



## **Town of Ayer Conservation Commission**

Town Hall \* One Main Street \* Ayer, MA 01432 \* 978-772-8220, ext. 143  
Minutes for 7/13/2023

Location: Ayer Town Hall, 1st Floor

Present: Jon Schmalenberger (Chair), Mark Phillips (Vice-Chair), George Bacon (Member), Jessica Gugino (Member/Clerk), Heather Hampson (Conservation Agent)

Not Present: Jen Amaya (Member)

APAC taped: YES

All Public Hearings are opened under the Wetlands Protection Act (MCL Ch. 131, section 40)  
and under the Ayer Wetlands Bylaw (Article XXVI)

### **7:00 PM – Open Meeting**

- **Confirmation of Agenda**
  - **VOTE:** G. Bacon moved to confirm the agenda as posted; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 4-0.
- **Approval of Meeting Minutes**
  - **VOTE:** G. Bacon moved to accept minutes for 6/22/2023 as written; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 4-0.
- **Public Input**
  - None received.
- **Public Hearing: Notice of Intent – 201-205 West Main Street, DMG Investments LLC, MassDEP # 100-tbd**
  - Drew Garvin, of Bohler Engineering, was present on behalf of the applicant.
  - This project proposes a mixed-use residential development, “West Ayer Village.”
    - It will consist of a 4-story apartment building, housing 170 units on the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> floors, with two retail spaces and parking for 172 vehicles taking up the ground level.
      - Some of the parking will be in the open, but some will also be on the first/ground floor, underneath the residential floors.
  - The 4.67 acre project site on West Main Street consists of two lots, Lot 15 (western lot) which will hold the primary village core, and Lot 14 (eastern lot), which will include some of the building as well as the access road to the village.
    - Existing conditions show much of the western lot cleared and used for vehicle/materials storage, while the eastern lot contains an existing building at the front that will be razed if the project moves forward.
      - MBTA railroad tracks run across the area just north of the property line.
  - The total impervious surface from the project will be 84,036 sq. ft.
  - A Public Hearing for Site Plan Review opened before the Planning Board on 7/11, and the project has previously received 2 variances from the Zoning Board of Appeals (ZBA) for building height and width, but not for reduced parking capacity.
  - The site is within the Squannacook ACEC (Area of Critical Environmental Concern).
    - The project site also includes:



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- It was also possible that trucking snow off site could be considered.
- H. Hampson asked what the actual square footage of the proposed snow storage area would be as well as the square footage of the open-air parking areas that would need to be plowed.
- Regarding the submitted floodplain plan, H. Hampson said it was hard to differentiate between the X and AE zones, and advised Mr. Garvin that a Special Permit is needed from the ZBA for any construction within an AE zone. *he needs verify whether*
  - She asked for confirmation on which flood zone was involved.
  - Work in the AE, if permitted by ZBA, would then need to fall under ConCom's OOC permitting as well.
- H. Hampson asked for the amount of fill that would be brought into the Buffer Zone.
  - It was also noted that during construction, materials would be stored in the middle of the project site, outside of the Buffer Zone.
- A site walk was scheduled for Saturday, 7/22, at 8:30 a.m.
  - The survey company will stake out some of the perimeter corners of the building and the pavement, as well as retaining wall locations and stormwater outfall locations.
  - H. Hampson will let the Planning Board know of the time of the site walk in case any members want to join ConCom.
- Because the Planning Board won't be meeting on the project again until 8/8 and their review might lead to changes in the project layout, ConCom will wait for its next review of this project until its 8/10 meeting.
  - In addition, it was noted that ConCom cannot issue an OOC until it receives the file number (and perhaps comments) from MassDEP as well as a copy of the permitting letter from NHESP for the MESA review (Mass. Endangered Species Act).
- **VOTE:** G. Bacon moved to continue the Public Hearing for the West Main Street project, 100-tbd, to 8/10/2023; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 4-0.
- **Public Hearing (cont'd.): Amendment to the Order of Conditions (OOC) – 0 Washington Street, Ayer Solar II, Rohit Garg, MassDEP # 100-0444.**
  - Rohit Garg as well as Adam Costa, of Mead, Talerman & Costa LLC, and Nick Pauling, of Goldsmith, Prest & Ringwall, Inc., were present.
  - J. Schmalenberger asked about the outcome of the Site Plan Review meeting on 7/11 with the Planning Board.
    - Mr. Costa said it was a short meeting, the Planning Board voted to approve the modified Site Plan and finalized their decision at that meeting.
    - He did not know if the decision has been filed with the Town Clerk yet as a few edits needed to be made.
      - The decision included 6 Special Conditions.



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- Mr. Costa said there are only 3 outstanding items yet to complete, including repaving the entry drive; the project is now “humming along” and could be completed in another 4-6 weeks.
- H. Hampson thanked Mr. Pauling for the revised plans, and asked that she be notified when the final work on the stream crossing has been completed.
  - Weather has not been cooperating, but river rock will be used to replace the existing rock inside the culvert channel to create a more resilient streambed, and the existing rock will be moved elsewhere to buttress the channel.
- In response to a question from M. Phillips, Mr. Pauling said one of the tree box filters may need to be adjusted depending on how the contractor wants to rectify the paving in that area, after paving has been scheduled.
- H. Hampson did not have a draft OOC ready since the Commission had voted at its last meeting to wait until the Planning Board had completed its review.
  - She will have it ready for ConCom to sign at its next meeting; if no problems arise from review of the draft OOC, then neither Mr. Costa nor Mr. Pauling will need to be present at that meeting.
- H. Hampson asked about the status of the Conservation Restriction (CR).
  - Mr. Pauling said it was being finalized, and Mr. Costa added that the CR had been close to completion but then ConCom and the Planning Board had required the project to file Amendments so the CR had been put on hold.
  - Mr. Costa said that all the State was now asking for were the legal meets and bounds.
- **VOTE:** G. Bacon voted to approve the Amended NOI and draft the Amended OOC for 100-0444; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 4-0.
- **VOTE:** G. Bacon voted to continue the Public Hearing for 100-0444 to 7/27 for the purpose of signing the OOC; M. Phillips 2<sup>nd</sup>.
  - Motion approved unanimously 4-0.
- **Discussion: Request for Certificate of Compliance (COC) – 337/K137E/L138E Transmission Line Geotechnical Borings Project, New England Power Company, MassDEP # 100-0478**
  - The COC request, dated 7/6/2023, was submitted by Alison Milliman, Project Manager from BSC Group.
    - The OOC for this exploratory borings project was issued on 1/19/2022, and the project has been completed with disturbed areas now restored and stabilized.
  - Resident Ken Diskin, of Washington Street, asked about the temporary access roads still visible under the power lines, and was told that this project was only for borings and that the work still ongoing under the power lines had been permitted under a separate OOC.
  - **VOTE:** G. Bacon moved to issue the COC for 100-0478; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 4-0 and the COC was signed.
- **Conservation Commission Office and Member Updates**



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- Next agendas, 7/27/2023 and beyond
  - H. Hampson said the next meeting will include an in-person update from North County Land Trust on progress attending to Ayer's CRs, as well as a couple of Requests for Determination of Applicability (RDAs).
  - At some point, either the next meeting or August, ConCom will hear from Boston Gas about their work on the sinkhole that opened up on West Main Street, at the intersection with Park.
    - They have now moved the natural gas line outside of the Buffer Zone.
  - The Parks Department's Pirone Park Playground project may include a bioretention area graded toward Grove Pond.
    - At this point, H. Hampson thinks this could be permitted under an RDA.
- Friends of Pine Meadow
  - A reminder that a walk-through of the conservation land trails with interested volunteers is scheduled for Saturday, 7/15, at 9 a.m., at the Groton-Harvard Road trailhead.
- Waterways Signs Project
  - In addition to the Sandy Pond sign having been stolen (as noted at previous meeting), J. Schmalenberger said that a Flannagan Pond sign, as well as the whole mounting bracket system, have now been stolen as well.
    - J. Schmalenberger said a bolt can be hammered to bend it in order to prevent future thefts for all of the signs, and ConCom members agreed to try this method.
  - H. Hampson will wait to order replacement signs until she's back from vacation and has checked all of the sign locations to make sure no others have been stolen.
- Ch. 91 Dock Licenses
  - J. Gugino referred to the email she sent to Town Manager Robert Pontbriand (and copied to ConCom members), summarizing the history and current status of Great Pond dock licensing in Ayer.
  - It has been both hard and confusing to get clarity from the State on this issue.
- Catania Oils
  - J. Schmalenberger asked for an update on the cleanup of the peanut oil spill that took place in the spring.
    - H. Hampson said that the cleanup is now complete.
- **8:15 PM: Adjourn**
  - **VOTE:** G. Bacon moved to adjourn; M. Phillips 2<sup>nd</sup>.
    - Motion approved unanimously 4-0.

Minutes Recorded and Submitted by Jessica G. Gugino, Clerk

Date / Signature of Approval:

7/27/2023 