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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 10/14/2021

**Location:** Remote Meeting via Zoom, accessible to public, due to COVID 19 Pandemic

**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)

**Recorded by APAC for later broadcast**

### **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 calling in to participate by telephone connection.
- **Confirmation of Agenda**
  - GB moved to confirm the agenda as amended; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.
- **Approval of Meeting Minutes**
  - GB moved to accept the minutes for 9/23/2021 as written; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.
- **Discussion: Fertilizer Use Bylaw Warrant Article, Fall Town Meeting, October 26, 2021**
  - Expressing strong support, the Select Board voted at its 10/5/2021 meeting to keep the Fertilizer bylaw on the Fall Town Meeting Warrant.
    - JS will make a short presentation at Town Meeting with JG assisting.
- **Discussion: Administrative Approval Process**
  - JA circulated the latest draft of the form.
    - GB suggested a minor edit regarding tree removal.
  - GB also said this does not need to be done as a regulation.
  - GB moved to approve the Administrative Approval form as amended; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.
  - CA is now authorized to use this approval process for extremely minor projects.
- **Discussion: Draft ad for temporary part-time assistant for Conservation Administrator**
  - MP submitted two versions of draft ads to Town Manager Robert Pontbriand, but ConCom has not yet had a response.
    - JS will nudge.
- **Public Meeting: Request for Determination of Applicability (RDA) – 7 Mountain View Avenue, Pat Hall**
  - Assessor's Map 22, Parcel 9
  - Pat Hall was present via Zoom.



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- JG, being an abutting neighbor, recused herself from the discussion but continued to take notes for the minutes.
- Ms. Hall would like to replace an old existing but deteriorating wooden slat retaining wall on her beach, on Sandy Pond.
  - She has consulted a couple of contractors, both of whom asked for feedback from ConCom about what would be permissible and what materials could be used before they provide estimates.
  - Ms. Hall provided photos and a sketch of the project area.
  - The existing retaining wall at the water's edge is approximately 14" tall and its primary function is to prevent beach sand from washing into the pond.
    - By stabilizing the sand, it also adds ground stability for the bank that ranges from 8.5 – 15 ft. in back of it.
  - In the existing retaining wall, the front vertical wood slats are backed by a few layers of horizontal 4x4's.
  - Ms. Hall is asking if it is okay to do this replacement, and if so, what would ConCom recommend?
- A site walk with CA, JS and MP was scheduled for Tuesday, 10/19, at 4:45 p.m..
- **Public Meeting: RDA – 20 Oak Ridge Drive, Edward Kelley**
  - Assessor's Map 20, Parcels 42 & 43
  - Ed Kelley was present via telephone connection.
  - Mr. Kelley has 6 trees, both dead and living, that he would like to remove, all located within the buffer zone to nearby Pine Meadow Pond.
    - Two of the trees are now leaning at 15-20 degree angles toward the house, another tree was damaged by a lightning strike, a couple of pines have been damaged by pileated woodpeckers, and another has branches now extending over the roof.
    - Three are in the back of the house, close to the pond, and the others are to the side of the house but leaning toward it.
    - Trunk roots will be left in place.
    - Mr. Kelley hopes to do this work during the winter when the ground is frozen, to protect a sewer easement on the property.
  - A site walk was scheduled for 5:15 on 10/19, with CA, JS, MP and JG able to attend.
- **Public Meeting: RDA – 30 Central Avenue, Nashoba Associated Boards of Health (NABH), Jim Garreffi**
  - Assessor's Map 27, Parcel 44
  - Mr. Garreffi, Director of the NABH, participated via Zoom, providing screen shares of the proposed project.
  - The existing gravel and dirt parking lot to the left of the building is horrible to maintain, and NABH would now like to pave the lot as well as install a shallow 1 ft. deep riprap retention area to reduce or prevent stormwater flowing directly into the street and its nearby catchbasin.



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- The building is approximately 100 ft. from an intermittent stream to the left.
  - MP asked Mr. Garreffo to have the plan updated to label the intermittent stream as a stream, not a drainage swale.
- The parking lot is in the outer 50 ft. of the buffer zone, and the proposed riprap basin, further to the left, would therefore be in the inner buffer zone to the stream.
- Mr. Garreffo said the parking lot would be pitched to direct water toward the riprap basin.
- CA said she talked to Town Planner Mark Archambault about this, since the Planning Board is the stormwater authority for the town.
  - Mr. Archambault indicated he would have to check the updated stormwater regulations to see whether this project would need site plan review by his board.
- A site walk was scheduled for Tuesday, 10/19, at 5:45 p.m., with CA, JS, MP, and JG attending.
  - Mr. Archambault will be invited as well.
- **Public Meeting: Conservation Analysis, “Stratton Hill” Open Space Residential Development (OSRD), Fox Meadow Realty Corp., David Moulton**
  - Assessor’s Map 17, Parcels 1-3, 7, 8, 11-55
  - At the request of the applicant’s attorney, Bob Collins, this is postponed now to ConCom’s 10/28 meeting.
  - CA also later noted that the revised Conservation Analysis, approximately 90 pages in length, has now been submitted.
  - She also received some emails, including photos from John Andrews showing all of the wildlife observed in the woods of Stratton Hill.
    - Many residents are highly concerned about the wildlife impact of this proposed development.
- **Certificate of Vote**
  - As raised in the Hearing below and to avoid any confusion, ConCom decided to renew its prior ‘Certificate of Vote’ authorizing CA to physically sign wetland permits on the Commission’s behalf so long as meetings are held remotely because of the ongoing pandemic.
    - The original vote took place at ConCom’s 5/14/2020 meeting but with the recent return to remote meetings, it was deemed best to renew this authorization.
      - JG so moved; MP 2<sup>nd</sup>.
        - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing (cont’d.): Notice of Intent (NOI) – 0 Washington Street, Lot A, Northeast Site Development, Joseph Levine, MassDEP # 100-0461**
  - Assessor’s Map 13, Parcel 14



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- The Public Hearing for 100-0461 was re-opened under the Wetlands Protection Act and the Ayer Wetlands Bylaw.
- This is an ANR lot associated with the abutting Panther Place subdivision.
- Present via Zoom were Joe Levine, of Northeast Site Development, and Brian Butler, of Oxbow Associates.
- The draft Order of Conditions (OOC) has been reviewed and four minor edits were to be made:
  - Including the DEP file number on each page.
  - Noting that Lot A (and B following) are ANR lots – Approval Not Required by the Planning Board under its subdivision regulations.
    - While lots A and B are not technically part of the Panther Place OSRD subdivision, they are included on the definitive subdivision plan.
    - Something like the language in the agenda, that lots A and B are “associated with the Panther Place subdivision,” will be used.
  - On the State form, the minimum distance between the work and the wetlands will be corrected to 50 ft.
  - It was also clarified that Special Condition 12A, requiring biodegradable wetland flagging, only applies to replacement flags and does not require that existing flags be replaced.
- GB moved to approve the OOC for Lot A with the amendments as discussed; MP 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 5-0 and CA will sign the final OOC when ready.
- GB moved to close the Public Hearing for 100-0461; MP 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 5-0.
- **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.
  - Mr. Levine and Mr. Butler remained present.
  - The same changes to the draft OOC, as discussed above for Lot A, will apply to Lot B as well.
  - GB moved to approve the OOC for Lot B with the amendments as discussed; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0 and CA will sign when ready.
  - GB moved to close the Public Hearing for 100-0462; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.
  - Mr. Levine indicated that he will pick up the finalized OOCs from CA on the following day, 10/15, around 1:30 p.m.
    - He will then turn the OOCs over to Attorney Alex Parra for filing at the Registry of Deeds.



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- JG reminded Mr. Levine about the Special Condition requiring CA inspection of erosion controls prior to the commencement of work.
- **Discussion: “Panther Place” OSRD subdivision permitting process and timeline**
  - Me. Levine and Mr. Butler remained present.
  - Discussion focused on how best to handle the 13 jurisdictional lots (see below Public Hearing) in terms of processing Orders of Conditions in a timely and efficient manner.
  - The developer has kept all proposed work (clearing, grading, house structures) outside of the inner buffer zone (0-50 ft.) to wetlands.
    - Silt fencing has been installed, by S & M Farms, to serve simultaneously as a turtle exclusion barrier, erosion controls, and Limit of Work (LOW).
    - Some of the jurisdictional lots will have boulder lines and conservation signage required to clearly delineate and block future homeowner expansions into the inner buffer zone.
  - Mr. Levine and Mr. Butler suggested preparing a master plan that includes all 13 lots and all work related to conservation concerns (signs, boulders, LOW, erosion controls) on the one consolidated plan.
    - This would be in lieu of drafting individual plans for each lot.
  - After discussion, however, JS made it clear that ConCom is requiring individual engineered plans for each lot, 11” x 17” in size, with colored markups delineating the wetland line as well as the 50’ and 100’ buffer zone lines.
    - Among other reasons, the individual lot plan is extremely useful to provide to future homeowners.
  - In addition, ConCom was adamant that some sort of signage be displayed prior to marketing for sale and closing so that potential buyers are made aware they are buying a property with wetland and buffer zone resources, and associated limitations, on it.
    - The John Carroll Reserve subdivision used temporary signage, but the earlier Pingry Hill subdivision did not and ConCom has had much experience in dealing with irate or confused new homeowners who learned after the fact about their property containing wetlands or buffer zones or stormwater basins or even conservation signage.
    - Mr. Butler agreed to CA’s suggestion of a temporary yard sale type of sign posted at the silt fence line to a house going on the market.
      - The sign would indicate not only the DEP file number but that the property was under an OOC from the Ayer Conservation Commission.
    - Mr. Levine, who will also be doing his own marketing, will work with CA to develop an information packet educating homeowners about wetland resource areas.
  - In terms of processing the NOIs for the 13 lots, ConCon will do them in batches of 3, with a final batch of 4.
    - Lots 1, 2 and 3 will be covered in ConCom’s next meeting on 10/28.
    - Continuations of the remaining lots will be specified at that time as well.
  - Specific details that were ironed out:



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- **Individual lot plans**
  - Each NOI will be accompanied by an individualized tabloid lot plan, 11"x17", with wetland and 50' and 100' buffer zone lines color delineated.
- **Conservation Restriction (CR) signs**
  - ConCom is asking for conservation signs in the middle of each jurisdictional lot at the 50' buffer zone line, even if it is well into the woods.
  - Several lots also require more than a single conservation sign, and the number and rough location of these will be specified in the individual lot plans.
  - The final placement location of the conservation sign or signs on each lot will be confirmed by CA during a site walk.
  - MP also asked specifically for an additional CR sign to be set at the 50' buffer zone point where lots 16, 17 and 19 come together.
- **Boulders**
  - 7 of the 13 jurisdictional lots will require the installation of boulder lines.
  - In keeping with the specifications approved for Lots A and B (above), boulders for those lots must be:
    - a minimum of 2' diameter in size;
    - set 6' apart on center.
- **Yard signs**
  - As discussed above, temporary yard signs will be put up prior to marketing, so that potential buyers are made aware in advance of wetland resources and buffer zone limitations.
    - Care will be taken that the signs are worded so as not to scare off potential buyers.
- **Public Hearings (cont'd.): 13 NOIs, 0 Washington Street, "Panther Place" OSRD subdivision, Northeast Site Development, LLC., Joseph Levine**
  - Assessor's Map 13, Parcels 12, 13 & 14
  - Opened under the Wetlands Protection act and Ayer Wetlands Bylaw, and as per the Discussion above, the following Public Hearings were to be continued to ConCom's 10/28/2021 meeting:
  - Mr. Levine and Mr. Butler remained present.
    - Lot 1, DEP # 100-0463
    - Lot 2, DEP # 100-0464
    - Lot 3, DEP # 100-0465
    - Lot 4, DEP # 100-0466
    - Lot 5, DEP # 100-0467
    - Lot 13, DEP # 100-0468
    - Lot 14, DEP # 100-0469
    - Lot 15, DEP # 100-0470



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- Lot 16, DEP # 100-0471
  - Lot 17, DEP # 100-0472
  - Lot 19, DEP # 100-0473
  - Lot 20, DEP # 100-0474
  - Lot 21, DEP # 100-0475
- GB moved to continue each of these Public Hearings to 10/28; MP 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 5-0.
- **Public Hearing: NOI – 65 Westford Road, National Grid, Cory Schutzman, MassDEP # 100-0XXX**
  - Assessor's Map 8, Parcel 9
  - The Public Hearing was opened with the request that it be continued to 10/28.
    - At the same time, the request was made that ConCom perform a site walk prior to the 28<sup>th</sup> if possible.
    - A site walk was therefore scheduled for Tuesday, 10/26, at 4:45, at which CA, JS, JA, MP, and JG would be able to attend.
  - GB moved to continue the Public Hearing to 10/28; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.
- **Conservation Commission Office and Member Updates**
  - 27 Harvard Road
    - CA is concerned that work on this property, for 'Teddy's Honey Hut,' might have been done closer than 100 ft. to Bowers Brook, and therefore within ConCom jurisdiction.
    - CA will be sending a letter asking for the property owner to clarify for ConCom how he determined the 100' buffer zone line.
  - Beaver activity, Long Pond dam
    - Beaver activity has outwitted the flow control device (aka 'beaver deceiver') installed by Beaver Solutions at this dam site.
      - As a result, the impoundment of more water behind the beaver dam is creating flooding issues, including on the Town's easement road to the dam from Wright Road.
    - Several nearby residents have also contacted the DPW with concerns about the flooding in the area.
      - JG showed some photos of the portion of the access road that is now underwater, as well as the many trees in that area now in danger of being killed from flooded root systems.
    - Mike Callahan, of Beaver Solutions, said that once beavers learn how to block the pipe in the manner that they did, they will continue to do so, and therefore he recommended trapping the beavers before installing a new pipe.
      - The replacement of the pipe falls under the guarantee from Beaver Solutions.



## **Town of Ayer Conservation Commission**

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

Minutes for 10/14/2021

- No one liked the idea of trapping beavers, but all recognized the necessity in this situation.
  - While not delaying moving forward, JA asked for additional information – how many beavers would need to be trapped and how long would the traps be put out for.
- GB moved to approve trapping the minimum number of beavers at the Long Pond dam, as deemed necessary by Beaver Solutions, as preparation to installing a new beaver deceiver; MP 2<sup>nd</sup>.
  - Motion approved unanimously by Roll Call Vote 5-0.
- Unprotected work on Flannagan Pond
  - CA has received calls from residents about work done close to Flannagan Pond in two locations.
    - One was 103 Oak Ridge Drive and CA spoke to John Delcore about this.
      - This project was previously approved under an RDA by ConCom on 5/27/2021.
      - Mr. Delcore thought the contractor was going to take care of the erosion controls but that hadn't happened.
        - It has now been rectified and the reinstalled controls were inspected by CA earlier today.
    - The second had to do with work behind 113 Oak Ridge Drive, which ConCom had met with owner Mary Walker about in 2019.
      - JS will take a look from the water to see what is happening.
      - Work here started, then stopped, in 2019.
  - Along the same lines, MP asked about another house under construction on Sandy Pond, and whether this was work within the buffer zone.
    - Earlier in the summer, CA had contacted the Building Inspector about this work, and while erosion controls were put up, the work is all outside of the buffer zone as well.
    - CA noted the difficulty in one person keeping the Conservation office running while at the same time trying to keep tabs on ongoing projects as well as monitor for violations.
- Waterways sign project
  - It would seem that the sign design is now complete, with MP and GB agreeing.
  - CA has yet to hear back from MassDOT about a couple of the signs that are proposed along state highway.
    - CA has a contact at the National Park Service and hopes that NPS might have some sway over DOT on this.
- Smartgov software
  - The town, under former DPW Director Mark Wetzel, will be moving forward on a new software program consolidating permitting and enforcement information across departments.
    - Multiple training sessions are scheduled to begin in two weeks.





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Minutes for 10/14/2021

- This adds yet another task for ConCom's office.
- Ayer Solar II
  - MP asked about the recent inspection report detailing the need to repair a section of erosion controls.
    - CA said the straw bales installed by the intermittent stream had blown out following a big rain event.
    - The Environmental Monitor, the Erosion Control Specialist, and CA had since worked together to devise a new system which will hopefully prevent future such occurrences.
  - Earlier in the day, CA also received an email from former DPW Director Wetzel complaining about tree clearing having blocked the sewer easement on the Solar II property.
    - While Mr. Wetzel had been at the preconstruction meeting, this had not been brought up at that time.
- **9:15 PM – Adjourn Meeting**
  - GB moved to adjourn; MP 2<sup>nd</sup>.
    - Motion approved unanimously by Roll Call Vote 5-0.

**Minutes Recorded and Submitted by Jessica G. Gugino, Clerk**

**Date / Signature of Approval:**

10/28/2021 