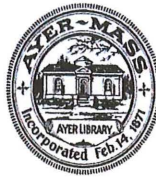


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JAN 13 2020



TOWN OF AYER  
TOWN CLERK

2:34pm *lf*

## Town of Ayer Conservation Commission

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8249  
Minutes for 12/5/2019

Location: Ayer Town Hall, 1st Floor

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

Not Present: (Commissioner Vacancy)

APAC taped: Yes

### 7:00 PM – Open Meeting

- **Confirmation of Agenda**
  - GB moved to confirm the agenda as posted; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Approval of Meeting Minutes**
  - GB moved to accept the minutes for 11/21/2019 as written; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – Off Shaker Road – “Shaker Mill Pond,” 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, Dan Aho, who was also present in the audience.
  - Mr. Boardman provided another update and asked for a continuance to ConCom’s next meeting, as the plans are still not yet finalized with the Planning Board, Town Planner, and DPW.
    - The project has been renamed from “Pond View” to “Shaker Mill Pond.”
    - Copies of newly revised plans (12/4/2019) were distributed.
  - Some of the latest changes, as described in a letter from Places Associates to the Planning Board and Conservation Commission, 12/4/2019:
    - Most of the project is located outside of the 100 ft. buffer zone to Shaker Mill Pond, except primarily for the street entrance area by Shaker Road and parts of Lot 1, 2, and 16.
    - The entrance roadway has been straightened and realigned into a T-intersection where it meets Shaker Road.
      - This addresses previous concerns about turning access for large trucks and emergency response vehicles.
      - The rest of the roadway and cul de sac is much the same as previously designed.
      - Per agreement with Mr. Curtis, of the Shaker Hills Golf Course, the gravel access road to the golf course, splitting from the subdivision road before it enters the cul de sac, will remain the same.
    - All of the common driveways have been eliminated.
    - The project lots have been reduced from 23 lots of single-family homes to 16 lots.
      - Five of these lots are now duplexes, so there will be 22 living units in all, a reduction from the original 23.
      - The Planning Board has indicated its support for this change and the applicant will be seeking the appropriate duplex permits from them.
    - The open space area around the natural boulder outcropping (“glacial erratic”) has been enlarged.
      - This area, within the Limit of Work (LOW), will remain natural.



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- Some trees may be removed to allow for further removal of debris around this area.
- An underground/subsurface stormwater detention system has been replaced with a standard detention basin to be located on the back of lot 9 (and not in the designated “open space” area).
  - With the reduced overall footprint to the project, there was space to make this change and this system is more cost-effective for the applicant.
  - The Homeowner’s Association will be responsible for maintaining the basin.
- The revised plans update the location of the erosion controls (Sheet C-4):
  - The haybale line will be at the bottom of the steep slope, instead of the top, to allow for clearing of debris and discarded stumps, followed by stabilization of the slope, perhaps with riprap.
  - The LOW area has been bumped out in a couple of areas to allow for the clean removal of debris within the LOW, debris including old tar and pavement.
- The plan notes that 2 clumps of invasive Japanese Knotweed are to be removed by a qualified professional at the start of construction.
- As stated in the 12/4 letter, Mr. Boardman requests that the open space area become owned by the Town or an entity of the Town’s designation, for passive recreation, and so that the conservation land is not the responsibility of the Homeowner’s Association.
  - No parking places for this area have been planned.
  - CA said the current bylaw requires that the designated open space has to have a Conservation Restriction (CR) on it, and that CRs must be walked and monitored on a yearly basis to check for encroachment and other issues.
    - ConCom does not have the resources to do CR monitoring.
  - Mr. Boardman asked if a CR was necessary if the Town actually owned the land.
    - GB said if the Town owned the land, there should be public access, and therefore a couple of parking spaces.
    - Mr. Aho said that if a Homeowner’s Association was paying fees, it would be problematic if residents outside the subdivision could also use the land.
  - ConCom will need to consult further with the Planning Board on this.
- As for the overall plan, MP said he thought the project looked a lot better and that he appreciated the changes that have been made to the plans.
- CA said she still had concerns over keeping salt, sand, and silt out of the pond at the road’s entrance to the subdivision.
  - This area is not only within the 100 ft. buffer zone but immediately adjacent to the shore of the pond.
  - Mr. Boardman said this area will have granite curbing, the road will be pitched toward Shaker Road, and catchbasins and a “hydrodynamic separator” will capture and treat stormwater before it discharges into the pond.
    - The separator is expected to achieve 80% TSS removal (Total Suspended Solids).
- Abutter Dan Tracy, of Shaker Road, had three concerns.
  - First, he was concerned with salt entering the pond from the roadway, as well as fertilizer coming off back yards and flowing down the steep slope into the pond.
    - This is a sensitive wetland area, in his view, and he was doubtful that technologies are good enough to remove all chemical pollutants.
    - It was noted that there was only one backyard (Lot 16) on the pond side of the roadway that is within the 100 ft. buffer zone.



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- The rest are outside buffer zone and not jurisdictional to ConCom.
- Mr. Tracy said there was still a lot of activity adjacent to the 100 ft. buffer zone, and impact from that area would likely connect to the areas within our jurisdiction.
  - GB said ConCom, to an extent, has to go by the guidelines and specifications of the technologies being used.
  - JG said that if areas outside our jurisdiction turn out to have an impact on jurisdictional areas, ConCom can respond with an Enforcement Order, but it has no real power to block work in non-jurisdictional areas ahead of there being a problem.
  - Given that the initial proposal for this project, early on, had house lots located at the 25 ft. buffer zone line to the pond, ConCom considered it quite an achievement that most of 100 ft. buffer zone to the pond is now going to be untouched and left as open space.
- Mr. Tracy brought up the entrance intersection that is right by the shoreline to the pond.
  - Mr. Boardman said this is currently already the location of the golf course access road for large trucks, and there are no separators or catchbasins at all there for stormwater treatment right now.
    - This area is already not pristine and a lot of debris material has been dumped around there.
    - He also said drainage calculations for this area have been submitted to the DPW for their confirmation.
- Mr. Tracy's second concern was with the two areas highlighted in the Conservation Analysis, the mill foundation and an exposed area of bedrock with a greater than 25% slope.
  - Both of these areas are within the designated open space and will be not touched by the project.
- Mr. Tracy's third concern was with the 2 isolated wetland areas designated as "federal" wetlands.
  - One is on the left near the entrance, and the second is near the shore further in.
    - Mr. Boardman said neither qualify under State Regulations, and both probably came into existence decades ago in the wake of human activity (gravel or sand removal, etc.).
      - If they were filling these two wetlands in, they would have had to file with the federal EPA.
      - But both these wetlands are within the designated open space and aren't being touched.
- There being no further questions, JS asked for a motion to continue.
  - GB moved to continue the Public Hearing to 12/19; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): For the Purpose of Signing Order of Conditions (OOC) Only – 20 Hibiscus Lane, David W. Badger, Lily Pad Trust, MassDEP # 100-0439**
  - Assessor's Map 7, Parcel 29
  - GB moved to approve and sign the OOC; MP 2<sup>nd</sup>.



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- Motion approved unanimously.
  - GB moved to close the Public Hearing for 100-0439; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Meeting: For the Purpose of Signing OOC Only – Wright Road, Lot 5A, Anthony McGuane, MassDEP # 100-0438**
  - Assessor's Map 15, Parcel 68
  - ConCom reviewed and made some edits to the draft "Findings" prepared by CA that summarized the reasons behind ConCom's 3-2 vote to deny approval of the NOI.
    - A copy of the State Regulation, 310 CMR 10.53 (1) was distributed for consultation.
    - JS noted the regulation seemed very apt for the findings of denial on this particular lot.
  - GB moved to approve the Findings as edited and sign the OOC denial for 100-0438; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to close the Public Meeting; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - The OOC will not go out to the applicant until Tuesday, 12/10, at which point the appeal period for the applicant then begins.
- **Public Hearing (cont'd.): NOI – Pine Meadow Conservation Area Pond Leveling Device, Town of Ayer, MassDEP # 100-TBD**
  - Assessor's Map 14, Parcel 3
  - CA has still not received a File # from MassDEP.
    - She did hear back from NHESP (Natural Heritage & Endangered Species Program) with some conditions to add.
  - GB moved to continue the Public Hearing to 12/19; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion (cont'd.): Requests for Certificates of Compliance – Pingry Hill, Ridge View Realty Trust:**
  - 166 Woodland Way, Assessor's Map 36, Parcel 178, MassDEP # 100-0274
  - 130 Woodland Way, Assessor's Map 36, Parcel 176, MassDEP # 100-0275
  - 150 Woodland Way, Assessor's Map 36, Parcel 177, MassDEP # 100-0279
  - 150 Hemlock Drive, Assessor's Map 36, Parcel 121, MassDEP # 100-0282
  - 77 Woodland Way, Assessor's Map 36, Parcel 110, MassDEP # 100-0408
  - 290 Woodland Way, Assessor's Map 36, Parcel 182, MassDEP # 100-0409
  - 143 Hemlock Drive, Assessor's Map 36, Parcel 222, MassDEP # 100-0410
  - 270 Woodland Way, Assessor's Map 36, Parcel 181, MassDEP # 100-0419
  - 273 Woodland Way, Assessor's Map 36, Parcel 185, MassDEP # 100-0431
  - With the recent 18-in. snowfall, it not possible at present for ConCom to conduct a site visit.
  - CA distributed copies of Dr. Desheng Wang's report, 11/27/2019, based on his recent site inspection just prior to the snowfall.
    - His report added detail to the changes from the original plans that were proposed and approved to 'as-builts' as detailed in Steve Mullaney's initial submission of the COC requests, and will be useful to consult when ConCom is able to conduct its own site visit.
  - JG will draft a letter for JS to send next week, to both Duke Pointer, of Ridge View Realty Trust, and Eliopoulos & Eliopoulos law firm, copied to Mr. Mullaney, informing them that:



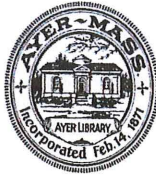
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- ConCom cannot schedule a site walk until the ground is clear enough to properly evaluate;
- Even after the site walk is conducted, ConCom won't proceed with issuing COCs until the required affidavits have been received.
- ConCom will plan to do the site walk for all 9 lots at the same time, but will be willing to process the individual COC requests as each affidavit is received.
- **Discussion: Pingry Hill subdivision winterization plan**
  - Snow is now covering the ground and there is nothing further than can be done at present.
- **Discussion: Local bylaw and regulations, next steps**
  - To be continued.
- **Discussion: Applications for open Conservation Commission seat**
  - ConCom has 3 interested applicants for the vacancy left by Bonnie Tillotson's resignation.
    - Letters of interest have been received from Scott Murray, of Sandy Way, and Jennifer Amaya, of Nashua Street.
    - In addition, Kevin Murphy was in the audience and also expressed interest.
      - He will be submitting a letter of interest shortly.
  - CA will schedule interviews for all 3 at ConCom's next meeting, 12/19.
- **Conservation Commission Office Updates**
  - 28 Harvard Road, Global Partners LP (MassDEP # 100-0429)
    - A request for a Certificate of Compliance has been received, but CA will have to wait until the ground is clear of snow before doing a site inspection.
  - 114 East Main Street, American Superconductor
    - A Request for Determination of Applicability (RDA) has been received and will be heard at ConCom's 12/19 meeting.
  - Kohler Place Conservation Restriction (CR)
    - (MassDEP #s: Lot 1 – 100-0392; Lot 3 – 100-0390; Lot 4 – 100-0391; Subdivision – 100-0340)
    - The CR is nearly complete but the State responded to the latest draft with noting an item that had gone missing from previous drafts and needed to be included.
  - ConCom Annual Budget
    - ConCom reviewed the budget draft, due on 12/13/2019 to the Town Manager.
      - The Commission has been asked to submit a level-funded budget, with adjustments to be made by the Town for CA's salary.
    - In a recent discussion (11/26) with Town Manager Pontbriand, JS and CA, JG had mentioned that ConCom's 'Beaver Fund' was now depleted, and that, having installed several beaver deceivers, ConCom now has annual maintenance expenses to be taken into account.
      - Mr. Pontbriand said at that time that this should become part of ConCom's line-item budget, not a separate raise-and-appropriate article.
        - He also indicated that perhaps there should be extra contingency funding to cover the installation of a beaver deceiver, should the need arise.





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- The DPW had recently agreed to fund the installation of the deceiver on conservation land (see above Public Hearing, cont'd.) because ConCom did not have any money left in the original fund and there was a public safety need.
- In light of the level-funding request, CA will bring this up with Mr. Pontbriand, along with the question of how to budget pond weed treatment money for 2020.
  - Mr. Pontbriand has indicated that he, like ConCom, would like to see weed treatment become part of the regular Omnibus budget rather than a separate article.
- Solitude Lake Management
  - Soliltude will be submitting its final weed treatment report for 2019 by ConCom's next meeting, 12/19.
- Stratton Hill Development Impact Statement
  - CA and Town Planner Marc Archambault have been meeting with developer Dave Moulton and his lawyer, Bob Collins, as Mr. Moulton plans to restart the Stratton Hill subdivision off of Wright Road.
    - Development layout and plans are being revised.
  - In the meantime, Mr. Moulton and Mr. Collins submitted an Impact Statement that dates back to 2004, when the development was initially proposed.
    - While this is a nice historical document, it does not count as a Conservation Analysis for the present.
    - Such an Analysis in addition cannot be done until the wetlands have been updated and re-flagged.
- **Member Updates**
  - JG reiterated that ConCom needs to meet jointly at some point soon with the Planning Board to discuss a few items of overlapping interest.
    - This includes coordinating on the disposition of open space under new Open Space Residential Developments like Shaker Mill Pond (see above, 100-0437).
  - GB said the CPC meeting the previous night had brought up a parcel of land across from Tiny's that may be available for purchase by the Town.
    - A significant portion of the parcel contains wetlands.
    - GB asked CA to let interested parties know that a lot of the land on this parcel, by the railroad, was contaminated and remediated at one point.
      - This parcel would require a Phase I review but also likely a Phase II review.
- **9:00 PM – Adjourn Meeting**
  - GB 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: \_\_\_\_\_

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

*Jessica G. Gugino*  
12/19/2019