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TOWN OF AYER
TOWN CLERK

Town of Ayer Conservation Commission

Town Hall * One Main Street * Ayer, MA 01432 * 978-772-8249
Minutes for 3/25/2021

6 pages

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), Scott Murray (SM, Associate Member), 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**
 - A discussion item on site walks for RDAs was added.
 - GB moved to confirm the agenda as amended; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Approval of Meeting Minutes**
 - GB moved to accept the minutes for 3/11/2021 as corrected; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Site Walks for Requests for Determination of Applicability (RDAs)**
 - CA will make a judgement call distinguishing between those RDAs that are minor or nonproblematic for making a recommendation to ConCom, versus those that would benefit by having at least some commissioners visit as well.
 - In order to ease the burden on CA, CA will schedule site walks for RDAs during the week and those commissioners who are able to join her will do so.
 - Site walks for NOIs, however, will continue to follow the current procedures whereby the Commission as a whole (if possible) visits these sites on, usually, Saturday mornings.
 - This provides added Commission support to CA for evaluating RDAs without adding more to Saturday schedules.
 - All commissioners were in support of this.
- **Public Meeting: RDA – 71 Nashua Street, Jesi and Ryan Clinton**
 - Assessor's Map 13, Parcel 42
 - The Clintons were both present via Zoom.
 - In 2020, the Clintons received a Negative Determination of Applicability (DOA) for their RDA seeking permission to widen their driveway using permeable material. (See ConCom minutes for 7/9 and 7/23/2020).
 - This new RDA seeks permission to erect an 8' x 12' shed immediately adjacent to the driveway.

SCANNED

05-24-2021



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- Since the previous work was done in the fall and no vegetation has grown in yet there will be no vegetation disturbance.
- There will be some minor grading in the already-disturbed area in order to smooth and prepare the surface.
- An approximately 6" deep hole will be dug where the shed will go, and this hole will be filled with gravel to provide for drainage.
- The shed will then sit directly on this gravel pad.
- As some other areas of the yard still have sunken spots, the dirt from the shed-hole will be spread in these areas in order to further level the yard.
- Stakes have been placed showing the shed location and CA will take a quick look at the site next week.
- GB moved to issue a Negative DOA, pending CA's inspection; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
 - It was noted that DOAs are subject to a 10-day appeal period.
- **Public Meeting: RDA – 219 Woodland Way, Anne Nee**
 - Assessor's Map 36, Parcel 117
 - Anne Nee, who moved into this new house a few weeks earlier, was present via Zoom.
 - She is seeking permitting to install an in-ground 21' x 34' kidney-shaped vinyl pool, approximately 4'-6' wide concrete decking, and 7'-high vinyl fencing in the backyard.
 - A 6'x12' vinyl pool cabana would also be constructed adjacent to the decking.
 - The proposed project is partially within the buffer zone.
 - On reviewing the area more completely, Ms. Nee said she could move the pool approximately 10 ft. further to the west, which would take more of it out of the buffer zone.
 - Per the earlier discussion, CA will schedule a site walk during the week and those commissioners who are available will join her in evaluating the site.
- **Public Meeting: RDA – 69 Nashua Street, Richard Zolla**
 - Assessor's Map 13, Parcel 43
 - Richard and Mary Zolla were present via Zoom.
 - The Zollas are seeking permission to install a retaining wall, in-ground swimming pool, and aluminum fencing in their backyard.
 - The backyard has a relatively steep drop-off on a roughly 30-degree slope that has erosion, stability and safety issues.
 - The backyard slopes down to a wetland area which they are concerned with protecting better.
 - The retaining wall would be 45' long, 4' high, with a set of granite stairs, and would be intended to help control drainage and erosion.
 - They hope to reduce the slope to around 20-degrees and stabilize the soil with woodchips, bionetting and native plants.



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- No fill would be brought in, however.
 - The pool would be a 16' round in-ground swimming pool using a light mixture of salt water rather than chemical chlorination.
 - The pool would be surrounded by hard-scaped stone pavers.
 - Commissioners questioned where the salt water would go should the pool be drained, given the proximity of wetlands.
 - Mr. Zolla said the salt mixture is far more dilute than, say, seawater.
 - For winter, the pool would be drained down only about 4" to expose some pipes and prevent freezing damage.
 - Given the small volume of diluted salt water involved, this might not be a problem, but Mr. Zolla also said he could drain into barrels if necessary.
 - CA will also schedule a weekday site visit for this project and those commissioners who are available will join her.
- **Public Hearing: Notice of Intent (NOI) – 2 Sandy Pond Road, McDonald's, MassDEP # 100-0457**
 - Assessor's Map 35, Parcel 4
 - James Cranston, of Bohler Engineering, was present via Zoom on behalf of the applicant.
 - McDonald's seeks an Order of Conditions (OOC) for improvements to the site that include:
 - reconfiguration of the existing single-lane drive-thru to support a proposed new side-by-side ordering layout;
 - upgrades to the existing drive-thru features;
 - renovations to the building;
 - a 67 sq. ft. building addition for a new drive-thru payment window;
 - modifications to the existing parking lot layout, including some regrading to lower the surface grade;
 - the addition or modification of ADA accessible features on site, including ramp access.
 - All of the proposed improvements will be located within the already existing, curb-bound paved/developed area.
 - The building and this area were developed prior to 1996.
 - An unnamed stream runs across the northern portion of the parcel, past a grassy area adjacent to the parking lot and down a steep embankment.
 - To be on the conservative side, the applicant is designating this stream as perennial and assuming the State's more stringent riverfront standards therefore apply.
 - The proposed improvements and alterations affect approximately 5,350 sq. ft. of land within the 200 ft. riverfront area.
 - Of this, 1,410 sq. ft. are located within the inner riparian zone (first 100 ft.), while the remaining 3,940 sq. ft. are located in the outer riparian zone.



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- All of this is already-degraded (i.e. previously developed) riverfront.
- Off-property to the northwest are Bordering Vegetated Wetlands, a shrub swamp.
 - The buffer zone line here has been estimated via Mass GIS maps since the applicant cannot flag the wetlands or take soil samples on property owned by someone else.
 - Only a very small portion of the already-developed work area falls within the estimated buffer zone line.
- The proposal states that the project will overall *decrease* the amount of impervious surface by converting a couple small areas of impervious surface into pervious grassed areas, all within the limits of the curb-lined surrounding parking area.
 - Erosion controls would be used and the existing catchbasins will be lined with protective filter fabric.
- Because there will be no expansion of the already-developed area, and because there will be a net decrease in impervious surfaces, the application states these are improvements that benefit the site.
 - For this reason, an alternatives analysis was not done for the proposed site work.
- CA also noted that an email from MassDEP was received shortly after 5 p.m. today with both the file number (100-0457) and DEP comments.
 - CA will forward this on to Commission members for review prior to the next meeting.
- A site walk was scheduled for Saturday, March 27, at 8 a.m.
- GB moved to continue the Public Hearing to 4/8; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Review of Requests for Quote for 2021 Invasive Weed Treatments in Ayer Ponds**
 - As discussed at the previous meeting, ConCom received two proposals, both with costs higher than anticipated:
 - Solitude Lake Management: \$39,750 (or \$21,500 if *spot treatment* for fanwort on approximately 50 acres of Flannagan Pond is skipped);
 - Water & Wetland: \$43,825, which includes *whole pond treatment* for fanwort on 86-acre Flannagan Pond (or \$49,450 if some optional additional tasks are included).
 - JS and JA accepted the responsibility to review both proposals more thoroughly and to make a recommendation to the Commission as whole.
 - Their recommendation therefore was to select Water & Wetland's proposal, modifying it to eliminate Sonar treatment for fanwort in Sandy Pond for this treatment year.
 - The post-treatment survey for 2020 indicated no apparent fanwort was detected in this pond.
 - This modification brings the Water & Wetland cost down to \$39,050.



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- While all were in agreement that Solitude Lake Management has done well in the past, JS and JA felt it would be good to try a different company in order to be able to compare results.
 - GB moved to select Water & Wetland for the 2021 pond treatments, modifying their proposal to eliminate Sonar treatment in Sandy Pond; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Wild and Scenic Rivers Stewardship Council grant opportunity**
 - ConCom reviewed the final draft of the grant proposal prepared by volunteer Faith Salter for the development and installation of river/pond identification signage at various visible locations around town.
 - The proposal is to be submitted by the April 1 deadline to the Nashua, Squannacook, and Nissitissit Rivers Wild & Scenic Stewardship Council for its 2021 Community Grants Program.
 - ConCom members were very appreciative of the excellent job done by Ms. Salter (not present for tonight's meeting.)
 - Town Manager Robert Pontbriand has offered to write a letter of support.
 - CA will also contact Alan Manoian, Director of Community & Economic Development, to see if he would also be willing to write a letter of support.
 - JG moved to approve the grant proposal as drafted by Faith Salter and to have CA submit it to the Stewardship Council in advance of the deadline; GB 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Regulations for exempt minor activities within buffer zones and other regulations for Ayer's local wetland protection bylaw (Article XXVI)**
 - To be continued at a later meeting.
- **Discussion: Review of Ayer Conservation Commission Special Conditions Boiler Plate**
 - To be continued at a later meeting.
 - GB also noted that, given the appeal to MassDEP submitted recently by Mr. Hillier, it might be worth waiting to hear back from DEP as the appeal was largely focused on contesting ConCom's current boiler plate of Special Conditions anyway.
- **Conservation Commission Office Updates**
 - 111 Fitchburg Road
 - CA spoke recently with Venerable Buntenh But, the Buddhist monk whose organization purchased this property in 2019 in order to convert it into a Buddhist temple and meditation center, Watt Phnom Serie Inc.
 - Venerable But asked if there are any conservation issues with the temple creating a temporary (2-day) 10-ft. diameter sand painting in the parking lot for an upcoming celebration.
 - There are no issues with this.



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- However, CA also reminded Venerable But that he needs to get in touch with Paul McManus, of EcoTec, who was taken on as a consultant for the temple following ConCom's issuing of an Enforcement Order last year.
 - The EO was issued for clearing riverbank to the adjacent Nashua River, and for cutting steps into the bank down to the water.
 - A Notice of Intent that includes a restoration plan needs to be submitted and this needs to start moving forward.
- Town Hall
 - At a recent Department Head meeting, plans were discussed for a partial re-opening of Town Hall in April.
 - Appointment-only meetings, up to 15 minutes in length, may be permitted in the first floor meeting room.
 - Board and committee meetings, however, will continue to be held remotely via Zoom and television broadcast.
- **8:26 PM – Adjourn Meeting**
 - GB moved to adjourn; MP 2nd.
 - Motion approved unanimously by Roll Call Vote 5-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval:

4/8/2021 