

## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

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: Jen Amaya (JA, Member)

APAC taped: YES

### **7:00 PM – Open Meeting**

- **Confirmation of Agenda**
  - Changes were made to the agenda, including reordering some of the items.
  - GB moved to confirm the agenda as amended; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Approval of Meeting Minutes**
  - GB moved to accept the minutes for 8/12/2021 as written; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Meeting: Request for Determination of Applicability (RDA) – 252 Woodland Way, Alexis and Steve Sanders**
  - Assessor's Map 36, Parcel 180
  - Alexis and Steve Sanders were present in person.
  - The Sanders, who purchased their newly-constructed house in 6/2020, are now working with an organic landscaper, Whole Earth, to transform the bare yard into a more attractive landscape.
    - They have divided the project into 3 phases, two to be completed this fall, the third next year.
      - They are seeking approval for all 3 phases under this one RDA.
    - Phases 1 and 2 involve plantings in the front and on the side of the house, the side being that closest to a stormwater retention basin also on the property.
      - They propose planting a line of probably forsythia and willows to more completely and attractively block view of the retention basin.
      - CA made sure they knew that while their line of new plantings could be in front of the rosa rugosa planted by the developer to shield the basin, they could not take out the rosa rugosa.
    - Phase 3 next year will involve installation of a patio in the back and additional plantings.
      - The patio will be at the same level as the ground and the use of pavers will allow water to drain through.
      - Excess dirt will be removed from the site or spread outside of the buffer zone.
  - GB moved to issue a Negative Determination of Applicability (DOA) for the 252 Woodland Way landscaping project, Phases 1, 2 and 3; MP 2<sup>nd</sup>.

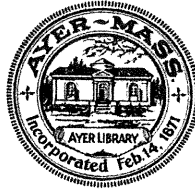


## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

- Motion approved unanimously and the DOA was signed.
- The Sanders will pick up the issued DOA on Monday.
- **Public Hearing (cont'd.): Notice of Intent (NOI) – 43A Groton Harvard Road, Ayer Department of Public Works (DPW), on an easement on property owned by Edward Ouelette, MassDEP # 100-0459**
  - Assessor's Map 20, Parcel 39
  - The Order of Conditions (OOC) for the stormwater outfall improvement project not yet being ready, GB moved to continue the Public Hearing to 9/9/2021; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Discussion: Recap, August 17, 2021 ConCom Meeting with Select Board**
  - JS summarized the Commission's meeting before the Select Board that provided a review of who the Commission is and the work that it does both under the Wetlands Protection Act and for the Town.
    - In particular, JS made the Board aware that the workload for ConCom and its Administrator has changed, greatly increasing over the past few years.
  - JS then informed the Select Board that ConCom needs help as CA is burning out.
    - As a stop-gap measure, ConCom will be advertising a part-time (19 hours or less), non-benefitted position that would exist through to June 30, 2022.
    - ConCom will fund this through its Wetland Fund, built up from permitting fees.
    - ConCom then will also be submitting its FY2023 budget to include Town-funding of this position going forward from July 1, 2022.
      - MP and JA are working on the ad.
      - MP also suggested advertising this as a paid internship to college students in an appropriate degree program, to widen the search for applicants beyond just the MACC website.
- **Discussion: Beaver Management Plan**
  - CA reported that the beaver activity at the inlet to Shaker Mill Pond remains a source of concern regarding the rising level of impounded water.
    - Prior to the projected arrival of hurricane Henri, Mrs. Shields, a Harvard resident whose property abuts the area, called Town Hall expressing her concern and asking that the Ayer DPW clear the beaver dam.
  - CA spoke to Town Engineer Dan Van Schalkwyk about the situation and together they agreed that the DPW would remove the beaver dam one more time, with appropriate Emergency Certifications issued by ConCom and the Board of Health to make such action legal.
  - CA also has a quote from Mike Callahan, of Beaver Solutions, for then installing a beaver deceiver/flow control device at the inlet.
    - Mr. Callahan has, however, been having trouble securing PVC pipe supplies.



## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

- Mr. Van Schalkwyk subsequently found some substitute piping – a double-walled, corrugated pipe that doesn't bend itself but could be modified with a 2-part coupler.
  - Mr. Callahan thought he could make that work.
- Now will just have to wait for the beavers to rebuild their dam before installing a deceiver device to run through it.
  - A dam must be there for a flow control device to be installed through it.
- **Public Meeting: Request for Certificate of Compliance (COC) – 32 Mountain Laurel Road, MassDEP # 100-0220**
  - Assessor's Map 23, Parcel 65
  - Mr. Grise was present via Zoom.
    - The house is being sold and the title needs to be cleared.
  - On CA's recommendation, GB moved to issue a COC for 100-0220; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the COC was signed.
- **Public Meeting: Request for COC – 20 Rosewood Avenue, Timothy Beauchemin, MassDEP # 100-0434**
- Assessor's Map 3, Parcel 48
  - On CA's recommendation, GB moved to issue a COC for 100-0434; MP 2<sup>nd</sup>.
    - Motion approved unanimously and the COC was signed.
- **Public Meeting: RDA – 71 Nashua Street, Jesi Clinton**
  - Assessor's Map 13, Parcel 42
  - Ms. Clinton was present in person for this meeting.
  - The driveway to her house, constructed by the developer in 2019, is very narrow crossing over a wetland strip.
    - The north side of the driveway has riprap with a somewhat gradual slope down its steep side and that seems to be holding well against erosion.
    - The south side, however, is eroding.
  - The RDA proposes adding 2-3 feet of traprock to stabilize this side, and to extend the drainage pipe that crosses underneath the driveway by 3-5 ft.
    - Ms. Clinton said the internal diameter of the pipe is approximately 2 ft. and they want the extension to match so that flow is not impeded.
    - She has consulted the landscaping company, Three Seasons Landscaping.
    - The method they are considering is to insert a pipe extension about 2 feet into the existing pipe on the one end, and then extending it another 3-5 ft.
  - MP questioned the stability of this method of anchoring the extension pipe in place.
  - A site walk was scheduled for Tuesday, 8/31, at 4:45 p.m.
  - CA noted the construction of this housing development is under a Superseding OOC from MassDEP, and observed that there should have been a more robust stream crossing



## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

of the driveway than the narrow one, with steep drop-offs to either side, that was permitted, either by MassDEP or the Planning Board.

- **Public Meeting: RDA – 15 Oak Ridge Drive, Bonnie Tillotson**
  - Assessor's Map 27, Parcel 7
  - Bonnie and Geoff Tillotson participated via Zoom.
  - Their RDA proposes taking down 4 large white pines (80-100 ft. tall) completely, and trimming back a fifth so that a partial trunk remains as habitat.
    - These trees, all within 35-50 ft. of the house, are considered hazard trees, as was also noted by their insurance company.
    - The stumps of the trees, all located in the buffer zone to Flannagan Pond, will be left behind.
  - GB moved to issue a Negative DOA; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 0 Washington Street, Lot A, Northeast Site Development, Joseph Levine, MassDEP # 100-0461**
  - Assessor's Map 13, Parcel 14
  - The Public Hearing for 100-0461 was re-opened under the Wetlands Protection Act and the Ayer Wetlands Bylaw.
  - This is an ANR lot (Approval Not Required by Planning Board under its subdivision regulations), and will be associated with the abutting Panther Place subdivision.
  - Present in person were Joe Levine; Brian Butler, of Oxbow Associates; and Attorney Alex Parra, of D'Agostine, Levine, Parra & Netburn, P.C.
  - Members of ConCom (JS and MP) and CA performed a site walk on 8/24.
  - The erosion controls will be placed along the Limit of Work (LOW) which is co-extensive with the 50 ft. buffer zone line.
    - The erosion controls will be installed by S & M Farms.
    - The erosion controls are planned to be installed at the same time and comprehensively, to cover this lot, Lot B, and the whole of the abutting Panther Place subdivision.
      - They will also incorporate functionality as a turtle barrier to protect the Blandings turtle.
  - The OOC will specify that, at the completion of the project, the backyard will be delineated from the no-disturb inner buffer zone by a line of boulders, spaced 6 ft. apart, and interspersed with at least 3 conservation signs mounted on posts.
    - At MP's suggestion, the boulders will need to be at least 2 ft. rough diameter in size.
    - At CA's request, Mr. Butler said they will provide updated plans to show the boulder and sign locations.
  - GB moved to approve the NOI as amended and draft an OOC for 100-0461; MP 2<sup>nd</sup>.
    - Motion approved unanimously.



## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

- Given ConCom's work crunch and CA's upcoming vacation, Mr. Parra offered to prepare a first draft of the OOC and Special Conditions.
  - GB moved to continue the Public Hearing to 9/23, for the purpose of reviewing and signing the OOC; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing (cont'd.): NOI – 0 Washington Street, Lot B, Northeast Site Development, Joseph Levine, MassDEP # 100-0462**
  - Assessor's Map 13, Parcel 14
  - The Public Hearing for 100-0462 was re-opened under the Wetlands Protection Act and the Ayer Wetlands Bylaw.
  - This is also an ANR lot associated with the Panther Place subdivision.
  - Mr. Levine, Mr. Butler, and Mr. Parra remained present for this Hearing.
  - The discussion for Lot B, also reviewed on the 8/24 site walk, was much the same as for Lot A above.
    - The conditions for boulders and conservation signs will be the same.
    - CA also suggested that an additional conservation sign, mounted on a post, be placed at the property line and 50 ft. buffer zone line between Lots A and B, in the wooded area that will be left undisturbed between the two properties.
  - GB moved to approve the NOI as amended and draft an OOC for 100-0462; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing to 9/23, for the purpose of reviewing and signing the OOC; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **Public Hearing: NOI – 0 Washington Street, "Panther Place" Open Space Residential Development (OSRD) subdivision, Northeast Site Development, Joseph Levine, MassDEP # 100-0460**
  - Assessor's Map 13, Parcels 12, 13 & 14
  - The Public Hearing for 100-0460 was opened under the Wetlands Protection Act and the Ayer Wetlands Bylaw.
  - Mr. Levine, Mr. Butler, and Mr. Parra remained present from the previous Hearings.
  - Following discussion at ConCom's 8/12 meeting, the NOI for 100-0460 will now deal solely with the clearing, grading, and infrastructure (stormwater structures) for the proposed OSRD subdivision.
    - Separate NOIs, filed under *both* the Act and the Bylaw, have now been filed for 13 jurisdictional house lots (see below) as requested by the Commission.
    - One of the house lots (Lot 6) included in the initial consolidated NOI that was not accepted by ConCom, will not have its own NOI as the work on this lot is solely for the stormwater infrastructure (small detention basin 3) and is therefore covered under the 100-0460 filing.
  - An updated plan set has been provided.



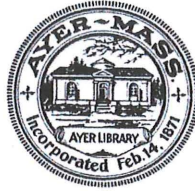
## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

- The long basin (pond 2) at the northern edge of the development has been pushed back uphill a bit, deepened, and the bottom flattened out, per MassDEP comments.
  - This basin has now been resized to be able to accommodate a 100 year/24 hour storm event.
- GB asked who will ultimately manage the stormwater basins in the development.
  - Mr. Levine said a Homeowners Association for the subdivision will have a management plan, and easements for access to the basins have been drawn up.
  - CA added that the Town's stormwater authority currently is the Planning Board with consultation from the DPW.
- As mentioned above under the Public Hearing for Lot A, the erosion controls here will be tied into those for Lots A and B, and altogether will also be used to isolate the work area from entry by the endangered Blandings turtle.
- A site walk was scheduled for 5:15 p.m. on Tuesday, 8/31.
- Mr. Levine stressed that this particular Order is time-sensitive as he would like to start clearing by the end of September.
  - With Mr. Parra providing an initial draft Order, it should be possible to have an Order ready for ConCom vote and, if approved, signature on 9/9.
- GB moved to continue the Public Hearing to 9/9; MP 2<sup>nd</sup>.
  - Motion approved unanimously.
- **Public Hearings, 13 NOIs – 0 Washington Street, “Panther Place” OSRD subdivision, Northeast Site Development, Joseph Levine**
  - **Lot 1, DEP # TBD**
  - **Lot 2, DEP # TBD**
  - **Lot 3, DEP # TBD**
  - **Lot 4, DEP # TBD**
  - **Lot 5, DEP # TBD**
  - **Lot 13, DEP # TBD**
  - **Lot 14, DEP # TBD**
  - **Lot 15, DEP # TBD**
  - **Lot 16, DEP # TBD**
  - **Lot 17, DEP # TBD**
  - **Lot 19, DEP # TBD**
  - **Lot 20, DEP # TBD**
  - **Lot 21, DEP # TBD**
- Assessor's Map 13, Parcels 12, 13 & 14.
- Having been advertised, these Public Hearings for 13 house lots, with DEP file numbers forthcoming, were briefly opened under the Wetlands Protection Act and the Ayer Wetlands Bylaw.
- Mr. Levine, Mr. Butler, and Mr. Parra remained present from the previous Hearings.
- Mr. Butler has spoken to MassDEP Circuit Rider Kim Roth about these filings.





## **Town of Ayer Conservation Commission**

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

Minutes for 8/26/2021

- Since the initial incorrect filing lumped the house lots and infrastructure together under a single NOI, this has now been amended with the separate filings under the Act and Bylaw.
- Ms. Roth said that DEP can manipulate the fees received from the original single filing to cover the now multiple NOI filings.
- Attorney Parra, who had asked that ConCom procedurally open the individual house lot NOIs, now asked the Commission to continue these until 9/23.
- Accordingly:
  - GB moved to continue the Public Hearing for Lot 1 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 2 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 3 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 4 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 5 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 13 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 14 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 15 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 16 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 17 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 19 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 20- to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
  - GB moved to continue the Public Hearing for Lot 21 to 9/23; MP 2<sup>nd</sup>.
    - Motion approved unanimously.
- **9:15 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 / Signature of Approval:

9/9/2021 