take them down.
  - There being no concerns, JS moved to issue a Negative Determination of Applicability; MP 2<sup>nd</sup>.
    - Motion approve unanimously.
    - The DOA was signed, copied, and the original handed to Mr. Hutchison.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – John Carroll Reserve subdivision, 54 & 56 Littleton Road, LR Properties, LLC, MassDEP #100-0436**
  - Assessor's Map 36, Parcels 2, 21, 22 & 24, Littleton Road
  - After some back-and-forth emailing of the draft with Nick Pauling, of Goldsmith, Prest & Ringwall (GPR), the Order of Conditions (OOC) was now ready for signing.
    - JS moved to approve the OOC and close the Public Hearing for 100-0436; MP 2<sup>nd</sup>.
      - Motion approved unanimously and the OOC was signed.
  - **Related Discussion:**
    - While Mr. Pauling did wind up sending a revised NOI to MassDEP, as requested by ConCom, the issue was contentious.
      - CA was copied on an email sent on 10/23 by Cal Goldsmith, VP of GPR to Denise Child, of MassDEP, complaining about ConCom's "new requirement" of submitting a revised NOI and sending that to the State as well.
      - Ms. Child responded by email on 10/23 that this was not a DEP requirement, but that she could understand the request with regard to "complex cases."



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- ConCom accepted Mr. Goldsmith's point that an originally filed NOI and plans will generally undergo changes and revisions during the permitting and review process.
  - The final OOC, a copy of which is also sent to MassDEP, is the culmination of that process, and references back to the original document of record.
- The issue with this NOI, however, was that the original had a number of errors and missing information (i.e. the data forms, later submitted).
  - GB said that at the beginning of the process, the NOI, the document of record, should be as correct as possible.
  - CA noted another recent NOI application before ConCom had factual errors as well, but that the engineer had assumed the necessity of submitting a revised/corrected version without having been asked.
- ConCom members agreed the key issue here was whether the initial NOI was correct and complete, and that this was the reason the Commission required a revision from GPR.
  - It was also noted that this was a complex development project, being the first 'Open Space Residential Development' to undergo permitting in the town through the Planning Board and ConCom.
- **RDA (cont'd.) – 103 Oak Ridge Drive, John Delcore**
  - Assessor's Map 28, Parcel 3
  - Previously approved on 10/10, ConCom signed the completed DOA.
- **RDA (cont'd.) – 5 Mountain View Avenue, Christopher Hill**
  - Assessor's Map 22, Parcel unassigned but at end of Mountain View Avenue, on Sandy Pond
  - Previously approved on 10/10, ConCom signed the completed DOA.
- **Request for Partial Certificate of Compliance (PCOC) – Lot 12A (originally Lot 12), Trevor Trail, C. J. Moore, Riley Jayne Farm LLC, MassDEP # 100-0415**
- **Request for PCOC – Lot 13A (originally Lot 13), Trevor Trail, C. J. Moore, Riley Jayne Farm LLC, MassDEP # 100-0415**
  - Assessor's Map 12 & 13, Parcels 106 & 109
  - C. J. Moore was present to describe the issue.
  - The original two lots, 12 and 13, were affected by the Page Hilltop oil spill that took place on Feb. 24, 2018.
    - Diesel Direct received an OOC (MassDEP # 100-0425) for both cleanup of the oil spill and required mitigation of the wetlands that suffered damage (new soil, new plantings).
    - The oil spill cleanup is now complete and Diesel Direct has received a 'Permanent Solution Statement with No Conditions'.
    - However, the OOC for this work, which impacted the back half of lots 12 and 13, cannot be closed out until the mitigation has been confirmed as successful, which won't be for at least another year, by the terms of the OOC.
    - This would make it impossible for Mr. Moore to develop and sell the two house lots as well as to get the road, Trevor Trail, accepted by the Town.
  - To resolve this, Mr. Moore went before the Planning Board and subdivided both lots.
    - Lot 12 became Lot 12A, with the back half affected by the oil spill and OOC now designated Parcel B.



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- Lot 13 became Lot 13A, with the back half affected by the oil spill and OOC now designated Parcel A.
  - No work related to the oil spill cleanup/100-0425 took place on newly-designated lots 12A and 13A.
  - Mr. Moore is therefore asking for PCOCs to release the new lots from the OOC.
    - The newly created back-half parcels A & B do not have any frontage and are undevelopable, but Mr. Moore said they could be used to provide access to the oil spill area, if needed, for the time being.
    - At some future point, their disposition will be settled – possibly by offering their sale to the future owners of 12A and 13A once the Diesel Direct OOC has been closed.
  - JS moved to issue a PCOC for Lot 12A (originally Lot 12, now divided into Lot 12A and Parcel B) under MassDEP # 100-0425; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - JS moved to issue a PCOC for Lot 13A (originally Lot 13, now divided into Lot 13A and Parcel A) under MassDEP # 100-0425; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - The PCOCs will be ready for signature at ConCom's next meeting.
- **Discussion: Town of Ayer, Pine Meadow Conservation Land, Pond Leveling Device Installation**
  - On Monday, 10/21, Mike Callahan, of Beaver Solutions, installed a “beaver deceiver” in the lower beaver dam on the stream running between ‘Rock Meadow Pond’ wetlands and Pine Meadow Pond.
    - A 40 ft. long 15-in. flexible pipe is part of the installation, carrying water through a notch in the 6-1/2 ft. tall beaver dam that was flooding trails.
    - A similar device was installed on the upper beaver dam several years ago.
  - CA will prepare an after-the-fact NOI for ConCom's next meeting to cover this new work.
- **Discussion: Ayer Wetlands Bylaw Town Meeting Presentation**
  - Minor revisions were made to the Power Point slide show.
  - The FAQ draft, prepared by JG, was reviewed and edited.
    - Resident Ruth Maxant made some helpful suggestions to the FAQ which were incorporated.
    - JG will circulate a final draft over the weekend.
    - 150 copies of the FAQ will be printed on Monday morning for Town Meeting later that evening, 10/28.
- **Conservation Commission Office Updates**
  - 217 West Main Street (MassDEP # 100-0420)
    - Paving is now complete.
    - Tree box filters have yet to be planted.
  - Rosewood Avenue culvert and beaver fencing (MassDEP # 100-0388)
    - The water level of the stream, which has widely fluctuated, is now on the high side again.
      - CA sent copies of the photos documenting the varying levels to Mike Lotti, of Industria Engineering, who is supposed to do the wetland replication area.
      - He'll be reaching out to a landscape architect for advice as to what sorts of wetland plantings would best survive under these fluctuating conditions.
  - Pingry Hill subdivision



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- CA will plan to visit the site with Dr. Desheng Wang this fall, to evaluate site preparations for the coming winter.
  - Some portions of replication areas have yet to be completed.
  - On Lot O2, the replication area was supposed to have gone in at the same time as the wetland crossing, but while the crossing is in, the wetland soils for the replication are just sitting in a pile and there is no current plan for it to go forward.
- John Carroll Reserve subdivision, 54 & 56 Littleton Road (MassDEP #100-0436)
  - CA met recently with Town Manager Robert Pontbriand and Town Planner Mark Archambault regarding the disposition of the Conservation Restriction (CR) for the open space portion of the 'Open Space Residential Development' subdivision.
  - The Town, rather than ConCom, will hold the CR.
    - The future homeowners association will hold the ownership interest and pay for ConCom to have the CR monitored.
    - CA and Mr. Archambault are developing a list of vendors who could be contracted with to perform the monitoring.
- Site walks, Saturday, 10/26
  - ConCom has 4 sites to be visited, starting at 8 a.m.:
    - Off Shaker Road – "Pond View," Open Space Residential Development, Aho Development Corp., MassDEP # 100-0437
      - Planning Board members were invited by John Boardman, of Places Associates, to attend as well.
    - 20 Hibiscus Lane, David W. Badger, Lily Pad Trust, MassDEP # 100-TBD
    - Wright Road, Lot 5A, Anthony McGuane, MassDEP # 100-TBD
    - Sheds on Pine Meadow Conservation Land, behind 102 Oak Ridge Drive
- **Member Updates**
  - MP and CA attended the MACC conference on 10/19.
    - MP attended sessions on site plans and site walks as well as enforcement.
    - CA attended sessions on urban trees as well as native plants and pollinators.
  - JS asked about docks in disrepair, as observed while paddling on Flannagan Pond.
    - A half-dozen are sinking, looking like they haven't been used for years.
    - Since Flannagan Pond is not a Great Pond, ConCom doesn't have any say in docks already present.
- **8:52 PM – Adjourn Meeting**
  - JS moved to adjourn; MP 2<sup>nd</sup>.
    - Motion approved unanimously.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date Minutes Approved by Conservation Commission: \_\_\_\_\_

11/7/2019

Signature Indicating Approval: \_\_\_\_\_

*Jessica G. Gugino*