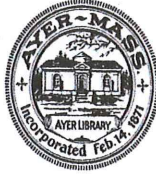


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Town of Ayer Conservation Commission

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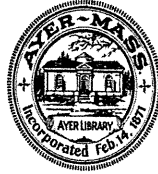
Minutes for 9/24/2020

Location: Remote Meeting via Zoom, accessible to public, due to Pandemic State of Emergency
Present: Jon Schmalenberger (JS, Chair), Mark Phillips (MP, Vice-Chair), George Bacon (GB, Member), Jennifer Amaya (JA, Member), Jessica Gugino (JG, Member/Clerk), Jo-Anne Crystoff, (CA, Conservation Administrator)

Broadcast and Recorded by APAC

7:00 PM – Open Meeting

- Throughout the meeting, JS periodically asked for input (questions or comments) from members of the public viewing the meeting remotely (via Zoom or live broadcast), and calling in to participate either by Zoom or telephone connection.
- **Confirmation of Agenda**
 - GB moved to confirm the agenda as amended; MP 2nd.
 - Motion approved unanimously.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 9/10/2020 as written; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing (cont'd.): Notice of Intent (NOI) -- 0 & 31 Central Avenue, Central Realty Trust, MassDEP # 100-TBA**
 - Assessor's Map 27, Parcel 33 and Assessor's Map 26, Parcel 352
 - Per request of John Hillier, the applicant, GB moved to continue the Public Hearing to 10/22/2020; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Enforcement Orders Update: 0 Central Avenue, John Hillier**
 - Assessor's Map 26, Parcel 352
 - Further discussion will be postponed until Mr. Hillier meets with ConCom next on 10/22, as stated above.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – Groton-Shirley Road, Ayer Department of Public Works (DPW), MassDEP # TBD**
 - DPW Superintendent Mark Wetzel participated via Zoom.
 - ConCom conducted a site walk on Saturday, 9/12/2020.
 - The project proposes utility improvements along a 2700 ft. section of Groton-Shirley Road, extending from the intersection with Groton School Road to the Hood Distribution Company driveway.
 - The proposed work will improve water and sewer services as well as add some stormwater drainage changes (there are no existing stormwater drainage structures at all).

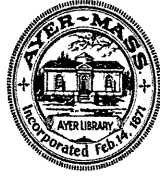


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- The improvements include installation of a new 8 in. water main extension (loop); a new low pressure sewer; re-grading, re-crowning, and repaving of Groton-Shirley Road; construction of drainage/infiltration swales ('mini detention basins') on the south shoulder of the road; and repair of a partially collapsed culvert near Groton School Road.
 - The construction of multiple small drainage swales will require the removal of 5 or 6 trees rather than what would have been upwards of 25 were a single large drainage swale to be installed instead.
 - CA mentioned the amount of yard waste residents were apparently dumping along the power lines.
 - Mr. Wetzel said this was a concern but that he anticipated the DPW would be doing maintenance, mowing, and clean-out of the swales at least twice a year.
 - Residents will also be contacted if this activity continues.
 - When construction is about to start, Mr. Wetzel will walk the work area with CA to evaluate the trees targeted for removal.
 - There being no public comments, GB moved to approve the NOI and begin drafting an Order of Conditions (OOC) to be issued pending receipt of a MassDEP file number; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - GB moved to continue the Public Hearing to 10/8/2020; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - Mr. Wetzel also took the opportunity to advertise the DPW's formation of a Tree Management working group for the Town, which will be looking for interested residents to participate.
 - This would only apply to the management of trees on Town-owned property.
 - Further information can be found on the Town's website.
- **Public Meeting: Violation Notice, 21 Oak Ridge Drive, Denise and Marian Simion**
 - Assessor's Map 27, Parcel 171
 - The Simions participated in the meeting via Zoom.
 - Their property abuts Flannagan Pond, with the backyard sloping at a steep angle down to the water.
 - This angle makes it attractive for sledding in the winter, with their children's sleds traveling from the slope out onto the frozen ice.
 - This in turn has raised safety concerns if the ice isn't thick enough to support the weight.
 - To prevent this, the Simions built a berm, made of very sandy material taken from elsewhere on their property, at the edge of the pond.
 - No material went directly into the pond, but a concerned resident alerted ConCom to this work and the risk of sediment erosion from the berm into the pond.
 - JS said ConCom's concern was in protecting the pond while at the same time allowing the Simions to keep their family safe.
 - A site walk was scheduled for Saturday, Oct. 3, at 8 a.m.



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- **Public Meeting: Request for Determination of Applicability (RDA) – 19 Oak Ridge Drive, Richard Otty**
 - Assessor's Map 27, Parcel 9
 - Mr. Otty, who lives next door to the Simions and also has a back yard that steeply slopes down to Flannagan Pond, is seeking permission to install two 16 ft. long retaining walls to prevent the area from getting washed out during heavy storm events.
 - In addition to stabilizing the area, retaining walls would allow him to level off a portion of the yard, increasing access off his deck and side yard.
 - The retaining walls would be constructed approximately 50 ft. from the pond.
 - CA has observed the erosion and agreed that the yard area would benefit from stabilization.
 - She was, however, not sure this work should be permitted under an RDA rather than an NOI.
 - A site walk was scheduled for Saturday, Oct. 3, immediately following the walk at the Simion's property next door.
- **Public Hearing (cont'd.): NOI -- 0 Washington Street, "Ayer Solar II LLC," Rohit Garg, MassDEP # 100-0444**
 - Assessor's Maps 13, 12 & 4, Parcels 13-1, 13-2, 12-1, 4-49
 - Kyle Burchard and Cal Goldsmith, of Goldsmith, Prest & Ringwall, participated via Zoom.
 - Mr. Burchard complained that the agenda was only affording him 5 or 6 minutes of the Commission's time.
 - JS said the new review materials came in after ConCom's deadline and commissioners had not had time to review the material ahead of the meeting.
 - CA said that she was not in the office Monday or Tuesday to forward material, having taken some much-needed vacation days.
 - JG also said that the agenda had filled up with other applications, noting that the Town limits ConCom to a 90-minute meeting, and also noting that ConCom has made room for this application on every ConCom agenda since the Public Hearing opened in February.
 - ConCom still has to attend to other applicants.
 - Mr. Burchard asked to schedule a special meeting just for GPR to go over the updates.
 - JS said this was not a precedent ConCom wanted to establish and MP said one special meeting, with he and CA present, had already been scheduled once before and he was therefore not in favor of granting any further ones.
 - Mr. Goldsmith expressed his hope that they could have a productive meeting with ConCom on the next agenda.
 - Mr. Burchard asked commissioners to make sure to review the updated NOI narrative that has now been provided.
 - GB moved to continue the Public Hearing to 10/8; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.



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- **Public Hearing (cont'd.): NOI – Abbreviated Notice of Resource Area Delineation (ANRAD) – Off Wright Road, “Stratton Hill,” Fox Meadow Realty Corporation, Dave Moulton, MassDEP # 100-0445**
 - Assessor’s Map 17, Parcels 1-3, 7, 8, 11-5
 - CA said she had received a request from the applicant’s representative that ConCom continue the Public Hearing to 10/8.
 - She then provided an update based on her site walk on 9/17 with Art Allen, of EcoTec (third-party review consultant), and Seth Donohoe, of Ducharme & Dillis, Civil Design Group.
 - Mr. Allen has now sent preliminary comments of his observations based on the site walk as well as his supplementary visit to the project site..
 - Some of the wetland flags need to be relocated, and an additional wetland resource area and potential vernal pools have been identified.
 - Via Zoom, Geoff Tillotson, Chair of the Planning Board, asked to be provided with the project plans, which CA said she will provide.
 - It was made clear, however, that ConCom only has the wetland delineation plans at present, no preliminary layout of the subdivision.
 - Such layout shouldn’t really be done until after the resource area delineation has been confirmed and a Conservation Analysis submitted.
 - CA also said the number of house units to be proposed is still shifting and it has been a year since that was discussed.
 - Mr. Tillotson noted that previous Planning Board records for Stratton Hill, back when it was first permitted around 2005, have disappeared from their files so any information would be helpful.
 - GB moved to continue the Public Hearing for 100-0445 to 10/8; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing: NOI – 0 Taft Street, Brian Anderson, MassDEP # 100-TBD**
 - Assessor’s Map 19, Parcel 119
 - Brandon Ducharme, of David E. Ross Associates, participated via Zoom on behalf of the applicant.
 - ConCom reviewed the revised plan submitted by Mr. Ducharme that included:
 - addition of a barrier, boulders, 42-in. high cedar posts, and conservation signs;
 - two signs to be placed, one midway along the property line on the Nashua Street side and the other midway on the Taft Street side;
 - the boulders and posts to be placed in between the existing maple trees, 3 ft. apart.
 - JS said the barrier elements did not need to be placed as close together, and after discussion, are to be set 5 ft. apart on center.
 - Mr. Ducharme said he was sure this change would be more aesthetically pleasing to the Andersons as well.



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- MP asked that a third conservation sign be added, to be placed at the corner between Taft and Nashua.
 - Mr. Ducharme agreed to this as well.
- CA asked Mr. Ducharme to provide another revised plan showing these two changes.
- JG moved to approve the NOI and draft an OOC with the changes as discussed, to be approved pending receipt of a new revised plan and the MassDEP file number; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- GB moved to continue the Public Hearing to 10/8; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Meeting: Enforcement Order (EO) – 111 Fitchburg Road, Watt Phnom Serie, Inc.**
 - Assessor's Map 1, Parcel 2
 - ConCom conducted a site walk on Saturday, 9/12.
 - CA said she had no additional information other than that Paul McManus, of EcoTec, has now been retained in order to prepare an NOI and plan to address the EO.
- **Discussion: Conservation Restriction (CR), 54 & 56 Littleton Road, "John Carroll Reserve"**
 - Assessor's Map 36, Parcels 3, 21, 22 & 24
 - The CR has been signed by ConCom and the Select Board and has now been sent to the Division of Conservation Services in order to have it signed by the Secretary of Energy and Environmental Affairs.
 - Once the CR is returned, it will go to the attorney for the developer/seller to be recorded at the Registry.
 - Even though GPR and the property owner/developer/seller pushed the Town to sign the CR under great time pressure, CA said the revisions successfully made by the Town include:
 - mandating the provision of funds by the owner of the CR to hire a contractor to perform annual environmental monitoring in perpetuity;
 - and acknowledgement that the Town/ConCom was accepting the role of holding the CR with the understanding that a future homeowner's association will be taking over property ownership from the developer, as well as the responsibility for the provision of the monitoring funds.
- **Discussion: Water Pumping Violation, end of Rosewood Avenue**
 - Discussion of updating ConCom's Special Conditions boilerplate was bumped from the agenda in order to make room for a discussion with National Grid representatives regarding a reported violation.
 - Alison Milliman, of BSC Group, and Kelly Doherty, of National Grid, participated via Zoom.
 - The Town/CA received a phone call at the beginning of the week from a resident complaining that a pumping truck was removing water from the wetland system



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(intermittent stream) at the end of Rosewood Avenue, just before water flows through a beaver deceiver and culvert under the road.

- Ms. Milliman said the water was pumped to use for the drill to start soil boring activities in the upland/nonjurisdictional areas for the project related to MassDEP # 100-0448 (see minutes for 9/10/2020 where the OOC was approved for those parts of the project that fall within buffer zone).
 - On visiting Rosewood Avenue, CA observed that the area where the water was pumped from now has a hose trench, indicating the disturbance of Land Under Water.
 - While no digging was apparently done, the trench probably resulted from the effect of hose suction.
 - Ms. Doherty said they had permission to do the water pumping from property owner C. J. Moore, but neither the DPW nor CA had been made aware that this activity would take place.
 - This lack of notification makes it difficult when the Town has to respond to resident complaints.
 - In any case, CA said that proper methodology must be followed in order to prevent disturbance to the wetlands.
 - CA has talked to the DEP Circuit Rider, and the use of pumping trucks to withdraw water for drilling or hydroseeding is not prohibited under the Wetlands Protection Act unless it affects the hydrology of the area.
 - CA will meet with Ms. Milliman and Ms. Doherty at the site on Monday, 9/28, at 8:30 a.m.
- **Upcoming Applications**
 - NOI, 1 Bishop Road
 - CA said a MassDEP file number has now been issued, and it included DEP comments that indicate the draft NOI plan will need a lot more detail in order to be sufficient.
 - CA will be in touch with the applicant's representative about this.
 - RDA, MBTA
 - While this RDA had been tentatively planned for ConCom's next meeting on 10/8, CA recommends ConCom postpone hearing this application until MACC, MCAA, Keolis, and MassDEP have sorted things out in relation to railtrack vegetation management.
 - **8:30 PM – Adjourn Meeting**
 - MP moved to adjourn; GB 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature Indicating Approval:

10/8/2020 